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Executive Orders

EXECUTIVE ORDER BJ 15-12

Flags at Half Staff

WHEREAS, on Wednesday morning, July 16, 2015, four United States Marines were killed in senseless, terrorist attacks on an armed forces recruitment center and Naval Reserves Operational Center in Chattanooga, Tennessee;

WHEREAS, numerous other individuals, including a law enforcement officer, were also wounded in this attack;

WHEREAS, countless service members, law enforcement officers, first responders, volunteers and citizens risked their lives to provide immediate aid to the numerous victims;

WHEREAS, the thoughts and prayers of all Louisianians are with the families and the victims of this horrific attack.

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 for the victims of the Chattanooga, Tennessee attack, effective immediately, the flags of 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, July 24, 2015.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Friday, July 24, 2015, unless amended, modified, terminated, or rescinded prior to that date.

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 17th day of July, 2015.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1508#015

EXECUTIVE ORDER BJ 15-13

Authority to Arm Designated Louisiana National Guardsmen

WHEREAS, Article IV, Section 5 of the Louisiana Constitution establishes the governor as the Commander-in-Chief, and provides

The governor shall be commander-in-chief of the armed forces of the state, except when they are called into service of the federal government. He may call out these forces to preserve law and order, to suppress insurrection, to repel invasion, or in other times of emergency.

WHEREAS, Louisiana Revised Statute 29:7 states that the governor may, with or without a declaration of emergency, order into the active service of the state any part of the National Guard in order to prevent or prepare for terrorist events and, that when so ordered, members of the National Guard on state active duty or USC Title 32 status shall have all of the powers and authority of peace officers as are reasonably necessary to preserve the lives, property, and security of persons within the State of Louisiana;

WHEREAS, on Wednesday morning, July 16, 2015, four United States Marines were killed and numerous others wounded in terrorist attacks on an armed forces recruitment center and Naval Reserves Operational Center in Chattanooga, Tennessee;

WHEREAS, the very uniforms worn by these courageous Marines made them targets of terrorism;

WHEREAS, the State of Louisiana is proud to have many thousands of National Guardsmen who train to respond and protect the citizens and property of our State and their uniforms should not make them targets for terrorism without having the ability to defend themselves and other peaceful, law abiding citizens;

WHEREAS, the Adjutant General of the Louisiana National Guard should identify appropriate members of the National Guard currently ordered to state active duty or USC Title 32 status and issue appropriate orders designating security procedures for members of the National Guard and facilities to have the means of self-defense should such an attack occur in the State of Louisiana.

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: In accordance with La. R.S. 29:7, the Adjutant General is authorized and directed to identify and arm certain Guard personnel currently on state active duty or USC Title 32 status as reasonably necessary to preserve the lives, property, and security of themselves and other persons subject to threat of an attack as occurred this week in Chattanooga, Tennessee.

SECTION 2: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded 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 17th day of July, 2015.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1508#016

EXECUTIVE ORDER BJ 15-14

Amend and Replace Executive Order BJ 2015-12
Flags at Half Staff

WHEREAS, Executive Order No. BJ 2015 - 12, issued on July 17, 2015, ordered the flags of the State of Louisiana to be flown at half-staff as an expression of respect for the victims of the Chattanooga, Tennessee attack;

WHEREAS, it is necessary to amend and replace BJ 2015-12 to express respect for a Navy Sailor who succumbed to his injuries on July 18, 2015;

WHEREAS, on Thursday morning, July 16, 2015, four United States Marines and a Navy Sailor became victims of senseless, terrorist attacks on an armed forces recruitment center and Naval Reserves Operational Center in Chattanooga, Tennessee;

WHEREAS, the four Marines and Navy Sailor perished as a result of their injuries. Many other individuals, including a law enforcement officer, were also wounded in this attack;

WHEREAS, countless service members, law enforcement officers, first responders, volunteers and citizens risked their lives to provide immediate aid to the numerous victims;

WHEREAS, the thoughts and prayers of all Louisianians are with the families and the victims of this horrific attack.

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 for the victims of the Chattanooga, Tennessee attack, effective immediately, the flags of 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, July 20, 2015.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Friday, July 24, 2015, unless amended, modified, terminated, or rescinded prior to that date.

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 20th day of July, 2015.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1508#017

EXECUTIVE ORDER BJ 15-15

Flags at Half Staff

WHEREAS, on Thursday evening, July 23, 2015, two young women, Mayci Breaux and Jillian Johnson, were

killed and nine individuals wounded in a senseless attack at a movie theater in Lafayette, Louisiana;

WHEREAS, in the midst of the attack, there are stories of heroism of friends sheltering friends from gunfire as they sought to escape;

WHEREAS, the heroism of law enforcement officers, who ran toward the sounds of gunfire, and first responders, volunteers and citizens who immediately responded to selflessly provide aid to the numerous victims is a tribute to the resilience of this Louisiana community and the people of Louisiana;

WHEREAS, the thoughts and prayers of all Louisianians are with the families and the victims of this horrific attack.

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 for the victims of the Lafayette theater attack, the flags of the United States and the State of Louisiana shall continue to be flown at half-staff over the State Capitol and all public buildings and institutions of the State of Louisiana until sunset on Friday, July 31, 2015.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Friday, July 31, 2015, unless amended, modified, terminated, or rescinded prior to that date.

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 24th day of July, 2015.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1508#025

EXECUTIVE ORDER BJ 15-16

Disturbing the Peace during Funerals

WHEREAS, as an expression of respect for the victims of the Lafayette theater attack, on July 24, 2015, I issued Executive Order No. BJ 2015-15, ordering the flags of the United States and the State of Louisiana to be flown at half-staff over the State Capitol and all public buildings and institutions of the State of Louisiana until sunset on Friday, July 31, 2015;

WHEREAS, Article I, Section 1 of the Louisiana Constitution is titled "Origin and Purpose of Government", and provides:

All government, of right, originates with the people, is founded on their will alone, and is instituted to protect the rights of the individual and for the good of the whole. Its only legitimate ends are to secure justice for all, preserve peace, protect the rights, and promote the happiness and general welfare of the people. The rights enumerated in this Article are inalienable by the state and shall be preserved inviolate by the state.

WHEREAS, we are a Nation founded upon religious liberty, free speech, and the right to peaceably assemble, and these fundamental rights are reflected in the First Amendment of the Constitution of the United States of America and in Article 1 of the Constitution of Louisiana;

WHEREAS, these fundamental rights are enshrined in our federal and state constitutions to form part of the foundation upon which a rule of law exists to protect, and provide for, a civil society safe for all people;

WHEREAS, in times of grief and mourning, the rule of law is especially important to protect the rights of citizens when they are most vulnerable, and any effort to disrupt or interfere with a family's ability to grieve following the loss of a loved one is a reprehensible act;

WHEREAS, the Louisiana State Police are charged by La. R.S. 40:1379 to "prevent and detect crime, apprehend criminals, enforce the criminal and traffic laws of the state, keep the peace and good order in the state in the enforcement of the state's police powers, and perform any other related duties imposed upon them by the legislature."

WHEREAS, the Legislature has enacted criminal laws intended to maintain peace and order for the public, including La. R.S. 14:103 – Disturbing the Peace:

§103. Disturbing the Peace

A. *Disturbing the peace is the doing of any of the following in such manner as would foreseeably disturb or alarm the public:*

- (1) *Engaging in a fistic encounter; or*
- (2) *Addressing any offensive, derisive, or annoying words to any other person who is lawfully in any street, or other public place; or call him by any offensive or derisive name, or make any noise or exclamation in his presence and hearing with the intent to deride, offend, or annoy him, or to prevent him from pursuing his lawful business, occupation, or duty; or*
- (3) *Appearing in an intoxicated condition; or*
- (4) *Engaging in any act in a violent and tumultuous manner by any three or more persons; or*
- (5) *Holding of an unlawful assembly; or*
- (6) *Interruption of any lawful assembly of people; or*
- (7) *Intentionally engaging in any act or any utterance, gesture, or display designed to disrupt a funeral, funeral route, or burial of a deceased person during the period beginning one hundred twenty minutes before and ending one hundred twenty minutes after the funeral or burial, within three hundred feet of the funeral or burial.*

(8)(a) *Intentionally blocking, impeding, inhibiting, or in any other manner obstructing or interfering with a funeral route.*

(b) *Intentionally blocking, impeding, inhibiting, or in any other manner obstructing or interfering, within five hundred feet, with access into or from any building or parking lot of a building in which a funeral or burial is being conducted, or any burial plot or the parking lot of the cemetery in which a funeral or burial is being conducted, during the period beginning one hundred twenty minutes before and ending one hundred twenty minutes after the funeral or burial.*

B.(1) *Whoever commits the crime of disturbing the peace shall be fined not more than one hundred dollars or imprisoned for not more than ninety days, or both.*

(2) *Whoever commits the crime of disturbing the peace as provided for in Paragraphs (A)(7) and (8) of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.*

C. *For purposes of Paragraphs (A)(7) and (8) of this Section:*

(1) *"Funeral" includes a funeral, funeral home viewing, wake, or memorial service.*

(2) *"Funeral route" means the route of ingress or egress from the location of a funeral or burial, including thirty feet from the outer edge of the outside lane of the route.*

WHEREAS, the families, friends, and communities of Mayci Breaux and Jillian Johnson deserve our prayers in the days and weeks ahead as they mourn the loss of these young women killed in the senseless attack at a movie theater in Lafayette, Louisiana;

WHEREAS, any action by any individual or group to in any way disrupt, interfere, or cause additional suffering during this time of mourning is unconscionable and morally reprehensible;

WHEREAS, the Louisiana State Police should take great care to strictly enforce the rule of law for the protection of our civil society, and specifically for the protection of these families, friends, and communities as they mourn the tragic, senseless loss of these two young women.

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 Louisiana State Police, as charged in La. R.S. 40:1379 with the duty to keep the peace and good order in the state, are authorized and directed to strictly enforce La. R.S. 14:103 – Disturbing the Peace, and take swift and immediate action against any who violate this law, or any other law duly adopted to preserve the peace in this state, by intentionally engaging in any act or any utterance, gesture, or display designed to disrupt the funeral, funeral route, or burial of Mayci Breaux or Jillian Johnson, or take any other actions in violation of law.

SECTION 2: All departments, commissions, boards, agencies, and political subdivisions of the state are authorized and directed to cooperate with the implementations of the provisions of this Order.

SECTION 3: This Order is effective upon signature and shall remain in effect until forty-eight (48) hours past the burials of Mayci Breaux and Jillian Johnson, unless amended, modified, terminated or rescinded prior to that time.

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 25th day of July, 2015.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1508#026

EXECUTIVE ORDER BJ 15-17

Flags at Half Staff

WHEREAS, Louisiana State Representative Alfred Williams, died on Tuesday, August 4, 2015, at the age of 64;

WHEREAS, Alfred Williams was elected to the Louisiana House of Representatives in 2011 to represent the 61st district, serving as House Labor and Industrial Relations committee chair for the 2015 legislative session;

WHEREAS, at the capitol he worked to pass legislation that made a real difference for the people of Louisiana and reached across party lines to serve the community he loved;

WHEREAS, Alfred Williams also served as assistant chief administrative officers for Baton Rouge Mayor Kip Holden and was a former member of the East Baton Rouge school board;

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 for Representative Alfred Williams, the flags of the United States and the State of Louisiana shall be flown at half staff over the State Capitol and all public building and institutions of the State of Louisiana until sunset on Friday, August 7, 2015.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Friday, August 7, 2015, unless amended, modified, terminated, or rescinded prior to that date.

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 5th day of August, 2015.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1508#084

EXECUTIVE ORDER BJ 15-18

Flags at Half-Staff

WHEREAS, on Wednesday, August 5, 2015, Officer Thomas LaValley of the Shreveport Police Department was killed in the line of duty, and he will be laid to rest today;

WHEREAS, Officer LaValley was a native of St. Amant, Louisiana and proudly served on the Shreveport Police Department for four years;

WHEREAS, our law enforcement men and women risk their lives every day to protect our communities and our citizens;

WHEREAS, the thoughts and prayers of all Louisianians are with the family of Officer LaValley and the entire Shreveport Police Department family.

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 for Officer Thomas LaValley, 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 Monday, August 10, 2015.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Monday, August 10, 2015, unless amended, modified, terminated, or rescinded prior to that date.

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 10th day of August, 2015.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1508#085

Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System—School Performance Score (LAC 28:LXXXIII.301)

The Board of Elementary and Secondary Education (BESE) has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17.6 to amend LAC 28:LXXXIII, *Bulletin 111—The Louisiana School, District, and State Accountability System*: §301, School Performance Score Goal. This Declaration of Emergency, effective April 15, 2015, is being extended beyond the initial 120 day period and will remain in effect until the final Rule becomes effective.

The revisions modify the calculation of high school progress points in the Louisiana school and district performance score formula and allow either the current or proposed calculation, whichever is higher, to be used in 2014-15 calculation of performance scores.

A delay in promulgating these rules would result in the inability to apply the revised formula to the fall 2015 school and district performance score release, as requested by local districts.

Title 28 EDUCATION

Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 3. School Performance Score Component

§301. School Performance Score Goal

A. - C. ...

D. Progress Points

1. The school performance score will also be affected by the progress points earned from growth calculated for the non-proficient student subgroup (i.e., super subgroup).

2. To be eligible for K-8 progress points, the school must have:

a. at least 10 students in the non-proficient subgroup, as identified for subgroup membership based on prior year assessment scores only (i.e. students may be proficient or non-proficient in the current year) in ELA or mathematics; and

b. more than 50 percent (i.e. 50.001+) of the students in the non-proficient subgroup exceed their expected score, as determined by the value-added model for students in grades K-8;

c. if Subparagraphs 2.a and 2.b are met, then the number and the percent of students will be multiplied by 0.1, and the higher of the two products will be used to assign progress points. For students who earn an unsatisfactory on LEAP or iLEAP, the multiplier will be 0.1. For students who earn an approaching basic on LEAP or iLEAP in the prior year, the multiplier will be 0.05.

3. To be eligible for high school progress points in 2014-2015 (2015 SPS), the school shall meet either (a) or (b), whichever is greater in total:

a. at least 10 students in the non-proficient subgroup, as identified for subgroup membership based on the most recent of the two previous years' state assessment scores in ELA or mathematics and a minimum of 30 percent of the students in the non-proficient subgroup score at the top of the expected score range or higher, as determined by the ACT series. If both conditions are met, then the number and the percent of students will be multiplied by 0.1, and the higher of the two products will be used to assign progress points:

i. for students who earned an unsatisfactory on LEAP or iLEAP or needs improvement on end-of-course tests in prior year(s), the multiplier will be 0.2;

ii. for students who earned an approaching basic on LEAP or iLEAP or a fair on end-of-course tests in prior year(s), the multiplier will be 0.1;

iii. schools can earn a maximum of 10 progress points to be added to the SPS;

NOTE: EXPLORE predicts PLAN and PLAN predicts ACT. As an example, if EXPLORE predicted a student would score between 17 and 19 on the PLAN, the student must score a 19 or higher in order to potentially earn progress points for the school.

b. at least 10 students in the non-proficient subgroup, as identified for subgroup membership based on the most recent of the two previous years' state assessment scores in ELA or mathematics and more than 50 percent (i.e. 50.001+) of the students in any one of the four non-proficient subgroups (ELA EXPLORE to PLAN, ELA PLAN to ACT, math EXPLORE to PLAN, math PLAN to ACT) score above the median of the expected score range or higher, as determined by the ACT series. If both conditions are met, then the number and the percent of students will be multiplied by 0.1, and the higher of the two products will be used to assign progress points:

i. for students who earned an unsatisfactory on LEAP or iLEAP or needs improvement on end-of-course tests in prior year(s), the multiplier will be 0.1;

ii. for students who earned an approaching basic on LEAP or iLEAP or a fair on end-of-course tests in prior year(s), the multiplier will be 0.05;

iii. schools can earn a maximum of 10 progress points to be added to the SPS;

NOTE: EXPLORE predicts PLAN and PLAN predicts ACT. As an example, if EXPLORE predicted a student would score between 15 and 19 on the PLAN, the student must score a 18 or higher (median is 17) in order to potentially earn progress points for the school.

c. beginning in 2015-2016 (2016 SPS), only schools earning progress points through 3.b shall be applicable:

i. for combination schools that include both middle and high school grades (e.g., 6-12), the progress points shall be calculated by adding the points earned from

each test group together. For sums that are greater than 10, a maximum of 10 points will be awarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 32:2034, 2035 (November 2006), LR 33:424 (March 2007), LR 33:2349 (November 2007), LR 33:2593 (December 2007), LR 34:430 (March 2008), LR 35:639 (April 2009), LR 36:1987 (September 2010), LR 38:3105 (December 2012), LR 39:305 (February 2013), LR 39:1421 (June 2013), LR 39:2441 (September 2013), LR 40:1313 (July 2014), LR 40:2507 (December 2014), LR 41:

Charles E. "Chas" Roemer, IV
President

1508#003

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—TOPS University Diploma and Career Diploma (LAC 28: CXV.2318 and 2319)

The Board of Elementary and Secondary Education (BESE) has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17.6 to amend LAC 28: CXV, *Bulletin 741—Louisiana Handbook for School Administrators*: §2318, The TOPS University Diploma; and §2319, The Career Diploma. This Declaration of Emergency, effective April 15, 2015, is being extended beyond the initial 120 day period and will remain in effect until the final Rule becomes effective.

These revisions include an adjustment to the student population permitted to factor end-of-course test scores as five percent of the final course grade. Previously, this provision only applied to students eligible for the Louisiana Alternate Assessment, Level 2 (LAA 2). Since the LAA 2 has been eliminated, the provision will now apply to students who meet the Act 833 (2014) eligibility criteria.

Freshman entering high school in 2014-2015 may no longer participate in the LAA 2, therefore, a policy referencing LAA 2 participation criteria is not applicable to them. A delay in promulgating these rules would create a lapse of one year in the transition from the previous eligibility criteria to the new eligibility criteria for these students.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2318. The TOPS University Diploma

A. - B.2.b. ...

3. Students enrolled in a course for which there is an EOC test must take the EOC test.

a. The EOC test score shall count a percentage of the student's final grade for the course.

b. The percentage shall be between 15 percent and 30 percent inclusive, and shall be determined by the LEA.

i. For students with disabilities identified under IDEA who meet the participation criteria found in *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities*, §405.B and R.S. 17:183.2, the EOC test score shall count for 5 percent of the students' final grade for the course.

c. The grades assigned for the EOC test achievement levels shall be as follows.

EOC Achievement Level	Grade
Excellent	A
Good	B
Fair	C
Needs Improvement	D or F

d. The DOE will provide conversion charts for various grading scales used by LEAs.

B.4. - C.6.a.vi. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:

§2319. The Career Diploma

A. Curriculum and Entrance Requirements

1. The 23 units required for the career diploma shall include academic credits and a sequence of seven credits in career and technical education for incoming freshmen prior to 2014-2015 or participation in approved training programs that lead to an approved industry-based credential for incoming freshmen in 2014-15 and beyond.

2. Students with exceptionalities assessed on the regular academic content standards who meet certain requirements may attain a career diploma by meeting the requirements of their IEP. See *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities*. Students with exceptionalities assessed on the alternate academic content standards may attain a career diploma by meeting the requirements in §2320 of this bulletin.

B. - B.2.b. ...

3. Students enrolled in a course for which there is an EOC test must take the EOC test.

a. The EOC test score shall count a percentage of the student's final grade for the course.

b. The percentage shall be between 15 percent and 30 percent inclusive, and shall be determined by the LEA.

i. For students with disabilities identified under IDEA who meet the participation criteria found in *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities*, §405.B and R.S. 17:183.2 the EOC test score shall count for 5 percent of the students' final grade for the course.

c. The grades assigned for the EOC test achievement levels shall be as follows.

EOC Achievement Level	Grade
Excellent	A
Good	B
Fair	C
Needs Improvement	D or F

d. The DOE will provide conversion charts for various grading scales used by LEAs.

B.4. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, R.S. 17:183.3, R.S. 17:274, R.S. 17:274.1, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:1130 (April 2011), LR 37:2130 (July 2011), LR 37:3197 (November 2011), LR 38:761 (March 2012), LR 38:1005 (April 2012), LR 40:2522 (December 2014), LR 41:

Charles E. "Chas" Roemer, IV
President

1508#004

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs
Acts of the 2015 Regular Session
(LAC 28:IV.301, 703, 801, 803, 805, 1005, and 1903)

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 re-promulgate 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 implements Acts 101, 403, and 230 of the 2015 Regular Session of the Louisiana Legislature by amending the TOPS rules to provide an alternative citizenship requirement, align the TOPS Tech core curriculum with the career diploma graduation requirements, and to change the TOPS Tech award to align its use with workforce priorities. This rulemaking also implements Act 403 of the 2015 Regular Session of the Louisiana Legislature by adding alternative standardized tests that can be taken to be eligible for the TOPS Tech Early Start award.

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 this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective July 14, 2015, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG16163E)

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher Education

Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

A. 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.

* * *

Eligible Noncitizen—

a. for students graduating in the 2017-2018 academic year (high school) and prior, an individual who can provide documentation from the U.S. Citizenship and Immigration Services (USCIS) or its successor that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident, including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the United States must provide documentation from the USCIS to verify permanent residency. For 1997, 1998 and 1999 high school graduates, an eligible noncitizen shall be treated as meeting the citizenship requirements for an award under this Part;

b. for students graduating in the 2018-2019 academic year (high school) and later, a student who is not a citizen of the United States but who is the child of a non-United States citizen who is either serving in any branch of the United States armed forces or has been honorably discharged from any branch of the United States armed forces shall be treated as meeting the citizenship requirements for an award under this Part.

* * *

First-Time Student—

a. for students graduating through the 2015-2016 academic year (high school), a student who is awarded TOPS-Tech and enrolls for the first time, full-time in a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree to pursue a skill, occupational training, or technical training subsequent to high school graduation, and is enrolled full-time at the end of the fourteenth class day or later (ninth class day or later for quarter schools). The fact that a student who is eligible for a TOPS Tech award enrolls in an academic program at a post-secondary school prior or subsequent to graduation from high school, but prior to the required date for full time enrollment in a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree, shall not preclude the student from being a first-time student;

b. for students graduating in the 2016-2017 academic year (high school) or later, a student who is eligible for a TOPS Tech award and enrolls for the first time, full-time in an eligible college or university in an associate's degree or other shorter-term training and education program that is aligned to state workforce priorities as determined by the Board of Regents and the Louisiana Workforce Investment Council and is enrolled full-time at the end of the fourteenth class day or later (ninth class day or later for quarter schools).

* * *

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 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 40:53 (January 2014), LR 40:281 (February 2014), LR 41:649, 658 (April 2015), LR 41:

Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§703. Establishing Eligibility

A. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, the student applicant must meet all of the following criteria:

1.a. for students graduating in academic year (high school) 2001-2002 and prior, be a United States citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within 60 days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U.S. citizenship and who otherwise qualify for a TOPS Award, will continue to satisfy the citizenship requirements for a TOPS Award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS Award will be suspended until such time as proof of citizenship is provided and canceled if such proof is not provided by May 1 of the following academic year (college). Students cancelled solely due to their failure to become a United

States citizen within one year after the date of application shall be reinstated to their award if they are a United States citizen or a permanent resident as defined by the Bureau of Citizenship and Immigration Services and were eligible to apply for United States citizenship when cancelled and have met the requirements for maintaining eligibility for the award;

b. for students graduating in academic years (high school) 2002-2003 through 2017-2018, be a United States citizen or be a permanent resident as defined by the Bureau of Citizenship and Immigration Services and be eligible to apply for United States citizenship;

c. for students graduating in academic years (high school) 2018-2019 and later, be a United States citizen or an eligible noncitizen as defined in §301;

2. - 5.f.ii. ...

g. beginning with the 2004-2005 award year, eligible non-graduates who meet the following criteria:

i.(a). through the 2017-2018 academic year high school, be a United States citizen or be a permanent resident as defined by the United States Citizenship and Immigration Services and be eligible to apply for United States citizenship;

(b). beginning the 2018-2019 academic year (high school) and later, be a United States citizen or an eligible noncitizen as defined in §301;

A.5.g.ii. - J.4.b.ii. ...

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

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

Chapter 8. TOPS-Tech Award

§801. General Provisions

A. Legislative Authority. The TOPS-Tech Award was created by Act of the 1998 First Extraordinary Session of the Louisiana Legislature.

B. Description, History and Purpose

1. For students graduating through the 2015-2016 academic year (high school), the TOPS-Tech Award is a merit based scholarship program for Louisiana residents pursuing skill, occupational or technical training at eligible colleges and universities that offer a vocational or technical education certificate or diploma program or a non-academic

undergraduate degree. The purpose of TOPS-Tech is to provide an incentive for qualified Louisiana residents to prepare for and pursue technical positions in Louisiana.

2. Beginning with students graduating in the 2016-2017 academic year (high school), the TOPS-Tech Award is a workforce scholarship program for Louisiana residents who enroll in an eligible college or university on a full-time basis in an associate's degree or other shorter-term training and education program that is aligned to state workforce priorities as determined by the Board of Regents and the Louisiana Workforce Investment Council.

C. - D.3. ...

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 24:1904 (October 1998), amended LR 26:1997 (September 2000), repromulgated LR 27:1854 (November 2001), amended LR 36:2856 (December 2010), LR 41:666 (April 2015), LR 41:

§803. Establishing Eligibility

A. To establish eligibility for the TOPS-Tech Award, the student applicant must meet the following criteria:

1. be a United States citizen or an eligible noncitizen as defined in §301;

2. - 3. ...

4. initially apply and enroll as a *first-time student* as defined in §301, unless granted an exception for cause by LASFAC, in an eligible post-secondary college or university defined in §301; and

4.a. - 5.d.iii. ...

6. if qualifying under the terms of §803.A.5.a, at the time of high school graduation:

a. have successfully completed one of the following core curriculums:

i. high school course work constituting the TOPS core curriculum for the Opportunity, Performance and Honors Awards as defined in §703.A.5 and documented on the student's official transcript as approved by the Louisiana Department of Education;

ii. for students graduating in the 2015-2016 academic year (high school) and later, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum;

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
2	English III, English IV, AP or IB English courses, Business English, Technical Writing, or comparable Louisiana Technical College courses offered by Jump Start regional teams as approved by the State Board of Elementary and Secondary Education.
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or an applied or hybrid algebra course
3	Geometry, Algebra II, Math Essentials, Financial Literacy, Business Math, Algebra III, Advanced Math - Functions and Statistics, Advanced Math—Pre-Calculus, Pre-calculus, or comparable Louisiana Technical College courses offered by Jump Start regional teams as approved by the State Board of Elementary and Secondary Education. Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry, and Algebra II, and shall equal three mathematics credits

Core Curriculum—TOPS-Tech Award	
Units	Course
1	Biology
1	Chemistry I, Earth Science, Environmental Science, Agriscience I and Agriscience II (both for one unit), Physical Science, or AP or IB science courses
1	U.S. History, AP U.S. History, or IB U.S. History
1	Civics, Government, AP U.S. Government and Politics: Comparative, or AP U.S. Government and Politics: United States
9	In Jump Start course sequences, workplace experiences, and credentials. A student shall complete a regionally designed series of Career and Technical Education Jump Start coursework and workplace-based learning experiences leading to a statewide or regional Jump Start credential. This shall include courses and workplace experiences specific to the credential, courses related to foundational career skills requirements in Jump Start, and other courses, including career electives, that the Jump Start regional team determines are appropriate for the career major.

iii. for students graduating in the 2000-2001 school year through the 2012-2013 school year, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum;

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III
1	English IV or substitute 1 unit of Business English
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math—Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math—Functions and Statistics], Discrete Mathematics, or Probability and Statistics (2 units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the 3 required math units
1	Biology
1	Chemistry or Applied Chemistry
1	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization, or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic)
Remaining Core Courses Shall Be Selected from One of the Following Options:	
Option 1—Total of 17 units	
1	Fine Arts Survey or substitute 2 units of performance courses in music, dance, or theater; or substitute 2 units of visual art courses; or substitute 2 units of studio art courses; or a course from the Career and Technical Program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute 1 unit as an elective from among the other subjects listed in this core curriculum

Core Curriculum—TOPS-Tech Award	
Units	Course
2	Foreign Language, Technical Writing, Speech I or Speech II
1	One unit from the secondary computer education program of studies that is approved by the BESE
or	
Option 2—Total of 19 Units	
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course.
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

iv. for students graduating through the 2001-2002 school year, the TOPS-Tech core curriculum as follows;

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III
1	English IV or Business English
1	Algebra I (1 unit) or Applied Algebra IA and 1B (2 units)
1	Algebra II
1	Geometry or Applied Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry or Applied Physics
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, non-public)
1	Fine Arts Survey or any approved vocational course in the areas of Agriscience, Business Education, Family and Consumer Science, Health Occupations, Marketing Education, Technology Education, or Trade and Industrial Education; (or substitute 2 units of performance courses in music, dance or theater; or 2 units of studio art or 2 units of visual art courses; or 1 elective from among the other subjects listed in this core curriculum)
2	In a single Foreign Language. (1 unit for students graduating from high school during the 1996-97 and 1997-98 school years.) or Technical Writing, Speech I or Speech II (2 units).
½	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least 1/2 unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; or substitute at least 1/2 unit of an elective from among the other subjects listed in this core curriculum)

v. for students graduating in the 2013-2014 school year and thereafter, the high school course work document on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum;

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III
1	English IV or substitute 1 unit of Business English

Core Curriculum—TOPS-Tech Award	
Units	Course
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Functions and Statistics], Discrete Mathematics, or Probability and Statistics (2 units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the 3 required math units
1	Biology
2	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, or Chemistry or Applied Chemistry, Chemistry II, Physics, Physics II or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, non-public)
Remaining Core Courses Shall Be Selected from One of the Following Options	
Option 1—Total of 17 Units	
1	Fine Arts Survey or drafting (one unit) or substitute 2 units of performance courses in music, dance, or theater; or substitute 2 units of visual art courses; or substitute 2 units of studio art courses; or a course from the Career and Technical Program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute 1 unit as an elective from among the other subjects listed in this core curriculum
2	Foreign Language, Technical Writing, Speech I or Speech II
1	One unit from the secondary computer education program of studies that is approved by the BESE
or	
Option 2—Total of 19 Units	
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

A.6.b. - B.4.b.ii. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005), LR 33:437 (March 2007), LR 33:2614 (December 2007), LR 35:230 (February 2009), LR 36:491 (March 2010), LR 36:2270 (October 2010), LR 36:2856 (December 2010), LR 38:3159 (December 2012), LR 41:654 (April 2015), LR 41:

§805. Maintaining Eligibility

A. - A.4. ...

5.a. for students graduating through the 2015-2016 academic year (high school), continue to enroll and accept

the TOPS Tech Award as a full-time student in an eligible college or university defined in §301, and maintain an enrolled status throughout the academic year (TOPS) (enrollment in a summer session is optional and is not required to meet this requirement), unless granted an exception for cause by LASFAC; and

b. for students graduating in the 2016-2017 academic year (high school) and later, continue to enroll in an eligible college or university in an associate's degree or other shorter-term training and education program that is aligned to state workforce priorities as determined by the Board of Regents and the Louisiana Workforce Investment Council, and maintain an enrolled status throughout the academic year (TOPS) (enrollment in a summer session is optional and is not required to meet this requirement), unless granted an exception for cause by LASFAC;

A.6. - E. ...

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 24:1905 (October 1998) amended LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), repromulgated LR 27:1856 (November 2001), amended LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:880 (June 2003), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1165 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:438 (March 2007), LR 35:1489 (August 2009), LR 38:3160 (December 2012), LR 40:1002 (May 2014), LR 41:666 (April 2015), LR 41:

Chapter 10. TOPS-Tech Early Start Award

§1005. Establishing Eligibility

A. - A.3. ...

4. score at least 15 on the English subsection and 15 on the mathematics subsection of the ACT PLAN assessment or a successor assessment administered as part of Louisiana's educational planning and assessment system or the ACT or an equivalent concordant value of the SAT or have attained a silver level score on the assessments of the ACT WorkKeys system;

5. enroll in a course in an industry-based occupational or vocational education credential program in a top demand occupation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 41:375 (February 2015), LR 41:

Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions

§1903. Responsibilities of Post-Secondary Institutions

A. - A.2.h. ...

3. Beginning with the 2013-2014 academic year (TOPS), an institution shall also report:

- a. a student's completion of a program of study;
- b. through the 2015-2016 academic year (TOPS) whether the program of study was academic or technical;
- c. type of credential (degree, certificate, diploma, baccalaureate);
- d. semester of completion; and
- e. beginning with the 2015-2016 academic year (TOPS):

i. the CIP code for the program of study in which the student is enrolled;

ii. the degree level code for the program of study in which the student is enrolled;

iii. the increment key assigned by the Board of Regents that provides each program a unique key for the program of study in which the student is enrolled.

B. Program Billing. Each term, institutions shall bill LASFAC for students who are recipients of a TOPS Award or a GO-Youth ChalleNGe Program grant and who have enrolled at the institution in accordance with the following terms and conditions:

I.a. through the 2016-2017 academic year (college), institutions may only bill for students who have been certified by LASFAC as eligible for a TOPS Award or a GO-Youth ChalleNGe Program grant; and

b. beginning with the 2017-2018 academic year (college), institutions may bill for students who have been certified by LASFAC as eligible for a TOPS Opportunity, Performance, or Honors Award and may only bill for a TOPS Tech Award if the student is enrolled in an associate's degree or other shorter-term training and education program that is aligned to state workforce priorities as determined by the Board of Regents and the Louisiana Workforce Investment Council at that institution;

B.2. - G2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3111, 3114 (December 2005), LR 33:1340 (July 2007), LR 35:1233 (July 2009), LR 35:1490 (August 2009), LR 35:1491 (August 2009), LR 36:2857 (December 2010), LR 40:282 (February 2014), LR 40:1003 (May 2014), LR 41:667 (April 2015), LR 41:

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DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—TOPS Core Curriculum
Equivalents: Photography I, Photography II, and Digital
Photography (LAC 28:IV.703)

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 re-promulgate 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 adds photography I, photography II, and digital photography as course equivalents to art in the TOPS core curriculum for students who graduate from high school beginning in the 2017-2018 academic year (high school).

The 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 14, 2015, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG16164E)

**Title 28
EDUCATION**

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

§703. Establishing Eligibility

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

(e). For students graduating in academic year (high school) 2017-2018 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course(s)	Equivalent (Substitute) Course
Algebra I, Geometry and Algebra II	Integrated Mathematics I, II and III
Art	Media Arts I-IV; Photography I, Photography II, and Digital Photography
Any listed core course or its equivalent.	Any core curriculum course taken by a student who has been deemed to be gifted and talented pursuant to R.S. 17:1941 et. seq. as implemented in State Board of Elementary and Secondary Education policy and in fulfillment of the student's Individualized Education Program shall be considered a gifted and talented course and shall fulfill the core curriculum requirement in its given subject area.

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

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June

2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:657, 664 (April 2015), LR 41:

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DECLARATION OF EMERGENCY

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.Chapter 31 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This 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 Emergency Rules which amended the provisions governing disproportionate share hospital (DSH) payments to hospitals participating in public-private partnerships in the south and north Louisiana areas (*Louisiana Register*, Volume 39, Numbers 7 and 10). As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the corresponding state plan amendments, the department determined that it was necessary to repeal the provisions of the July 6, 2013 and October 1, 2013 Emergency Rules governing DSH payments to the hospitals participating in the south and north Louisiana area public-private partnerships.

The department promulgated an Emergency Rule which amended the provisions governing DSH payments in order to establish payments to Louisiana Low-Income Academic Hospitals (*Louisiana Register*, Volume 40, Number 6). The department subsequently promulgated an Emergency Rule which amended the provisions of the May 24, 2014 Emergency Rule to clarify the provisions governing the payment methodology to Louisiana low-income academic hospitals (*Louisiana Register*, Volume 40, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2014 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective September 18, 2015 the Department of Health and Hospitals, Bureau of Health Services Financing amends

the provisions governing DSH payments to low-income academic hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 31. Louisiana Low-Income Academic

Hospitals

§3101. Qualifying Criteria

A. Hospitals Located Outside of the Lake Charles Metropolitan Statistical Area

1. Effective for dates of service on or after May 24, 2014, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located outside of the Lake Charles metropolitan statistical area (MSA);

b. having uninsured patient utilization, as measured by allowable uninsured inpatient and outpatient charges, greater than 20 percent. Qualification shall be based on uninsured utilization data per the prior state fiscal year date of service time period; and

c. maintaining at least 15 unweighted intern and resident full-time equivalent positions, as reported on the Medicare Cost Report Worksheet E-4, line 6.

B. Hospitals Located In the Lake Charles Metropolitan Statistical Area

1. Effective for dates of service on or after May 24, 2014, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located in the Lake Charles MSA;

b. having uninsured patient utilization, as measured by allowable uninsured inpatient and outpatient charges, greater than 10 percent. To determine qualification in state fiscal year 2014, the first six month dates of service time period (July 1, 2013 through December 31, 2013) shall be used. In subsequent state fiscal years, qualification shall be based on uninsured utilization data per the prior state fiscal year date of service time period; and

c. maintaining at least 20 unweighted intern and resident full-time equivalent positions, as reported on the Medicare Cost Report Worksheet E-4, line 6.

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 41:

§3103. Payment Methodology

A. Each qualifying hospital shall be paid DSH adjustment payments equal to 100 percent of allowable hospital specific uncompensated care costs subject to the Appropriations Act. DSH payments to qualifying hospitals shall not exceed the disproportionate share limits as defined in Section 1923(g)(1) (A) of the Social Security Act for the state fiscal year to which the payment is applicable.

B. Payment Calculation

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

2. For subsequent year's payment calculations, the most recent Medicaid filed cost report along with actual

Medicaid and uninsured patient charge data annualized from the most recent calendar year completed quarter is utilized to calculate hospital specific uncompensated care costs.

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

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

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

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

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

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 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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

1508#063

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Service 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 9, 2015, 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 41:

§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 41:

§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 the Office for Citizens with Developmental Disabilities, LR 41:

§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 the Office for Citizens with Developmental Disabilities, LR 41:

§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 41:

§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 41:

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 41:

§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 41:

§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 41:

§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 41:

§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 41:

§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 41:

§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.

1. - I.1. ...

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

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 41:

§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 41:

§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 41:

§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 41:

§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 41:

§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.

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 41:

§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 in 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 41:

§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 41:

§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 41:

§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 41:

§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 41:

§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 rehabilitative 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 41:

§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.

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 41:

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 41:

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 41:

§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 41:

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.

L. - L.1.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 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 39:1049 (April 2013), LR 41:

§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. pre-vocational 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 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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

1508#064

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

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

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

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

The department now proposes to amend the provisions governing the reimbursement methodology for ICFs/ID in order to adopt provisions to establish supplemental Medicaid payments for services provided to Medicaid recipients residing in privately-owned facilities that enter into a cooperative endeavor agreement with the department. This action is being taken to secure new federal funding, and to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$8,371,460 for state fiscal year 2015-2016.

Effective August 1, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-state ICFs/ID to establish supplemental Medicaid payments.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

§32917. Supplemental Payments

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

B. In order to qualify for the supplemental payment, the private entity must enter into a cooperative endeavor agreement with the department to lease state-owned ICF/ID beds.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

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 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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

1508#023

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility
Medically Needy Program
Behavioral Health Services
(LAC 50:III.2313)

The Department of Health and Hospitals, Bureau of Health Services Financing hereby repeals and replaces all of the Rules governing the Medically Needy Program, and adopts LAC 50:III.2313 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 promulgated a Rule in order to reinstate the Title XIX Medically Needy Program (MNP) and to establish coverage restrictions (*Louisiana Register*, Volume 24, Number 5). All Behavioral health services are restricted from coverage under the Medically Needy Program.

In February 2012, the department adopted provisions in the Medicaid Program to restructure the existing behavioral health services delivery system into a comprehensive service delivery model called the Louisiana behavioral health partnership (LBHP). Certain recipients enrolled in the Medically Needy Program, whose Medicaid eligibility is based solely on the provisions of §1915(i) of Title XIX of the Social Security Act, are eligible to only receive behavioral health services. These recipients have difficulties accessing behavioral health services through the LBHP due to the service restrictions currently in place in the Medically Needy Program.

Therefore, the department promulgated an Emergency Rule which revised the provisions governing the Medically Needy Program in order to include behavioral health coverage for MNP recipients that qualify for the program under the provisions of §1915(i) of Title XIX of the Social Security Act. This Emergency Rule also repealed and replaced all of the Rules governing the Medically Needy Program in order to repromulgate these provisions in a clear and concise manner for inclusion in the *Louisiana Administrative Code* in a codified format (*Louisiana Register*, Volume 38, Number 12).

The department promulgated an Emergency Rule which amended the provisions governing the Medically Needy Program to further clarify the provisions governing covered services (*Louisiana Register*, Volume 39, Number 4). The department promulgated an Emergency Rule which amended the provisions of the April 20, 2013 Emergency Rule in order to further clarify these provisions (*Louisiana Register*, Volume 40, Number 1). The department now proposes to amend the provisions of the January 20, 2014 Emergency Rule in order to further clarify these provisions.

This action is being taken to promote the health and welfare of MNP recipients who are in need of behavioral health services, and to assure their continued access to these services.

Effective August 20, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the January 20, 2015 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2313. Medically Needy Program

A. The Medically Needy Program (MNP) provides Medicaid coverage when an individual's or family's income and/or resources are sufficient to meet basic needs in a categorical assistance program, but not sufficient to meet medical needs according to the MNP standards.

1. The income standard used in the MNP is the federal medically needy income eligibility standard (MNIES).

2. Resources are not applicable to modified adjusted gross income (MAGI) related MNP cases.

3. MNP eligibility cannot be considered prior to establishing income ineligibility in a categorically related assistance group.

B. MNP Eligibility Groups

1. Regular Medically Needy

a. Prior to the implementation of the MAGI income standards, parents who met all of the parent and caretaker relative (PCR) group categorical requirements and whose income was at or below the MNIES were eligible to receive Regular MNP benefits. With the implementation of the MAGI-based methodology for determining income and household composition and the conversion of net income standards to MAGI equivalent income standards, individuals who would have been eligible for the Regular Medically Needy Program are now eligible to receive Medicaid benefits under the parent and caretaker relative eligibility group. Regular medically needy coverage is only applicable to individuals included in the MAGI-related category of assistance.

b. Individuals in the non-MAGI (formerly aged (A-), blind (B-), or disability (D-) related assistance groups cannot receive Regular MNP.

c. The certification period for Regular MNP cannot exceed six months.

2. Spend-Down Medically Needy

a. Spend-Down MNP is considered after establishing financial ineligibility in categorically related Medicaid programs and excess income remains. Allowable medical bills/expenses incurred by the income unit are used

to reduce (spend-down) the income to the allowable MNP limits.

b. The following individuals may be considered for Spend-Down MNP:

i. individuals who meet all of the parent and caretaker relative group requirements;

ii. non-institutionalized individuals (non-MAGI related); and

iii. institutionalized individuals or couples (non-MAGI related) with Medicare co-insurance whose income has been spent down to the MNIES.

c. The certification period for Spend-Down MNP begins no earlier than the spend-down date and shall not exceed three months.

3. Long Term Care (LTC) Spend-Down MNP

a. Individuals or couples residing in Medicaid LTC facilities, not on Medicare-coinsurance with resources within the limits, but whose income exceeds the special income limits (three times the current federal benefit rate), are eligible for LTC Spend-Down MNP.

4. Louisiana Behavioral Health Partnership (LBHP) 1915(i) MNP

a. The LBHP Medically Needy Program is considered only for the individuals who meet the level of need requirements of §1915 of title XIX of the Social Security Act, and who have been determined to be ineligible for other full Medicaid programs, including the Regular MNP and Spend-Down MNP.

b. LBHP 1915(i) MNP recipients are only eligible to receive behavioral health services through the LBHP. They do not qualify for other Medicaid covered services.

c. The certification period for LBHP 1915(i) Regular MNP recipients cannot exceed six months. For the LBHP 1915(i) Spend-Down MNP, the certification period begins no earlier than the spend-down date and shall not exceed three months.

C. The following services are covered in the Medically Needy Program for non-1915(i) recipients:

1. inpatient and outpatient hospital services;
2. intermediate care facilities for persons with intellectual disabilities (ICF/ID) services;
3. intermediate care and skilled nursing facility (ICF and SNF) services;
4. physician services, including medical/surgical services by a dentist;
5. nurse midwife services;
6. certified registered nurse anesthetist (CRNA) and anesthesiologist services;
7. laboratory and x-ray services;
8. prescription drugs;
9. early and periodic screening, diagnosis and treatment (EPSDT) services;
10. rural health clinic services;
11. hemodialysis clinic services;
12. ambulatory surgical center services;
13. prenatal clinic services;
14. federally qualified health center services;
15. family planning services;
16. durable medical equipment;
17. rehabilitation services (physical therapy, occupational therapy, speech therapy);
18. nurse practitioner services;

19. medical transportation services (emergency and non-emergency);
20. home health services for individuals needing skilled nursing services;
21. chiropractic services;
22. optometry services;
23. podiatry services;
24. radiation therapy; and
25. behavioral health services.

D. The following behavioral health services are covered for LBHP 1915(i) MNP recipients:

1. inpatient and outpatient hospital services;
2. emergency medical services;
3. physician/psychiatrist services;
4. treatment by a licensed mental health professional;
5. community psychiatric support and treatment;
6. psychosocial rehabilitation;
7. crisis intervention;
8. case conference [1915(b) services]; and
9. treatment planning [1915(b) services].

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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

1508#062

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Medical Transportation Program
Emergency Aircraft Transportation
Rotor Winged Ambulance Services Rate Increase
(LAC 50:XXVII.353)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXVII.353 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This 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.

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 of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 40, Number 7). The department promulgated an Emergency Rule which amended the provisions governing reimbursement for emergency medical aircraft transportation in order to increase the rates for services originating in rural areas (*Louisiana Register*, Volume 40, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2014 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to emergency medical aircraft transportation services.

Effective August 30, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for emergency medical aircraft transportation services to increase the reimbursement rates for rural areas.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter C. Aircraft Transportation

§353. Reimbursement

A. - H. ...

I. Effective for dates of service on or after September 1, 2014, the reimbursement rates for rotor winged emergency air ambulance services, which originate in areas designated as rural and/or super rural by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, shall be increased to the following rates:

1. base rate, \$4,862.72 per unit; and
2. mileage rate, \$33.65 per unit.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2594 (November 2010), LR 37:3029 (October 2011), LR 39:1285 (May 2013), LR 40:1379 (July 2014), LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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

1508#065

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Medical Transportation Program
Non-Emergency Medical Transportation
(LAC 50:XXVII.Chapter 5)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals and replaces the provisions of the October 20, 1994 Rule governing non-emergency medical transportation, and amends LAC 50:XXVII.Chapter 5 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing non-emergency medical transportation (NEMT) (*Louisiana Register*, Volume 20, Number 10). The department promulgated an Emergency Rule which repealed the October 20, 1994 Rule in order to revise the provisions governing NEMT services, and to ensure that these provisions are appropriately promulgated in a codified format for inclusion in the *Louisiana Administrative Code*. This Emergency Rule also amended the provisions governing the reimbursement methodology for NEMT services to replace the monthly payment of capitated rates with a monthly per trip payment methodology (*Louisiana Register*, Volume 40, Number 10). The department promulgated an Emergency Rule which amended the October 1, 2014 Emergency Rule in order to further clarify these provisions to bring the language of this Rule into compliance with the approved Medicaid state plan, and to incorporate provisions governing appeals rights for denials and partial denials of NEMT services (*Louisiana Register*, Volume 41, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2015 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to non-emergency medical transportation services, and to avoid federal sanctions from CMS for noncompliance with federal regulations and the approved Medicaid state plan.

Effective September 18, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-emergency medical transportation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation

Subchapter A. General Provisions

§501. Introduction

A. Non-emergency medical transportation (NEMT) is non-emergency transportation to and from the providers of routine Medicaid covered services for Medicaid recipients. NEMT is intended to provide transportation only after all

reasonable means of free transportation have been explored and found to be unavailable.

B. Medicaid covered transportation is available to Medicaid recipients when:

1. the individual is enrolled in either a full-coverage Medicaid benefit program or a limited-coverage Medicaid benefit program that explicitly includes transportation services; and

2. the recipient or their representative has stated that they have no other means of transportation.

C. The requested destination must be to a medical service provider currently enrolled in the Medicaid Program.

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 41:

§503. Prior Authorization

A. NEMT services require prior authorization. The department or its designee will authorize transportation after verifying the recipient's Medicaid eligibility and validity of medical appointment(s).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§505. Requirements for Coverage

A. When transportation is not available through family and friends, payment shall be authorized for the least costly means of transportation available. The least costly means of transportation shall be determined by the department and shall be determined according to the following hierarchy:

1. city or parish public transportation;
2. family and friends who meet the state license and insurance requirements and who are willing to:
 - a. enroll in the Medicaid Program; and
 - b. be paid a published rate for providing non-emergency transportation;
3. intrastate public conveyance (such as bus, train or plane);
4. nonprofit agencies and organizations that provide a transportation service and who are enrolled in the Medicaid Program; and
5. for profit providers enrolled in the Medicaid Program.

B. Recipients shall be allowed a choice of providers when the costs of two or more providers are equal.

C. Recipients are encouraged to utilize medical providers of their choice in the community in which they reside when the recipient is also in need of Medicaid reimbursed transportation services. The fact that the department will still pay for the actual medical service received outside the community in which the recipient resides does not obligate the department to reimburse for transportation to accommodate such a choice.

D. When the recipient chooses to utilize a medical provider outside of the community due to preference and/or history, payment may be authorized only for the cost of transportation to the nearest available provider.

E. The recipient may be responsible for securing any agreements with family and friends, nonprofit or profit providers to make the longer trip for the payment authorized. If the recipient needs help with making such arrangements,

the department will help but the help given will imply no obligation to provide a greater reimbursement.

F. When specialty treatment required by the recipient necessitates travel over extended distances, authorization for payment for intrastate transportation shall be determined according to the following criteria.

1. Intrastate transportation reimbursement shall be authorized when medical services are not available to the recipient in his/her community.

2. Payment shall be authorized when free transportation is not available.

3. The department shall still authorize payment only for the most economical means of transportation. This may be through negotiating payment for transportation with family and or friends or through accessing the public conveyance systems such as bus, train or plane.

4. The determination as to use of public conveyance shall be based on least cost, medical condition of the recipient to be transported, and availability of public conveyance.

G. When it has been verified that public conveyance is unavailable or inappropriate for intrastate transportation the recipient shall solicit transportation from family and friends. The department will authorize payment to assist the family in accessing the needed medical services.

1. Payment will be based on distance to be traveled to the nearest available similar or appropriate medical services, parking and tolls. In determining the amount of payment the cost of the least costly public conveyance shall be used as the base cost to be paid to the family. Payment shall not be available for room and board or meals.

H. When no other means of transportation is available through family and friends or public conveyance, the department will solicit intrastate transportation through a nonprofit provider.

1. The nonprofit provider will be paid a fee based on the current fee schedule.

2. If the nonprofit provider cannot accept the trip then the department will reimburse for-profit providers based on the current fee schedule.

I. The department will not authorize "same day" trips except in the instance of need for immediate medical care due to injury or illness. Same day trips will not be authorized for scheduled appointments for predictable or routine medical care. Recipients will be asked to reschedule the appointment and make the subsequent request for transportation timely.

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 41:

Subchapter B. Recipient Participation

§521. General Provisions

A. Recipients shall participate in securing transportation at a low cost and shall agree to use public transportation or solicit transportation from family and friends as an alternative to more costly means of transport.

B. When the recipient alleges that public conveyance cannot be used due to medical reasons, then verification shall be provided by giving the department a written statement from a doctor that includes the specific reason(s) that the use of public conveyance is contraindicated by the medical condition of the recipient. In no case can preference

of the recipient be the sole determining factor in excluding use of public conveyance.

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 41:

§523. Recipient Appeals

A. Recipients shall have a right to request a fair hearing for the denial of NEMT services in full or in part. This includes requests for a fair hearing for denial of meals and lodging expenses associated with authorized trips.

B. Recipients shall be provided written notice of the service denial (including denials for meals and/or lodging expenses) and given the opportunity to request a fair hearing to appeal the department's decision.

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 41:

Subchapter C. Provider Responsibilities

§541. Provider Enrollment

A. All transportation providers must comply with the published rules and regulations governing the Medicaid Transportation Program, all state laws, and the regulations of any other governing state agency or commission or local entity to which they are subject as a condition of enrollment and continued participation in the Medicaid Program.

B. Non-emergency medical transportation profit providers shall have a minimum liability insurance coverage of \$100,000 per person and \$300,000 per accident or a \$300,000 combined service limits policy.

1. The liability policy shall cover any and all:

- a. autos;
- b. hired autos; and
- c. non-owned autos.

2. Premiums shall be prepaid for a period of six months. Proof of prepaid insurance must be a true and correct copy of the policy issued by the home office of the insurance company. Statements from the agent writing the policy will not be acceptable. Proof must include the dates of coverage and a 30-day cancellation notification clause. Proof of renewal must be received by the department no later than 48 hours prior to the end date of coverage. The policy must provide that the 30-day cancellation notification be issued to the Bureau of Health Services Financing.

3. Upon notice of cancellation or expiration of the coverage, the department will immediately cancel the provider agreement for participation. The ending date of participation shall be the ending date of insurance coverage. Retroactive coverage statements will not be accepted. Providers who lose the right to participate due to lack of prepaid insurance may re-enroll in the transportation program and will be subject to all applicable enrollment procedures, policies, and fees for new providers.

C. As a condition of reimbursement for transporting Medicaid recipients to medical services, family and friends must maintain the state minimum automobile liability insurance coverage, a current state inspection sticker, and a current valid driver's license. No special inspection by the department will be conducted. Proof of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the department is sought. Proof shall be the sworn and notarized statement of the

individual enrolling for payment, certifying that all three requirements are met. Family and friends shall be enrolled and shall be allowed to transport up to three specific Medicaid recipients or all members of one Medicaid assistance unit. The recipients to be transported by each such provider will be noted in the computer files of the department. Individuals transporting more than three Medicaid recipients shall be considered profit providers and shall be enrolled as such.

D. As a condition of participation for out-of-state transport, providers of transportation to out-of-state medical services must be in compliance with all applicable federal intrastate commerce laws regarding such transportation, including but not limited to, the \$1,000,000 insurance requirement. Proof of compliance with all interstate commerce laws must be submitted when enrollment in the Medicaid Program is sought or prior to providing any out-of-state Medicaid transportation.

E. A provider must agree to cover the entire parish or parishes for which he provides non-emergency medical transportation services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§543. Trip Coordination

A. Dispatch personnel will coordinate to the extent possible, trips for family members so that all recipients in a family are transported as a unit at one time to the same or close proximity providers.

B. Providers must submit a signed affidavit with claims certifying that a true and correct bill is being submitted.

C. If the provider has declined to accept a trip on a particular day the dispatch personnel will not assign additional trips to that provider for that same day.

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 41:

§545. Provider Suspension and Termination

A. Providers are subject to suspension from the NEMT Program upon department documentation of inappropriate billing practices or other practices that egregiously violate Medicaid Program policy.

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 41:

§547. Audits

A. The department shall conduct regular audits of service authorization, reimbursement, service delivery and documentation in order to ensure compliance with published rules and regulations.

B. Lack of compliance on the part of transportation providers shall be addressed as described in the provider policy manual.

C. Lack of compliance on the part of department contractors shall be met with corrective action as described in contract documents.

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 41:

Subchapter D. Reimbursement

§565. General Provisions

A. Reimbursement for NEMT services shall be based upon the current fee schedule. An additional per-mile rate may be included when the department determines that a provider requires compensation for travelling far outside of their service areas. This additional payment shall be made when there are no providers in the recipient's service area

B. Reimbursement for NEMT to regular, predictable and continuing medical services, such as hemodialysis, chemotherapy or rehabilitation therapy, as determined by the department, shall be based on a capitated rate paid by individual trip.

C. Reimbursement will not be made for any additional person(s) who must accompany the recipient to the medical provider.

D. An individual provider will be reimbursed for a trip to the nearest facility that will meet the recipient's medical needs. However, the individual provider may transport the recipient to a more distant facility if the individual provider will accept reimbursement from the department to the nearest facility and assumes responsibility for additional expenses incurred.

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 41:

§573. Non-Emergency, Non-Ambulance Transportation

A. - F.5. ...

G. Effective for dates of service on or after October 1, 2014, the monthly payment of capitated rates shall be replaced with a per trip payment methodology.

1. Payments previously made using the monthly capitated rate shall be made by dividing the monthly rate by the number of authorized trips within a given month. Each trip will then be reimbursed separately.

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 33:462 (March 2007), LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2564 (November 2010), LR 37:3030 (October 2011), amended LR 38:3214 (December 2012), LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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

1508#066

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Nursing Facilities
Licensing Standards
(LAC 48:1.9704, 9707, and Chapter 99)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:1.9704, §9707 and Chapter 99 in the Medical Assistance Program as authorized by R.S. 36:254. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 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 licensing standards governing nursing facilities in order to clarify the provisions for Alzheimer's special care disclosure, and to revise the provisions governing approval of plans and physical environment (*Louisiana Register*, Volume 40, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2014 Emergency Rule. This action is being taken to promote the health and well-being of Louisiana residents in nursing facilities.

Effective September 16, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the licensing standards for nursing facilities.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 97. Nursing Facilities

Subchapter A. General Provisions

§9704. Alzheimer's Special Care Disclosure

A. - D.5. ...

E. The provider's Alzheimer's special care disclosure documentation shall contain the following information:

1. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.121-1300.125.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 27:312 (March 2001), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9707. Approval of Plans

A. Plans and specifications for new construction of, or to, a nursing facility, and for any major alterations or renovations to a nursing facility, shall be submitted for approval to the Department of Public Safety, Office of the State Fire Marshal for review in accordance with R.S. 40:1563(L), R.S. 40:1574 and LAC 55:V.Chapter 3.

1. Plans and specifications for new construction, major alterations, and major renovations shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer where required by the Louisiana architecture and engineering licensing laws of R.S. 37:141 et

seq., R.S. 37:681 et seq., and respective implementing regulations.

2. No residential conversions shall be considered for a nursing facility license.

B. The plans and specifications shall comply with all of the following:

1. DHH nursing facility licensing requirements and the Office of Public Health's (OPH) nursing home regulations (see LAC 51:XX); and

2. the Office of the State Fire Marshal's requirements for plan submittals and compliance with all codes required by that office.

2.a. - 3. Repealed.

C. Notice of satisfactory review from the department and the Office of the State Fire Marshal constitutes compliance with this requirement, if construction begins within 180 days of the date of such notice. This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes, or rules of any responsible agency.

C.1. - E. 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 24:46 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2630 (September 2011), LR 41:

Chapter 99. Nursing Facilities

Subchapter A. Physical Environment

§9901. General Provisions

A. The nursing facility shall be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel, and the public.

B. The nursing facility shall provide a safe, clean, orderly, homelike environment.

C. If the nursing facility determines that a licensing provision of this Subchapter A prohibits the provision of a culture change environment, the nursing facility may submit a written waiver request to the Health Standards Section (HSS) of the Department of Health and Hospitals, asking that the provision be waived and providing an alternative to the licensing provision of this Subchapter. The department shall consider such written waiver request, shall consider the health and safety concerns of such request and the proposed alternative, and shall submit a written response to the nursing facility within 60 days of receipt of such waiver request.

D. Any construction-related waiver or variance request of any provision of the LAC Title 51, *Public Health—Sanitary Code* shall be submitted in writing to the state health officer for his/her consideration.

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 24:62 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9903. Nurse/Care Team Work Areas

A. Each floor and/or household of a nursing facility shall have a nurse/care team work area in locations that are suitable to perform necessary functions. These nurse/care

team work areas may be in centralized or decentralized locations, as long as the locations are suitable to perform necessary functions.

1. Each centralized nurse/care team area shall be equipped with working space and accommodations for recording and charting purposes by nursing facility staff with secured storage space for in-house resident records.

a. Exception. Accommodations for recording and charting are not required at the central work area where decentralized work areas are provided.

2. Each decentralized work area, where provided, shall contain working space and accommodations for recording and charting purposes with secured storage space for administrative activities and in-house resident records.

3. The nurse/care team work areas shall be equipped to receive resident calls through a communication system from resident rooms, toileting and bathing facilities.

a. In the case of an existing centralized nurse/care team work area, this communication may be through audible or visible signals and may include wireless systems.

b. In those facilities that have moved to decentralized nurse/care team work areas, the facility may utilize other electronic systems that provide direct communication from the resident to the staff.

B. There shall be a medicine preparation room or area. Such room or area shall contain a work counter, preparation sink, refrigerator, task lighting and lockable storage for controlled drugs.

C. There shall be a clean utility room on each floor designed for proper storage of nursing equipment and supplies. Such room shall contain task lighting and storage for clean and sterile supplies.

D. There shall be a separate soiled utility room designed for proper cleansing, disinfecting and sterilizing of equipment and supplies. At a minimum, it shall contain a clinical sink or equivalent flushing-rim sink with a rinsing hose or bed pan sanitizer, hand washing facilities, soiled linen receptacles and waste receptacle. Each floor of a nursing facility shall have a soiled utility room.

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 24:62 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9905. Resident Rooms

A. ...

B. Each resident's bedroom shall have a floor at or above grade level, shall accommodate a maximum of two residents, and be so situated that passage through another resident's bedroom is unnecessary.

1. Exception. Resident bedrooms in existing nursing facilities shall be permitted to accommodate no more than four residents unless the cost of renovations to the existing nursing facility exceeds the values stipulated by R.S. 40:1574.

C. Private resident bedrooms shall measure at least 121 square feet of bedroom area, exclusive of wardrobes, closet space, vestibules or toilet rooms, and shall have a clear width of not less than 11 feet.

D. Double occupancy resident bedrooms containing two beds shall measure at least 198 square feet of bedroom area,

exclusive of wardrobes, closet space, vestibules or toilet rooms, and shall have a clear width of not less than 11 feet.

E. In existing nursing facilities, or portions thereof, where plans were approved by the department and the Office of State Fire Marshal prior to January 20, 1998, there shall be at least three feet between the sides and foot of the bed and any wall, other fixed obstruction, or other bed, unless the furniture arrangement is the resident's preference and does not interfere with service delivery.

F. Each resident's bedroom shall have at least one window to the outside atmosphere with a maximum sill height of 36 inches. Windows with sills less than 30 inches from the floor shall be provided with guard rails.

1. Each resident's bedroom window shall be provided with shades, curtains, drapes, or blinds.

2. Operable windows shall be provided with screens.

G - H. 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 24:62 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9907. Resident Room Furnishings

A. ...

1. a clean supportive frame in good repair;

2. - 5. ...

B. Screens or noncombustible ceiling-suspended privacy curtains which extend around the bed shall be provided for each bed in multi-resident bedrooms to assure resident privacy. Total visual privacy without obstructing the passage of other residents either to the corridor, closet, lavatory, or adjacent toilet room nor fully encapsulating the bedroom window shall be provided.

C. Each resident shall be provided with a call device located within reach of the resident.

D. Each resident shall be provided a bedside table with at least two drawers. As appropriate to resident needs, each resident shall have a comfortable chair with armrests, waste receptacle, and access to mirror unless medically contraindicated.

1. Each resident who has tray service to his/her room shall be provided with an adjustable overbed table positioned so that the resident can eat comfortably.

E. Each resident shall be provided an individual closet that has minimum dimensions of 1 foot 10 inches in depth by 2 feet 6 inches in width. A clothes rod and shelf shall be provided that is either adjustable or installed at heights accessible to the resident. Accommodations shall be made for storage of full-length garments. The shelf may be omitted if the closet provides at least two drawers. The following exceptions may apply.

1. Individual wardrobe units having nominal dimensions of 1 foot 10 inches in depth by 2 feet 6 inches in width are permitted. A clothes rod and shelf shall be provided that is either adjustable or installed at heights accessible to the resident. Accommodations shall be made for storage of full-length garments. The shelf may be omitted if the unit provides at least two drawers.

2. In existing nursing facilities, or portions thereof, where plans were approved by the department and the state fire marshal prior to January 20, 1998, each resident shall be

provided an individual wardrobe or closet that has nominal dimensions of 1 foot 10 inches in depth by 2 feet in width.

F. Each resident shall be provided with a bedside light or over-the-bed light capable of being operated from the bed.

1. Nursing facilities, or portions thereof, where plans were approved by the department and the state fire marshal prior to May 1, 1997 shall be exempt from this provision.

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 24:63 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9909. Locked Units, Restraints and Seclusion

A. Locked Units

1. Nursing facilities may have specific locked units for housing residents suffering from severe dementia or Alzheimer's disease. The locked units may only house, limit and restrict free access of those residents suffering from severe dementia or Alzheimer's who may be a danger to themselves or others.

2. Nursing facilities providing locked units shall develop admission criteria. There shall be documentation in the resident's record to indicate the unit is the least restrictive environment possible, and placement in the unit is needed to facilitate meeting the resident's needs.

3. Guidelines for admission shall be provided to the resident, his/her family and his/her authorized representative.

4. Locked units are designed and staffed to provide the care and services necessary for the resident's needs to be met.

a. The locked unit shall have designated space for dining and/or group and individual activities that is separate and apart from the resident bedrooms and bathrooms.

b. The dining space shall contain tables for eating within the locked unit.

c. The activities area(s) shall contain seating, and be accessible to the residents within the locked unit.

5. There shall be sufficient staff to respond to emergency situations in the locked unit at all times.

6. The resident on the locked unit has the right to exercise those rights which have not been limited as a result of admission to the unit.

7. Care plans shall address the reasons for the resident being in the unit and how the nursing facility is meeting the resident's needs.

8. All staff designated to provide care and services on locked units shall have training regarding unit policies and procedures, admission and discharge criteria, emergency situations and the special needs of the residents on the unit.

9. Admission to a locked unit shall be in compliance with R.S. 40:1299.53 and 40:2010.8.

B. Restraints. The resident has the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms.

C. Seclusion. The resident has the right to be free from verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion.

D. - G. 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 24:63 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9911. Hand-Washing Stations, Toilet Rooms and Bathing Facilities

A. A hand-washing station shall be provided in each resident room.

1. Omission of this station shall be permitted in a single-bed or two-bed room when a hand-washing station is located in an adjoining toilet room that serves that room only.

B. Each resident shall have access to a toilet room without having to enter the corridor area. In nursing facilities built prior to August 26, 1958, each floor occupied by residents shall be provided with a toilet room and hand-washing station.

1. One toilet room shall serve no more than two residents in new construction or no more than two resident rooms in renovation projects. In nursing facilities built prior to August 26, 1958, toilets and hand-washing stations shall each be provided at a rate of 1 per 10 beds or fraction thereof.

2. Toilet rooms shall be easily accessible, conveniently located, well lighted and ventilated to the outside atmosphere. Fixtures shall be of substantial construction, in good repair and of such design to enable satisfactory cleaning.

3. Separate male and female toilet rooms for use by staff and guests shall be provided.

4. Each toilet room shall contain a toilet, hand-washing station and mirror.

5. Doors to single-use resident toilet rooms shall swing out of the room.

6. Doors to single-use resident toilet rooms shall be permitted to utilize privacy locks that include provisions for emergency access.

7. In multi-use toilet rooms provisions shall be made for resident privacy.

C. Each floor occupied by residents shall be provided with a bathing facility equipped with a toilet, hand-washing station, and bathing unit consisting of a bathtub, shower, or whirlpool unit.

Table. Repealed.

1. A minimum of one bathtub, shower, or whirlpool unit shall be provided for every 10 residents, or fraction thereof, not otherwise served by bathing facilities in resident rooms. In nursing facilities built prior to August 26, 1958, showers or tubs shall each be provided at a rate of 1 per 15 beds or fraction thereof.

2. Bathing facilities shall be easily accessible, conveniently located, well lighted and ventilated to the outside atmosphere. Fixtures shall be of substantial construction, in good repair, and of such design to enable satisfactory cleaning.

3. Tub and shower bottoms shall be of nonslip material. Grab bars shall be provided to prevent falling and to assist in maneuvering in and out of the tub or shower.

4. Separate bathing facilities shall be provided for employees who live on the premises.

5. In multi-use bathing facilities provisions shall be made for resident privacy.

6. Wall switches for controlling lighting, ventilation, heating or any other electrical device shall be so located that they cannot be reached from a bathtub, shower, or whirlpool.

D. - H. 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 24:63 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9913. Dining and Resident Activities

A. The nursing facility shall provide one or more areas designated for resident dining and activities.

B. Smoking is not permitted in the dining room and other public areas as specified by R.S. 40:1300.256(B)(11).

C. Dining room(s) or dining area(s) shall be sufficient in space and function to accommodate the needs of the residents without restriction. Dining areas shall be adequately furnished, well lighted, and well ventilated. Dining areas shall be sufficient in space to comfortably accommodate the persons who usually occupy that space, including persons who utilize walkers, wheelchairs and other ambulating aids or devices.

D. There shall be at least one well lighted and ventilated living/community room with sufficient furniture.

E. There shall be sufficient space and equipment to comfortably accommodate the residents who participate in group and individual activities. These areas shall be well lighted and ventilated and be adequately furnished to accommodate all activities.

F. Areas used for corridor traffic or for storage of equipment shall not be considered as areas for dining or activities.

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 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9915. Linen and Laundry

A. The nursing facility shall have available, at all times, a quantity of bed and bath linen essential for proper care and comfort of residents.

B. - G. ...

H. Clean linen shall be transported and stored in a manner to prevent its contamination.

I. Nursing facilities providing in-house laundry services shall have a laundry system designed to eliminate crossing of soiled and clean linen.

J. Nursing facilities that provide in house laundry services and/or household washers and dryers shall have policies and procedures to ensure safety standards, infection control standards and manufacturer's guidelines are met.

K. There shall be hand washing facilities available for use in any designated laundry area.

L. Provisions shall be made for laundering personal clothing of residents.

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 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9917. Equipment and Supplies

A. The nursing facility shall maintain all essential mechanical, electrical, and resident care equipment in safe operating condition.

B. - G. ...

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 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9919. Other Environmental Conditions

A. A hard surfaced off-the-road parking area to provide parking for one car per five licensed beds shall be provided. This is a minimum requirement and may be exceeded by local ordinances. Where this requirement would impose an unreasonable hardship, a written request for a lesser amount may be submitted to the department for waiver consideration.

B. The nursing facility shall make arrangements for an adequate supply of safe potable water even when there is a loss of normal water supply. Service from a public water supply must be used, if available. Private water supplies, if used, shall meet the requirements of the LAC Title 51, *Public Health—Sanitary Code*.

C. An adequate supply of hot water shall be provided which shall be adequate for general cleaning, washing and sanitization of cooking and food service dishes and other utensils and for bathing and laundry use. Hot water supply to the hand washing and bathing faucets in the resident areas shall have automatic control to assure a temperature of not less than 100°F, nor more than 120°F, at the faucet outlet. Supply system design shall comply with the Louisiana state *Plumbing Code* and shall be based on accepted engineering procedures using actual number and types of fixtures to be installed.

D. The nursing facility shall be connected to the public sewerage system, if such a system is available. Where a public sewerage is not available, the sewerage disposal system shall conform to the requirements of the LAC Title 51, *Public Health—Sanitary Code*.

E. The nursing facility shall maintain a comfortable sound level conducive to meeting the need of the residents.

F. All plumbing shall be properly maintained and conform to the requirements of the LAC Title 51, *Public Health—Sanitary Code*.

G. All openings to the outside atmosphere shall be effectively screened. Exterior doors equipped with closers in air conditioned buildings need not have screens.

H. Each room used by residents shall be capable of being heated to a minimum of 71°F in the coldest weather and capable of being cooled to a maximum of 81°F in the warmest weather.

I. Lighting levels in all areas shall be adequate to support task performance by staff personnel and independent

functioning of residents. A minimum of 6' to 10' canelas over the entire stairway, corridors, and resident rooms measured at an elevation of 30 inches above the floor and a minimum of 20' to 30' canelas over areas used for reading or close work shall be available.

J. Corridors used by residents shall be equipped on each side with firmly secured handrails, affixed to the wall. Handrails shall comply with the requirements of the state adopted accessibility guidelines.

K. There shall be an effective pest control program so that the nursing facility is free of pest and rodent infestation.

L. - R. 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 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

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

Kathy H. Kliebert
Secretary

1508#067

DECLARATION OF EMERGENCY

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

Therapeutic Group Homes
(LAC 50:XXXIII.12101 and 12501)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amend LAC 50:XXXIII.12101 and §12501 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 to provide behavioral health services to children with emotional/behavioral disorders in therapeutic group homes (TGHs) (*Louisiana Register*, Volume 38, Number 2).

The department promulgated an Emergency Rule which amended the provisions governing TGHs to increase the number of beds allowed and revise the provider responsibilities (*Louisiana Register*, Volume 40, Number 9). This Emergency Rule is being promulgated to continue the

provisions of the September 20, 2014 Emergency Rule. This action is being taken to promote the health and welfare of TGH residents by ensuring sufficient provider participation and continued access to TGH services.

Effective September 17, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amend the provisions governing therapeutic group homes.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 13. Therapeutic Group Homes

Chapter 121. General Provisions

§12101. Introduction

A. - B. ...

C. A therapeutic group home provides a community-based residential service in a home-like setting of no greater than 10 beds under the supervision and program oversight of a psychiatrist or psychologist.

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 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 125. Provider Participation

§12501. Provider Responsibilities

A. - F. ...

G. A TGH must ensure that youth are receiving appropriate therapeutic care to address assessed needs on the child's treatment plan.

1. Therapeutic care may include treatment by TGH staff, as well as community providers.

2. Treatment provided in the TGH or in the community should incorporate research-based approaches appropriate to the child's needs, whenever possible.

H. ...

I. A TGH must incorporate at least one research-based approach pertinent to the sub-populations of TGH clients to be served by the specific program. The specific research-based model to be used should be incorporated into the program description. The research-based models must be approved by OBH.

J. ...

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 38:428 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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

1508#068

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of Motor Vehicles

Private Driving Schools—Surety Bond
(LAC 55:III.146 and 147)

Under the authority of R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Motor Vehicles finds that an imminent peril to the public safety requires adoption of a Rule upon shorter notice than that provided in R.S. 49:953(A), as provided in R.S. 49:953(B), requiring driving schools to execute a good and sufficient surety bond in the sum of \$20,000 in accordance with Act 99 of the 2015 Legislative Session effective August 1, 2015. Current regulation requires schools to execute a surety bond in the sum of \$40,000. It is necessary to adopt this Emergency Rule to have this order in place until the corresponding permanent rules can be adopted in order to enforce the effective date of Act 99 of the 2015 Legislative Session. 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 take effect August 1, 2015, and shall be in effect for the maximum period allowed under the Act (120 days) or until adoption of the final Rule, whichever occurs first.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 1. Driver's License

Subchapter A. General Requirements

§146. Application Process and Fees for Private Driving Schools and Instructors

A. - A.2.j. ...

k. a surety bond in the amount of \$20,000;

A.2.l. - E.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1), R.S. 40:1461 and R.S. 40:1462.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1977 (August 2012), amended LR 40:2603 (December 2014), LR 41:

§147. General Regulations for Private Driving Schools

A. - B. ...

1. School owners shall be required to maintain a \$20,000 surety bond while maintaining a license to operate a driving school.

2. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1), R.S. 40:1461 and R.S. 40:1462.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1977 (August 2012), amended LR 40:2603 (December 2014), LR 41:

Jill P. Boudreaux
Undersecretary

1508#002

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of the State Fire Marshal Uniform Construction Code Council

State Uniform Construction Code
(LAC 55:VI.Chapter 3)

The Department of Public Safety and Corrections, Office of the State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) has exercised the emergency provision in accordance with R.S. 49:953(B) of the Administrative Procedure Act to amend, supplement and expand portions of and readopt LAC 55:VI.301 in the State Uniform Construction Code as authorized by R.S. 40:1730.26 and R.S. 40:1730.28. Furthermore, the LSUCCC has found an immediate need to adopt additional amendments of the current solar provisions in the *International Building Code*, *International Residential Code*, and the *National Electrical Code* regarding safety for first responders. This Emergency Rule will become effective July 20, 2015 and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The LSUCCC is promulgating this Rule adoption and amendments to provide greater safety for first responders and those providing maintenance on solar modules and systems. At present, the existing code language adopted by the state does not provide an adequate level of safety to the first responders. This Emergency Rule addresses this issue by providing for access pathways, roof ventilation areas and new technology to shut the electricity down at the solar module in case of emergency. There are additional changes to the current rules to reformat the codification of LAC 55:VI.Chapter 3. The formatting changes do not alter the substance of the rules. These changes are intended to make the rules easier to read.

The public welfare dictates that these changes be implemented immediately through the adoption of the Emergency Rule immediately to promote greater safety to existing responders and those providing maintenance on solar modules and systems thus allowing new and existing facilities to incorporate designs which provided for access pathways, roof ventilation areas and the new technology to shut the electricity down at the solar module in case of emergency.

The public welfare further dictates that these changes be implemented immediately through the adoption of the Emergency Rule because of the long design time frames and to prevent unnecessary delays in design. Adoption of this Emergency Rule will allow owners and developers to immediately use these new standards in expanding existing facilities or constructing new facilities.

Adoption of this Emergency Rule will also provide proven methods for firefighting and new technology in the electric codes which will ensure the health, safety and welfare of not only firefighters and responders, but for the public as well.

Adopted July 20, 2015. Effective July 20, 2015.

**Title 55
PUBLIC SAFETY**

Part VI. Uniform Construction Code

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

A. In accordance with the requirements set forth in R.S. 40:1730.28, effective January 1, 2015 the following is hereby adopted as an amendment to the Louisiana State Uniform Construction Code. (The “Louisiana State Plumbing Code” shall replace all references to the “International Plumbing Code” in the following codes.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, Uniform Construction Code Council, LR 41:

§303. International Building Code

[Formerly §301.A.1]

A. *International Building Code* (IBC), 2012 Edition, not including Chapter 1, Administration, Chapter 11, Accessibility, Chapter 27, Electrical and Chapter 29, Plumbing Systems. The applicable standards referenced in that code are included for regulation of construction within this state. Furthermore, IBC shall be amended as follows and shall only apply to the *International Building Code*.

1. Delete Chapter 4, Section 403.5.5, Luminous Egress Path Markings.

2. Amend Chapter 9 to adopt and amend 2012 *International Building Code*, Section 903.2.1.2 Group A-2 (2.). The fire area has an occupant load of 300 or more.

3. Amend chapter 10, Section 1018.5, Air Movement in corridors. Corridors that require protection under Table 1018.1—Corridor Fire-Resistance Rating, shall not serve as supply, return, exhaust, relief or ventilation air ducts.

4. Amend Chapter 10 Section 1026.5.

a. Exception: Exterior stairs or ramps which serve no more than one story above the level of exit discharge and constructed with non-combustible materials or constructed with fire retardant treated lumber, shall be allowed when the fire separation distance is between 5 and 10 feet measured from the exterior edge of the stairway or ramp.

B. *International Building Code* (IBC), 2012 Edition, not including Chapter 1, Administration, Chapter 11, Accessibility, Chapter 27, Electrical and Chapter 29, Plumbing Systems. The applicable standards referenced in that code are included for regulation of construction within this state. Furthermore, IBC shall be amended as follows and shall only apply to the *International Building Code*.

1. Delete Chapter 4, Section 403.5.5 Luminous Egress Path Markings.

2. Amend Chapter 9 to adopt and amend 2012 *International Building Code*, Section 903.2.1.2 Group A-2 (2.). The fire area has an occupant load of 300 or more.

3. Amend chapter 10, Section 1018.5, Air Movement in corridors. Corridors that require protection under Table 1018.1—Corridor Fire-Resistance Rating, shall not serve as supply, return, exhaust, relief or ventilation air ducts.

4. Amend Chapter 10 Section 1026.5.

a. Exception: Exterior stairs or ramps which serve no more than one story above the level of exit discharge and constructed with non-combustible materials or constructed with fire retardant treated lumber, shall be allowed when the fire separation distance is between 5 and 10 feet measured from the exterior edge of the stairway or ramp.

5. Amend Section 1505.1, General. Roof assemblies shall be divided into the classes defined below. Class A, B and C roof assemblies and roof coverings required to be listed by this section shall be tested in accordance with ASTM E 108 or UL 790. In addition, fire-retardant-treated wood roof coverings shall be tested in accordance with ASTM D 2898. The minimum roof coverings installed on buildings shall comply with Table 1505.1 based on the type of construction of the building.

a. Exception: Skylights and sloped glazing that comply with Chapter 24 or Section 2610.

6. Table 1505.1a, b

Minimum Roof Covering Classification for Types of Construction								
IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
B	B	B	C ^c	B	C ^c	B	B	C ^c

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m².

a. Unless otherwise required in accordance with the *International Wildland—Urban Interface Code* or due to the location of the building within a fire district in accordance with Appendix D.

b. Nonclassified roof coverings shall be permitted on buildings of Group R-3 and Group U occupancies, where there is a minimum fire-separation distance of 6 feet measured from the leading edge of the roof.

c. Buildings that are not more than two stories above grade plane and having not more than 6,000 square feet of projected roof area and where there is a minimum 10-foot fire-separation distance from the leading edge of the roof to a lot line on all sides of the building, except for street fronts or public ways, shall be permitted to have roofs of No. 1 cedar or redwood shakes and No. 1 shingles constructed in accordance with Section 1505.7.

7. Amend Section 1509.7, Photovoltaic panels and modules. Rooftop mounted *photovoltaic panels* and *modules* shall be designed in accordance with this Section.

8. Amend Section 1509.7.1, Wind resistance. Rooftop-mounted *photovoltaic panels* and *modules* shall be designed for component and cladding wind loads in accordance with Chapter 16 using an effective wind area based on the dimensions of a single unit frame.

a. Amend Section 1509.7.2, Fire classification. Rooftop-mounted *photovoltaic panels* and *modules* shall have the fire classification in accordance with Section 1505.9.

9. Amend Section 1509.7.3, Installation. Rooftop-mounted *photovoltaic panels* and *modules* shall be installed in accordance with the manufacturer's instructions.

10. Amend Section 1509.7.4, Photovoltaic panels and modules. Rooftop-mounted *photovoltaic panels* and *modules* shall be *listed* and labeled in accordance with UL 1703 and shall be installed in accordance with the manufacturer's instructions.

11. Add 1509.7.4.1, Building-integrated photovoltaic products. *Building-integrated photovoltaic products* installed as the roof covering shall be tested, *listed* and labeled for fire classification in accordance with Section 1505.1.

12. Add Section 1505.9.7.4.2, Photovoltaic panels and modules. Rooftop mounted *photovoltaic panel systems* shall be tested, *listed* and identified with a fire classification in accordance with UL 1703. The fire classification shall comply with Table 1505.1 based on the type of construction of the building.

13. Amend Section 1511.1, Photovoltaic panels and modules. *Photovoltaic panels* and *modules* installed upon a roof or as an integral part of a roof assembly shall comply with the requirements of this Code and the *International Fire Code*.

14. Add Section 1511.2, Solar photovoltaic power systems. Solar photovoltaic power systems shall be installed in accordance with Sections 1511.2 through 1511.4.2.1, the *International Building Code* or *International Residential Code*, and NFPA 70.

15. Add Section 1511.2.1, Access and pathways. Roof access, pathways, and spacing requirements shall be provided in accordance with Sections 1511.2.1 through 1511.2.1.1.

a. Exceptions

i. Detached, nonhabitable Group U structures including, but not limited to, parking shade structures, carports, solar trellises and similar structures.

ii. Roof access, pathways and spacing requirements need not be provided where the fire chief has determined that rooftop operations will not be employed.

16. Add Section 1511.2.1.1, Roof access points. Roof access points shall be located in areas that do not require the placement of ground ladders over openings such as windows or doors, and located at strong points of building construction in locations where the access point does not conflict with overhead obstructions such as tree limbs, wires or signs.

17. Add Section 1511.3, Solar photovoltaic systems for Group R-3 buildings. Solar photovoltaic systems for Group R-3 buildings shall comply with Sections 1511.3 through 1511.3.5.

a. Exception

i. These requirements shall not apply to structures designed and constructed in accordance with the *International Residential Code*.

18. Add Section 1511.3.1, Size of solar photovoltaic array. Each photovoltaic array shall be limited to 150 feet (45 720 mm) by 150 feet (45 720 mm). Multiple arrays shall be separated by a 3-foot-wide (914 mm) clear access pathway.

19. Add Section 1511.3.2, Hip roof layouts. Panels and modules installed on Group R-3 buildings with hip roof layouts shall be located in a manner that provides a 3-foot-

wide (914 mm) clear access pathway from the eave to the ridge on each roof slope where panels and modules are located. The access pathway shall be at a location on the building capable of supporting the fire fighters accessing the roof.

a. Exception

i. These requirements shall not apply to roofs with slopes of two units vertical in 12 units horizontal (2:12) or less.

20. Add Section 1511.3.3, Single-ridge roofs. Panels and modules installed on Group R-3 buildings with a single ridge shall be located in a manner that provides two, 3-foot-wide (914 mm) access pathways from the eave to the ridge on each roof slope where panels and modules are located.

a. Exception

i. This requirement shall not apply to roofs with slopes of two units vertical in 12 units horizontal (2:12) or less.

21. Add Section 1511.3.4, Roofs with hips and valleys. Panels and modules installed on Group R-3 buildings with roof hips and valleys shall not be located closer than 18 inches (457 mm) to a hip or a valley where panels/modules are to be placed on both sides of a hip or valley. Where panels are to be located on only one side of a hip or valley that is of equal length, the panels shall be permitted to be placed directly adjacent to the hip or valley.

a. Exception

i. These requirements shall not apply to roofs with slopes of two units vertical in 12 units horizontal (2:12) or less.

22. Add Section 1511.3.5, Allowance for smoke ventilation operations. Panels and modules installed on Group R-3 buildings shall be located not less than 3 feet (914 mm) from the ridge in order to allow for fire department smoke ventilation operations.

a. Exception

i. Panels and modules shall be permitted to be located up to the roof ridge where an alternative ventilation method *approved* by the fire chief has been provided or where the fire chief has determined vertical ventilation techniques will not be employed.

23. Add Section 1511.4, Other than Group R-3 buildings. Access to systems for buildings, other than those containing Group R-3 occupancies, shall be provided in accordance with Sections 1511.4.1 through 1511.4.2.1

a. Exception

i. Where it is determined by the fire code official that the roof configuration is similar to that of a Group R-3 occupancy, the residential access and ventilation requirements in Sections 1511.3.1 through 1511.3.5 shall be permitted to be used.

24. Add Section 1511.4.1 Access. There shall be a minimum 6-foot-wide (1829 mm) clear perimeter around the edges of the roof.

a. Exception

i. Where either axis of the building is 250 feet (76 200 mm) or less, the clear perimeter around the edges of the roof shall be permitted to be reduced to a minimum 4 foot wide (1290 mm).

25. Add Section 1511.4.2, Pathways. The solar installation shall be designed to provide designated

pathways. The pathways shall meet the following requirements.

a. The pathway shall be over areas capable of supporting fire fighters accessing the roof.

b. The centerline axis pathways shall be provided in both axes of the roof. Centerline axis pathways shall run where the roof structure is capable of supporting fire fighters accessing the roof.

c. Pathways shall be a straight line not less than 4 feet (1290 mm) clear to roof standpipes or ventilation hatches.

d. Pathways shall provide not less than 4 feet (1290 mm) clear around roof access hatch with not less than one singular pathway not less than 4 feet (1290 mm) clear to a parapet or roof edge.

26. Add Section 1511.4.2.1, Smoke ventilation. The solar installation shall be designed to meet the following requirements.

a. Arrays shall be not greater than 150 feet (45 720 mm) by 150 feet (45 720 mm) in distance in either axis in order to create opportunities for fire department smoke ventilation operations.

b. Smoke ventilation options between array sections shall be one of the following:

i. a pathway 8 feet (2438 mm) or greater in width;

ii. a 4-foot (1290 mm) or greater in width pathway and bordering roof skylights or gravity-operated dropout smoke and heat vents on not less than one side;

iii. a 4-foot (1290 mm) or greater in width pathway and bordering all sides of nongravity-operated dropout smoke and heat vents;

iv. a 4-foot (1290 mm) or greater in width pathway and bordering 4-foot by 8-foot (1290 mm by 2438 mm) "venting cutouts" every 20 feet (6096 mm) on alternating sides of the pathway.

27. Amend Chapter 16 Section 1603.1, General. Construction documents shall show the size, section and relative locations of structural members with floor levels, column centers and offsets dimensioned. The design loads and other information pertinent to the structural design required by Sections 1603.1.1 through 1603.1.9 shall be indicated on the construction documents.

a. Exception. Construction documents for buildings constructed in accordance with the conventional light-frame construction provisions of Section 2308 shall indicate the following structural design information:

i. floor and roof live loads;

ii. ground snow load, P_g ;

iii. basic wind speed (3-second gust), miles per hour (mph) (km/hr) and wind exposure;

iv. seismic design category and site class., unless excepted by Sections 1603.1.5 or 1613.1;

v. flood design data, if located in flood hazard areas established in Section 1612.3;

vi. design load-bearing values of soils.

28. Amend Chapter 16 Section 1603.1.5, Earthquake design data. The following information related to seismic loads shall be shown, regardless of whether seismic loads govern the design of the lateral-force-resisting system of the building:

a. seismic importance factor, I , and occupancy category;

b. mapped spectral response accelerations, SS and $S1$;

c. site class;

d. spectral response coefficients, SDS and $SD1$;

e. seismic design category;

f. basic seismic-force-resisting system(s);

g. design base shear;

h. seismic response coefficient(s), CS ;

i. response modification factor(s), R ;

j. analysis procedure used;

k. exceptions:

i. construction documents that are not required to be prepared by a registered design professional;

ii. construction documents for structures that are assigned to Seismic Design Category A.

(a). Amend and add Section 1607.12.5 Photovoltaic panel systems. Roof structures that provide support for *photovoltaic panel systems* shall be designed in accordance with Sections 1607.12.5.1 through 1607.12.5.4, as applicable. Installer shall provide structural analysis, from a design professional, of solar panels, components and there loading on existing and new roofs from a design professional.

(b). Amend and add 1607.12.5.1 Roof live load. Roof surfaces to be covered by solar photovoltaic panels or modules shall be designed for the roof live load, L_r , assuming that the photovoltaic panels or modules are not present. The roof photovoltaic live load in areas covered by solar photovoltaic panels or modules shall be in addition to the panel loading unless the area covered by each solar photovoltaic panel or module is inaccessible. Areas where the clear space between the panels and the rooftop is not more than 24 inches (610 mm) shall be considered inaccessible. Roof surfaces not covered by photovoltaic panels shall be designed for the roof live load

(c). Amend and add 1607.12.5.2 Photovoltaic panels or modules. The structure of a roof that supports solar photovoltaic panels or modules shall be designed to accommodate the full solar photovoltaic panels or modules and ballast dead load, including concentrated loads from support frames in combination with the loads from Section 1607.12.5.1 and other applicable loads. Where applicable, snow drift loads created by the photovoltaic panels or modules shall be included.

(d). Amend and add 1607.12.5.3 Photovoltaic panels or modules installed as an independent structure. Solar photovoltaic panels or modules that are independent structures and do not have accessible/occupied space underneath are not required to accommodate a roof photovoltaic live load, provided the area under the structure is restricted to keep the public away. All other loads and combinations in accordance with Section 1605 shall be accommodated. Solar photovoltaic panels or modules that are designed to be the roof, span to structural supports and have accessible/occupied space underneath shall have the panels or modules and all supporting structures designed to support a roof photovoltaic live load, as defined in Section 1607.12.5.1 in combination with other applicable loads. Solar photovoltaic panels or modules in this application are

not permitted to be classified as “not accessible” in accordance with Section 1607.12.5.1.

(e). Amend and add 1607.12.5.4 Ballasted photovoltaic panel systems. Roof structures that provide support for ballasted *photovoltaic panel systems* shall be designed, or analyzed, in accordance with Section 1604.4; checked in accordance with Section 1604.3.6 for deflections; and checked in accordance with Section 1611 for ponding.

29. Amend Chapter 16, Section 1609.1.2, Protection of Openings. In wind-borne debris regions, glazing in buildings shall be impact resistant or protected with an impact-resistant covering meeting the requirements of an approved impact-resistant standard or ASTM E 1996 and ASTM E 1886 referenced herein as follows.

a. Glazed openings located within 30 feet (9144 mm) of grade shall meet the requirements of the large missile test of ASTM E 1996.

b. Glazed openings located more than 30 feet (9144 mm) above grade shall meet the provisions of the small missile test of ASTM E 1996.

c. Exceptions

i. Wood structural panels with a minimum thickness of 7/16 inch (11.1 mm) and maximum panel span of 8 feet (2438 mm) shall be permitted for opening protection in one- and two-story buildings classified as Risk Category 2. Panels shall be precut so that they shall be attached to the framing surrounding the opening containing the product with the glazed opening. Panels shall be predrilled as required for the anchorage method and shall be secured with the attachment hardware provided. Attachments shall be designed to resist the components and cladding loads determined in accordance with the provisions of ASCE 7, with corrosion-resistant attachment hardware provided and anchors permanently installed on the building. Attachment in accordance with Table 1609.1.2 with corrosion-resistant attachment hardware provided and anchors permanently installed on the building is permitted for buildings with a mean roof height of 45 feet (13 716 mm) or less where V_{asd} determined in accordance with Section 1609.3.1 does not exceed 140 mph (63 m/s). =

ii. Glazing in Risk Category I buildings as defined in Section 1604.5, including greenhouses that are occupied for growing plants on a production or research basis, without public access shall be permitted to be unprotected.

iii. Glazing in Risk Category II, III or IV buildings located over 60 feet (18 288 mm) above the ground and over 30 feet (9144 mm) above aggregate surface roofs located within 1,500 feet (458 m) of the building shall be permitted to be unprotected.

30. Chapter 16 Section 1613.1 Scope. Every structure, and portion thereof, including nonstructural components that are permanently attached to structures and their supports and attachments, shall be designed and constructed to resist the effects of earthquake motions in accordance with ASCE 7, excluding Chapter 14 and Appendix 11A. The seismic design category for a structure is permitted to be determined in accordance with Section 1613 or ASCE 7.

a. Exceptions:

i. detached one- and two-family dwellings, assigned to Seismic Design Category A, B or C, or located

where the mapped short-period spectral response acceleration, SS , is less than 0.4 g;

ii. the seismic-force-resisting system of wood-frame buildings that conform to the provisions of Section 2308 are not required to be analyzed as specified in this Section;

iii. agricultural storage structures intended only for incidental human occupancy;

iv. structures that require special consideration of their response characteristics and environment that are not addressed by this code or ASCE 7 and for which other regulations provide seismic criteria, such as vehicular bridges, electrical transmission towers, hydraulic structures, buried utility lines and their appurtenances and nuclear reactors;

v. structures that are not required to have a registered design professional in responsible charge;

vi. structures that are assigned to Seismic Design Category A.

b. Amend Chapter 16, Section 1613.1, Scope. Every structure, and portion thereof, including nonstructural components that are permanently attached to structures and their supports and attachments, shall be designed and constructed to resist the effects of earthquake motions in accordance with ASCE 7, excluding Chapter 14 and Appendix 11A. The seismic design category for a structure is permitted to be determined in accordance with Section 1613 or ASCE 7-10. Figure 1613.5(1) shall be replaced with ASCE 7-10 Figure 22-1. Figure 1613.5(2) shall be replaced with ASCE 7-10 Figure 22-2.

31. Amend Chapter 23, Section 2308.2, Exceptions 4. Wind speeds shall not exceed 110 miles per hour (mph)(48.4m/s)(3 second gust) for buildings in exposure category B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, Uniform Construction Code Council, LR 41:

§305. International Existing Building Code

[Formerly §301.A.2]

A. *International Existing Building Code* (IEBC), 2012 Edition, not including Chapter 1, Administration, and the standards referenced in that code for regulation of construction within this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913

(March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, Uniform Construction Code Council, LR 41:

§307. International Residential Code
[Formerly §301.A.3.a]

A.1. *International Residential Code*, 2012 Edition, not including Parts I-Administrative, VII-Plumbing and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The enforcement of such standards shall be mandatory only with respect to new construction, reconstruction, additions to homes previously built to the International Residential Code, and extensive alterations. Appendix G, Swimming Pools, Spas and Hot Tubs is adopted and at the option of a parish, municipality, or regional planning commission, Section AG105 Barrier Requirements may be altered. Appendix J, Existing Buildings and Structures, may be adopted and enforced only at the option of a parish, municipality, or regional planning commission.

a. Adopt and amend 2012 IRC Section R301.2.1. Part IV-Energy Conservation of the latest edition of the *International Residential Code* is hereby amended to require that supply and return ducts be insulated to a minimum of R-6. Furthermore, 2012 IRC R301.2.1.1 (Design Criteria) shall be amended as follows and shall only apply to the International Residential Code:

i. Delete Figure R301.2(4)B and replace all references to this figure with Figure R301.2(4)A.

b. Amend 2012 IRC Section R301.2.1.1 (Design Criteria); R301.2.1.1, Wind limitations and wind design required. The wind provisions of this code shall not apply to the design of buildings where the basic wind speed from Figure R301.2(4)A equals or exceeds 110 miles per hour (49 m/s).

i. Exceptions

(a). For concrete construction, the wind provisions of this Code shall apply in accordance with the limitations of Sections R404 and R611.

(b). For structural insulated panels, the wind provisions of this Code shall apply in accordance with the limitations of Section R613.

ii. In regions where the basic wind speed shown on Figure R301.2(4)A equals or exceeds 110 miles per hour (49 m/s), the design of buildings for wind loads shall be in accordance with one or more of the following methods:

(a). AF and PA Wood Frame Construction Manual (WFCM);

(b). ICC Standard for Residential Construction in High-Wind Regions (ICC 600);

(c). ASCE Minimum Design Loads for Buildings and Other Structures (ASCE 7);

(d). AISI Standard for Cold-Formed Steel Framing—Prescriptive Method For One- and Two-Family Dwellings (AISI S230);

(e). *International Building Code*; or

(f). SSTD 10-99 Hurricane Resistant Construction Standard.

iii. The elements of design not addressed by the methods in Clauses (i) through (vi) shall be in accordance with the provisions of this Code. When ASCE 7 or the *International Building Code* is used for the design of the building, the wind speed map and exposure category requirements as specified in ASCE 7 and the *International Building Code* shall be used.

c. Adopt and amend 2012 IRC Section R301.2.1.2, Protection of Openings. Exterior glazing in buildings located in windborne debris regions shall be protected from windborne debris. Glazed opening protection for windborne debris shall meet the requirements of the Large Missile Test of ASTM E 1996 and ASTM E 1886 referenced therein. The applicable wind zones for establishing missile types in ASTM E 1996 are shown on Figure R301.2(4)F. Garage door glazed opening protection for windborne debris shall meet the requirements of an approved impact-resisting standard or ANSI/DASMA115.

i. Exceptions

(a). Wood structural panels with a minimum thickness of 7/16 inch (11 mm) and a maximum span of 8 feet (2438 mm) shall be permitted for opening protection in one- and two-story buildings.

(b). Panels shall be precut and attached to the framing surrounding the opening containing the product with the glazed opening.

(c). Panels shall be predrilled as required for the anchorage method and shall be secured with the attachment hardware provided.

(d). Attachments shall be designed to resist the component and cladding loads determined in accordance with either Table R301.2(2) or ASCE 7, with the permanent corrosion-resistant attachment hardware provided and anchors permanently installed on the building.

(e). Attachment in accordance with Table R301.2.1.2 is permitted for buildings with a mean roof height of 33 feet (10 058 mm) or less where wind speeds do not exceed 130 miles per hour (58 m/s).

d. Adopt 2012 IRC Figure R301.2(4)A and delete Figure R301.2(4)B and Figure R301.2(4)C.

e. Adopt 2012 IRC Section R301.2.1.4, Exposure Category.

2. Additionally, Section 302, R302.1, Exterior Walls shall be amended to add the following exception.

a. On lots that are 50 feet or less in width and that contain a one or two family dwelling or townhouse that was in existence prior to October 1, 2005, the following are permitted for rebuilding:

i. a projection 2 feet from the property line with a 1 hour minimum fire-resistance rating on the underside;

ii. a wall 3 feet or more from the property with a 0 hour minimum fire-resistance rating.

3. Amend Section R302.5.1, Opening Protection.

a. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 13/8 inches (35 mm) in thickness, solid or honeycomb-core steel doors not less than 13/8 inches (35 mm) thick, or 20-minute fire-rated doors.

4. Amend Section R303.4, Mechanical Ventilation. When a blower door test is performed, and the air infiltration rate of a dwelling unit is less than 5 air changes per hour when tested in accordance with the 2009 IRC Section N1102.4.2.1, the dwelling unit shall be provided with whole-house mechanical ventilation in accordance with Section M1507.3.

5. Additionally, IRC shall be amended as follows and shall only apply to the *International Residential Code*:

a. adopt and amend 2012 IRC Section 313.1, Townhouse Automatic Sprinkler System. Per Act No. 685 of the 2010 Regular Session of the Louisiana Legislature, the council shall not adopt or enforce any part of the *International Residential Code* or any other code or regulation that requires a fire protection sprinkler system in one- or two-family dwellings. Further, no municipality or parish shall adopt or enforce an ordinance or other regulation requiring a fire protection sprinkler system in one- or two-family dwellings. Where no sprinkler system is installed a common 2-hour fire-resistance-rated wall is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. Electrical installations shall be installed in accordance with the 2011 NEC. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

i. Exception. If an owner voluntarily chooses to install an automatic residential fire sprinkler system it shall be installed per Section R313.1.1, Design and installation. Automatic residential fire sprinkler systems for *townhouses* shall be designed and installed in accordance with NFPA 13D and Table 302.1 (2) Exterior Walls-Dwellings with Fire sprinklers may be used for separation requirements.

b. Adopt and amend 2012 IRC Section 313.2, One- and Two-Family Dwellings Automatic Fire Systems. Per Act No. 685 of the 2010 Regular Session of the Louisiana Legislature, the Council shall not adopt or enforce any part of the *International Residential Code* or any other code or regulation that requires a fire protection sprinkler system in one- or two-family dwellings. Further, no municipality or parish shall adopt or enforce an ordinance or other regulation requiring a fire protection sprinkler system in one- or two-family dwellings.

i. Exception. If an owner voluntarily chooses to install an automatic residential fire sprinkler system it shall be installed per Section R313.2.1, Design and installation. Automatic residential fire sprinkler systems shall be designed and installed in accordance with NFPA 13D and Table 302.1(2) Exterior Walls-Dwellings with Fire sprinklers may be used for separation requirements.

c. Amend Chapter 3, Section R315.2, Where Required in Existing Dwellings. When alterations, repairs or additions occur or where one or more sleeping rooms are added or created in existing dwellings that have attached garages or in existing dwellings within which fuel fired appliances exist, carbon monoxide alarms shall be provided in accordance with Section R315.1.

d. Substitute Chapter 3, Section R317, Dwelling Unit Separation of the 2006 IRC, in lieu of the Section 313, Automatic Fire Sprinkler Systems of the 2009 IRC. In addition, Chapter 3, Section R 302.2, Townhouses of the 2009 IRC, is amended as follows.

i. Exceptions

(a). A common 2-hour fire-resistance-rated wall is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall.

(b). Electrical installations shall be installed in accordance with Chapters 34 through 43. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

(c). Chapter 3, Section R302.2.4, Structural Independence of the 2009 IRC, is amended as follows: Exception: Number 5, Townhouses, separated by a common 2-hour fire-resistance-rated wall as provided in Section R302.2.

e. Add 2015 IRC Section 324 to the 2012 IRC.

i. Amend Section R324.7.2, Solar photovoltaic systems. Solar photovoltaic systems shall comply with Sections R324.7.2.1 through R324.7.2.5. Installer shall provide structural analysis, from a design professional, of solar panels, components and their loading on existing and new roofs.

f. Adopt 2012 IRC Table 602.3 (1), Fastening Requirements.

g. Amend 2012 IRC Section R703.8, Flashing. Approved corrosion-resistant flashing shall be applied shingle-fashion in a manner to prevent entry of water into the wall cavity or penetration of water to the building structural framing components. Self-adhered membranes used as flashing shall comply with AAMA 711. The flashing shall extend to the surface of the exterior wall finish. Approved corrosion-resistant flashings shall be installed at all of the following locations:

i. exterior window and door openings. Flashing at exterior window and door openings shall extend to the surface of the exterior wall finish or to the water-resistive barrier for subsequent drainage;

ii. at the intersection of chimneys or other masonry construction with frame or stucco walls, with projecting lips on both sides under stucco copings;

iii. under and at the ends of masonry, wood or metal copings and sills;

iv. continuously above all projecting wood trim;

v. where exterior porches, decks or stairs attach to a wall or floor assembly of wood-frame construction;

vi. at wall and roof intersections;

vii. at built-in gutters.

h. Adopt 2012 IRC Section R802.11, Roof tie-down.

i. Adopt 2012 IRC Table R802.11, Rafters.

j. Amend Section R806.1, Ventilation Required.

i. Enclosed attics and enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters shall have cross ventilation for each separate space by ventilating openings protected against the entrance of rain or snow. Ventilation openings shall have a least dimension of 1/16 inch (1.6 mm) minimum and 1/4 inch (6.4 mm) maximum. Ventilation openings having a least dimension larger than 1/4 inch (6.4 mm) shall be provided with corrosion-resistant wire cloth screening, hardware cloth, or similar material with openings having a least

dimension of 1/16 inch (1.6 mm) minimum and 1/4 inch (6.4 mm) maximum. Openings in roof framing members shall conform to the requirements of Section R802.7. Required ventilation openings shall open directly to the outside air.

k. Amend Section R 1006.1, Exterior Air. Factory-built or masonry fireplaces covered in this chapter shall be equipped with an exterior air supply to assure proper fuel combustion.

6. Substitute Chapter 11, Energy Efficiency of the 2009 IRC, in lieu of Chapter 11 Energy Efficiency of the 2012 IRC.

a. Amend Section N1102.3, Access Hatches and Doors. Access doors from *conditioned spaces* to unconditioned spaces shall be weather-stripped and have a minimum insulation value of an R-4.

b. Amend Section N1102.4.2, Air Sealing and Insulation. The air tightness demonstration method of compliance is to be determined by the contractor, design professional or homeowner.

c. Amend Section N1102.4.2.1, Testing Option. Tested air leakage is less than 7 ACH when tested with a blower door at a pressure of 50 pascals (0.007 psi). Testing shall occur after rough in and after installation of penetrations of the building envelope, including penetrations for utilities, plumbing, electrical, ventilation and combustion appliances. When the contractor, design professional or homeowner chooses the blower door testing option, blower door testing shall be performed by individuals certified to perform blower door tests by a nationally recognized organization that trains and provides certification exams for the proper procedures to perform such tests. The responsible BCEO shall accept written blower door test reports from these certified individuals to verify the minimum requirements of Section N1102.4.2.1 Testing Option are attained.

i. During testing:

(a). exterior windows and doors, fireplace and stove doors shall be closed, but not sealed;

(b). dampers shall be closed, but not sealed; including exhaust, intake, makeup air, back draft, and flue dampers;

(c). interior doors shall be open;

(d). exterior openings for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;

(e). heating and cooling system(s) shall be turned off;

(f). HVAC ducts shall not be sealed; and

(g). supply and return registers shall not be sealed.

d. Amend Section N1102.4.3, Fireplaces, New wood-burning fireplaces shall have outdoor combustion air.

e. Amend Section N1103.2.2, Sealing, Ducts, air handlers, filter boxes and building cavities used as ducts shall be sealed. Joints and seams shall comply with section M1601.4. Duct leakage testing shall be performed by individuals certified to perform duct leakage tests by a nationally recognized organization that trains and provides certification exams for the proper procedures to perform such tests. The responsible BCEO shall accept written duct leakage test reports from these certified individuals to verify

the minimum requirements of Section N1103.2.2 Sealing are attained.

i. Exception: HVAC Contractors. HVAC contractors, who are not certified to perform duct leakage tests, may perform the test with the responsible BCEO visually verifying test procedures and results on site.

ii. Joints and seams shall comply with section M1601.4. Duct tightness shall be verified by either for the following.

(a). Post-Construction Test. Leakage to outdoors shall be less than or equal to 8 cfm (3.78 L/s) per 100 ft² (9.29 m²) of conditioned floor area or a total leakage less than or equal to 12 cfm (5.66 L/s) per 100 ft² (9.29 m²) of conditioned floor area when tested at a pressure differential of 0.1 inch w.g. (25 Pa) across the entire system, including the manufacturer's air handler end closure. All register boots shall be taped or otherwise sealed during the test.

(b). Rough-In Test. Total leakage shall be less than or equal to 6 cfm (2.83 L/s) per 100 ft² (9.29 m²) of conditioned floor area when tested at a pressure differential of 0.1 inch w.g. (25 Pa) across the roughed in system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 4 cfm (1.89 L/s) per 100 ft² (9.29 m²) of conditioned floor area.

iii. Exception: Duct tightness test is not required if the air handler and all ducts are located within *conditioned space*.

f. Amend Section N1103.8.3, Pool Covers. Pool covers shall not be required to meet the energy efficiency requirements of this Section.

g. Amend Section M1307.3.1, Protection from Impact. Appliances shall not be installed in a location subject to automobile or truck damage except where protected by approved barriers.

h. Amend Section M1507.3.1, System Design. The whole-house ventilation system shall consist of a combination of supply and exhaust fans, and associated ducts and controls. Local exhaust and supply fans are permitted to serve as such a system. Outdoor air ducts connected to the return side of an air handler shall be considered to provide supply ventilation.

i. Amend Section M1507.3.2, System Controls. The whole-house mechanical ventilation system shall be provided with controls that enable manual override and a method of air-flow adjustment.

j. Amend Section M1507.3.3, Mechanical Ventilation Rate. The whole-house mechanical ventilation system shall be able to provide outdoor air at a continuous rate of at least that determined in accordance with Table M1507.3.3(1).

k. Amend Section M1507.4, Minimum Required Local Exhaust. Local exhaust systems shall be designed to have the capacity to exhaust the minimum air flow rate as follows:

i. kitchen: 100 cfm intermittent or 25 cfm continuous, a balanced ventilation system is required for continuous exhaust;

ii. bathrooms: exhaust capacity of 50 cfm intermittent or 20 cfm continuous, a balanced ventilation system is required for continuous exhaust.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, Uniform Construction Code Council, LR 41:

§309. International Mechanical Code
[Formerly §301.A.4.a]

A.1. *International Mechanical Code* (IMC), 2012 Edition, and the standards referenced in that code for regulation of construction within this state.

2. Amend Chapter 6 Section 603.4, Metallic ducts. All metallic ducts shall be constructed as specified in the SMACNA HVAC Duct Construction Standards-Metal and Flexible.

a Exception: Ducts installed within single dwelling units shall have a minimum thickness as specified in the 2006 International Mechanical Code Table 603.4.

b. Amend Chapter 6, Section 606.4.1, Supervision. The duct smoke detectors shall be connected to a fire alarm system where a fire alarm system is required by Section 907.2 of the *International Fire Code* or locally adopted fire code. The actuation of a duct smoke detector shall activate a visible and audible supervisory signal at a constantly attended location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, Uniform Construction Code Council, LR 41:

§311. The Louisiana State Plumbing Code
[Formerly §301.A.5]

A. The Louisiana state Plumbing Code [Part XIV (Plumbing) of the state *Sanitary Code*] as amended by the state health officer acting through the Office of Public Health of the Department of Health and Hospitals. Nothing in this Part shall be construed so as to prevent the state health officer from enforcing Part XIV (Plumbing) of the state *Sanitary Code*, the enforcement of which is his statutory and regulatory responsibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January

2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, Uniform Construction Code Council, LR 41:

§313. International Fuel Gas Code
[Formerly §301.A.6]

A. *International Fuel Gas Code* (IFCG), 2012 Edition, and the standards referenced in that code for regulation of construction within this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, Uniform Construction Code Council, LR 41:

§315. National Electric Code
[Formerly §301.A.7]

A. *National Electric Code* (NEC), 2011 Edition, and the standards referenced in that code for regulation of construction in this state. This code is to become effective on January 1, 2013.

1. Amend and replace 2011 NEC Article 690 with 2014 NEC Article 690.

a. Exception

i. Amend 690.12 to become effective September 1, 2015.

ii. Until September 1, 2015, all solar installations shall have an approved manual disconnect located within 5 feet of the array structure to disconnect all DC conductors from the power source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, Uniform Construction Code Council, LR 41:

Jill P. Boudreaux
Undersecretary

1508#009

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

Administrative Fees (LAC 61:III.1701)

Under the authority of R.S. 47:1507 and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, adopts by emergency process the attached Rule to collect fees as authorized by Act 130 (HB 774) of the 2015 Regular Session of the Louisiana Legislature. The department has an immediate need for rules to establish fees for searching for tax returns and other documents, authenticating records, and certifying copies of tax returns and other documents (R.S. 47:1507). A delay in imposition of the fees would impose unfunded and unrecoverable costs on the department, resulting in an adverse financial impact on the state, the department, Louisiana businesses and taxpayers. This Emergency Rule shall become effective July 17, 2015 and shall remain in effect for a period of 120 days or until a final Rule is promulgated under the nonemergency rulemaking procedures of the Administrative Procedure Act, whichever occurs first.

Title 61

REVENUE AND TAXATION

Part. III. Administration Provisions and Miscellaneous Chapter 17. Administrative Fees

§1701. Fees for Searching for Returns and Other Documents, Authenticating and Certifying Copies of Records

A. Definitions

Authenticated Copy—a copy of any public rule, decision or order of the secretary, paper or report bearing the original signature of the secretary of the Department of Revenue to establish that the copy is an exact duplicate of such rule, decision, order, paper or report in the records and files maintained by the secretary in the administration of subtitle II of the *Louisiana Revised Statutes* of 1950, as amended.

Certified Copy—a copy of any confidential and privileged document and which is signed by the secretary, or designee, and two witnesses before a notary public certifying that the copy is a true and correct copy of the original document in the records and files maintained by the secretary in the administration and enforcement of the tax laws of this state.

Search—an examination of the records and files maintained by the secretary in the administration and enforcement of the tax laws of this state in response to a request made by a taxpayer, or their authorized representative, for a copy of any previously filed tax return or other document of the taxpayer which is subject to the provisions of R.S. 47:1508.

B. Fees

1. For authenticating a copy of any public rule, decision or order of the secretary, paper or report, the fee shall be \$25.

2. For a copy of any tax return or other document previously filed by the taxpayer, or authorized representative, the fee to search for the return or document

shall be \$15 for each year or tax period requested, regardless of whether the requested return or document is located.

3. For a certified copy of a return or other document, the fee shall be \$25 for each return or document which is to be certified.

4. All fees shall be paid in advance by check, money order, or other authorized method of payment, made payable to the Department of Revenue. Cash cannot be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1507 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 41:

Tim Barfield
Secretary

1508#006

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

Installment Agreement for Payment of Tax; Fees (LAC 61:I.4919)

Under the authority of R.S. 105 and R.S. 47:1576.2, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division adopts this Emergency Rule to provide the new fees and provisions to pay the tax due in installments provided by Act 130 (HB 774) of the 2015 Regular Session of the Louisiana Legislature. The department has an immediate need for rules for the Installment Agreement Program (R.S. 47:1576.2) to effect optimal collection, improve compliance and keep viable businesses operational. A delay in implementing Act 130 would impose unfunded and unrecoverable costs on the department, resulting in an adverse financial impact on the state and the department, Louisiana businesses and taxpayers. This Emergency Rule shall become effective July 17, 2015 and shall remain in effect for a period of 120 days or until a final Rule is promulgated under the nonemergency rulemaking procedures of the Administrative Procedure Act, whichever occurs first.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 49. Tax Collection

§4919. Installment Agreement for Payment of Tax

A. Time Tax Payable. The total amount of tax due on a tax return shall be paid no later than the date the return is required to be filed without regard to any extension of time for filing the return. An extension of time to file a return is not an extension of time to pay the tax due. The total amount of tax shown on the return as filed is an assessment, which is equivalent to a judgment, and shall be recorded as an assessment in the records of the secretary.

B. Installment Agreement. If a taxpayer qualifies for an installment agreement, the secretary may allow the taxpayer to pay the taxes, interest, and penalties due in installments subject, but not limited, to the following requirements or conditions:

1. The taxpayer shall pay a nonrefundable installment agreement fee in the amount of \$105, payable to the Department of Revenue, to establish an installment agreement for the payment of the tax debt. Payment of the fee is mandatory and cannot be waived by the secretary or applied against any tax debt. However, the secretary shall not charge the fee to enter into an installment payment agreement plan with any taxpayer whose adjusted gross income is less than or equal to \$25,000.

2. The taxpayer must be current in the filing of all returns and in the payment of all liabilities for all tax types and periods not covered in the installment agreement.

3. The taxpayer shall file returns for all tax periods in the installment agreement.

4. The taxpayer shall agree to waive all restrictions and delays on all liabilities not assessed and to timely file all returns and pay all taxes that become due after the periods included in the installment agreement.

5. The taxpayer may be required to pay a down payment of 20 percent and to make installment payments by automatic bank draft.

6. All installment agreement payments shall be applied to accounts, taxes, and periods as determined by the department.

7. Any and all future credits and overpayments of any tax shall be applied to outstanding liabilities covered by the installment agreement.

8. The taxpayer shall notify the department before selling, encumbering, alienating, or otherwise disposing of any of their real (immovable) or personal (movable) property.

9. Tax liens may be filed in any parish wherein the department has reason to believe the taxpayer owns immovable property.

10. A continuing guaranty agreement may be required on installment agreements requested by a corporation.

C. Offset of Tax Refunds and Other Payments

1. All state tax refunds issued to the taxpayer shall be applied to the tax debt until the balance is paid in full.

2. Monies received as an offset of the taxpayer's federal income tax refund shall be credited to the tax debt for the amount of the offset, less a deduction for the offset fee imposed by the Internal Revenue Service, until the balance is paid in full.

3. Other payments that the taxpayer may be entitled to receive shall be offset in accordance with applicable law.

4. Amounts of state or federal tax refunds offsets or other payments applied to the tax debt shall not reduce the amount of any installment payment due or extend the time for paying an installment payment.

D. Forms of Installment Agreements

1. Informal installment agreements shall be allowed only if the amount owed is less than \$25,000 and the payment period is 24 months or less.

2. Formal installment agreements shall be required if the amount owed is \$25,000 or more or the payment period exceeds 24 months. Information relative to the taxpayer's employment, bank account, credit, income statement, balance sheets, and cash-flow data, and other information shall be provided to the department upon request.

3. All installment agreements shall be made on forms and in the manner prescribed by the secretary.

E. Default; Reinstatement of Installment Agreement

1. If any installment payment is not paid on or before the date fixed for its payment, the total outstanding balance shall be due and payable immediately upon notice and demand from secretary. All collection actions shall be reactivated.

2. Upon request of the taxpayer and the approval of the secretary, the installment agreement may be reinstated, provided the taxpayer pays the mandatory reinstatement fee in the amount of \$60, payable to the Department of Revenue. Payment of the fee is mandatory and cannot be waived by the secretary or applied against any tax debt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 105 and R.S. 47:1576.2.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 41:

Tim Barfield
Secretary

1508#007

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

Issuance and Cancellation of a Lien; Fees (LAC 61:1.5302)

Under the authority of R.S. 47:295, R.S. 47:1511, R.S. 47:1577, and R.S. 47:1578, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division adopts this Emergency Rule to provide for the fee and payment required to apply for compromises of judgments (offer in compromise) for taxes of \$500,000 or less exclusive of interest and penalty, including assessments for such amounts which are equivalent to judgments. The department has an immediate need to adopt rules for the Offer in Compromise Program (R.S. 47:1578) to implement the new fee and deposit requirements provided by Act 130 (HB 774) of the 2015 Regular Session of the Louisiana Legislature. A delay in collecting the required fee and payment would impose unfunded and unrecoverable costs on the department, resulting in an adverse financial impact on the state, the department, Louisiana businesses and taxpayers. This Emergency Rule shall become effective July 17, 2015 and shall remain in effect for a period of 120 days or until a final Rule is promulgated under the nonemergency rulemaking procedures of the Administrative Procedure Act, whichever occurs first.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 53. Miscellaneous Fees

§5302. Issuance and Cancellation of a Lien; Fees

A. - B.7. ...

C. The secretary may authorize the release of a lien subject to the following terms and conditions:

1. - 2. ...

3. when the lien on the taxpayer's remaining real property is valued at not less than the amount of the

remaining tax obligation, including all penalties, interest, and other costs incurred, plus the amount of all prior liens on the remaining property;

4. when the amount paid to the secretary in partial satisfaction of the liability is not less than the value of the interest of the state of Louisiana in the part of the property to be released or the secretary determines that the interest of the state of Louisiana in the part to be released has no value.

D. The secretary with the approval of two assistant secretaries may compromise any judgments for taxes of \$500,000 or less exclusive of interest and penalty, including assessments for such amounts that are equivalent to judgments, when any of the following conditions exist:

1. there is serious doubt as to the collectibility of the outstanding judgment;

2. there is serious doubt as to the taxpayer's liability for the outstanding judgment;

3. the administration and collection costs involved would exceed the amount of the outstanding liability.

E. The secretary may, upon making a record of his reasons, waive, reduce, or compromise individual income tax, penalties, interest, or other amounts.

F. Offers in Compromise

1. A taxpayer may have only one offer in compromise approved in a 10-year period. If an offer in compromise is approved, the secretary shall not consider or accept any other application for an offer in compromise from the taxpayer until the expiration of the 10-year period.

2. Each application for an offer in compromise shall be made on a form and in the manner prescribed by the secretary. A nonrefundable application fee of \$186 payable to Louisiana Department of Revenue shall be submitted with each application. The application fee shall not be applied to the tax liability.

3. A nonrefundable initial payment of 20 percent of the amount offered must be submitted with the offer in compromise application. This payment shall be applied to the tax liability.

4. The secretary shall keep a record of all such offers in compromise which shall be open to public inspection and, notwithstanding the provisions of R.S. 47:1508 and 1508.1, shall be published in the department's annual report.

G. The department shall assess a fee against the taxpayer for the filing of a tax lien and the cancellation of a lien. The amount of the fee to be assessed against the taxpayer shall be determined according to the amount charged the department by the parish in which the lien is filed. In the event a lien is filed in more than one parish for the same taxes, each lien shall be treated separately and the total charges per parish for the liens shall be assessed against the taxpayer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:295, R.S. 47:1511, R.S. 47:1577, and R.S. 47:1578.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:347 (February 2002), amended LR 30:1045 (May 2004), LR 33:860 (May 2007), LR 41:

Tim Barfield
Secretary

1508#008

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2015-16 Regular Season Waterfowl Hunting

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 2015-2016 hunting season shall be as follows:

Ducks and Coots: 60 days

Coastal Zone: November 7 - Dec. 6
December 19 - January 17

West Zone: November 14 - December 6
December 19 - January 24

East Zone: November 21 - December 6
(Including December 19 - January 31

Catahoula Lake)

Youth Waterfowl Weekend: October 31 and November 1 in the Coastal Zone, Nov. 7 and Jan. 30 in the West Zone, November 14 and Feb. 6 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 7 - December 6
(81 days) December 19 - February 7

West Zone: November 7 - December 6
(81 days) December 19 - February 7

East Zone: November 7 - December 6
(81 days) December 19 - February 7

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

Canada Geese: Closed in the Area Described Below

Coastal Zone: November 7 - December 6
(74 days) December 19 - January 31

West Zone: November 14 - December 6
(67 days) December 19 - January 31

East Zone: November 7 - December 6
(74 days) December 19 - January 31

Daily limit on Canada geese: 1 per day

Possession limit on Canada geese: 3

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. Open waters of Lake Arthur and the Mermentau River, from the Hwy 14 bridge southward, will also be closed to Canada goose hunting.

Conservation Order for Light Geese (Snow, Blue and Ross's):

Coastal Zone: December 7 - December 18
February 8 - March 6
West Zone: December 7 - December 18
February 8 - March 6
East Zone: December 7 - December 18
February 8 - March 6

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 7 - December 30

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 7 - December 30

Daily bag limit 15, Possession limit 45

Snipe:

Coastal Zone: November 2 - December 6
December 19 - February 28
West Zone: November 2 - December 6
December 19 - February 28
East Zone: November 2 - December 6
December 19 - 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 Rails and Gallinules:

Statewide: November 2 - January 31

(16 days of the total season lengths for rails, gallinules and extended falconry seasons were used during the September teal season.)

Extended Falconry Seasons for Ducks:

Coastal Zone: November 2 - January 31

West Zone: November 2 - January 31

East Zone: November 3 - January 31

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, 2015 and extend through one-half hour after sunset on March 1, 2016.

Pat Manuel
Chairman

1508#054

DECLARATION OF EMERGENCY

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

Fall Inshore Shrimp Season Opening Dates

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497, which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters and to increase the minimum mesh size provided in R.S. 56:499 for any trawl, skimmer net, or butterfly net for the duration of any special shrimp season or regular shrimp season extension, the Wildlife and Fisheries Commission does hereby set the 2015 fall shrimp season in Louisiana state inside waters to open on Monday, August 17, 2015 at 6 a.m.

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

season regulations in state waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of the species in the long term.

Robert Barham
Secretary

1508#001

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spring Inshore Shrimp Season Reopening in Portions of Mississippi Sound

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 7, 2015 which authorized the secretary of the Department of Wildlife and Fisheries to open any area, or re-open any previously closed area, and to open and close special shrimp seasons in any portion of state waters, the secretary hereby declares:

The 2015 spring inshore shrimp season will reopen on July 20, 2015 at 6 p.m. in the following waters:

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.

The open waters of Breton and Chandeleur Sounds as described by the double-rig line are still opening to shrimping. All other state inshore waters are currently closed to shrimping.

Recent biological samples taken by Office of Fisheries biologists in that portion of state inside waters to open indicate that marketable shrimp in sufficient quantities are available for harvest. These inside waters of the Mississippi Sound shall remain open to shrimping until further notice.

Robert J. Barham
Secretary

1508#005

Rules

RULE

Department of Agriculture and Forestry Office of Forestry

Prescribed Burning Complaints (LAC 7:XXXIX.913 and 914)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., pursuant to R.S. 3:17, the Department of Agriculture and Forestry (“department”) has amended its rules regarding prescribed burning. R.S. 3:17(F), enacted by Act No. 590 of the 2014 Regular Session, provides that “persons who wish to complain about certain prescribed burns shall issue their complaints to the commissioner. The commissioner shall investigate such complaints and have the authority to suspend or revoke his authorization for the prescribed burn for persons found to be in violation of the prescribed burn requirements or rules and regulations promulgated pursuant to this Section.” The Rule sets forth a procedure for persons to file complaints regarding prescribed burns with the department and a procedure for the department to investigate and take action regarding the complaints, including the authority to suspend or revoke a prescribed burning certificate after an adjudicatory hearing conducted in accordance with the Administrative Procedure Act.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 9. Prescribed Burning

§913. Complaints and Investigation

A. Any person who wishes to file a complaint regarding an agricultural burn may do so by telephone or in writing. In order to file a complaint by telephone, persons must contact the department via the department’s 24-hour telephone hotline. Complaints may also be made by filling out a department-approved complaint form available on the department’s website, by mailing a written complaint to the department, or by sending electronic mail to burncomplaints@ldaf.state.la.us.

B. A complaint shall, at a minimum, contain the following information:

1. the name, address and telephone number of the person making the complaint;
2. the address, location or geographic coordinates of the agricultural burn, including the name of the parish;
3. the date and time of the complaint; and
4. a detailed explanation of all conduct and/or conditions which form the basis of the complaint.

C. Upon receipt of a complaint, the department may:

1. conduct an investigation of the incident involved in the complaint; and
2. inform the burner against whom the complaint has been lodged of the complaint.

D. Upon completion of the investigation described in this section, the department shall notify the complainant and the burner of the results of the investigation.

E. The department, in its sole discretion, will determine whether educational materials should be provided to the burner or whether the actions complained of warrant referring the citizen’s complaint to an adjudicatory hearing for the possible suspension or revocation of a prescribed burning certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21:670 (July 1995), amended LR 41:1480 (August 2015).

§914. **Suspension and Revocation of Prescribed Burning Certificate**

§914. Suspension and Revocation of Prescribed Burning Certificate

A. In the event that the department determines that the practices and procedures utilized by a certified prescribed burn manager during one or more prescribed burns substantially deviates from accepted practices and procedures for prescribed burning in effect at the time of certification or at the time of the aforesaid prescribed burn or burns, the department shall conduct an adjudicatory hearing in accordance with the Administrative Procedure Act in order to determine whether to suspend or revoke the prescribed burning certificate.

B. All hearings conducted pursuant to this section shall be heard by a three person hearing panel appointed by the commissioner. The commissioner may appoint a hearing officer to conduct the hearing.

C. At the conclusion of the administrative hearing, the hearing panel may recommend that the certified prescribed burn manager’s certificate be suspended or revoked. If the panel recommends the certificate be suspended or revoked, it may also recommend that the prescribed burn manager be eligible to have his certificate reinstated after a certain period of time. The hearing panel’s recommendation shall be submitted to the commissioner for his determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 41:1480 (August 2015).

Mike Strain, DVM
Commissioner

1508#052

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.301)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System*: §301, School Performance Score Goal. The revisions modify the calculation of high school progress points in the Louisiana school and district performance school formula and allow either the current or proposed calculation, whichever is higher, to be used in 2014-15 calculation of performance scores.

Title 28 EDUCATION

Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 3. School Performance Score Component

§301. School Performance Score Goal

A. - C.5. ...

D. Progress Points

1. The school performance score will also be affected by the progress points earned from growth calculated for the non-proficient student subgroup (i.e., super subgroup).

2. To be eligible for K-8 progress points, the school must have:

a. at least 10 students in the non-proficient subgroup, as identified for subgroup membership based on prior year assessment scores only (i.e. students may be proficient or non-proficient in the current year) in ELA or mathematics; and

b. more than 50 percent (i.e. 50.001+) of the students in the non-proficient subgroup exceed their expected score, as determined by the value-added model for students in grades K-8;

c. if Subparagraphs 2.a and 2.b are met, then the number and the percent of students will be multiplied by 0.1, and the higher of the two products will be used to assign progress points. For students who earn an unsatisfactory on LEAP or iLEAP, the multiplier will be 0.1. For students who earn an approaching basic on LEAP or iLEAP in the prior year, the multiplier will be 0.05.

3. To be eligible for high school progress points in 2014-2015 (2015 SPS), the school shall meet either Subparagraph a or b of this Paragraph, whichever is greater in total:

a. at least 10 students in the non-proficient subgroup, as identified for subgroup membership based on the most recent of the two previous years' state assessment scores in ELA or mathematics and a minimum of 30 percent of the students in the non-proficient subgroup score at the top of the expected score range or higher, as determined by the ACT series. If both conditions are met, then the number and the percent of students will be multiplied by 0.1, and the higher of the two products will be used to assign progress points.

i. For students who earned an unsatisfactory on LEAP or iLEAP or needs improvement on end-of-course tests in prior year(s), the multiplier will be 0.2.

ii. For students who earned an approaching basic on LEAP or iLEAP or a fair on end-of-course tests in prior year(s), the multiplier will be 0.1.

iii. Schools can earn a maximum of 10 progress points to be added to the SPS.

NOTE: EXPLORE predicts PLAN and PLAN predicts ACT. As an example, if EXPLORE predicted a student would score between 17 and 19 on the PLAN, the student must score a 19 or higher in order to potentially earn progress points for the school.

b. at least 10 students in the non-proficient subgroup, as identified for subgroup membership based on the most recent of the two previous years' state assessment scores in ELA or mathematics and more than 50 percent (i.e. 50.001+) of the students in any one of the four non-proficient subgroups (ELA EXPLORE to PLAN, ELA PLAN to ACT, math EXPLORE to PLAN, math PLAN to ACT) score above the median of the expected score range or higher, as determined by the ACT series. If both conditions are met, then the number and the percent of students will be multiplied by 0.1, and the higher of the two products will be used to assign progress points.

i. For students who earned an unsatisfactory on LEAP or iLEAP or needs improvement on end-of-course tests in prior year(s), the multiplier will be 0.1.

ii. For students who earned an approaching basic on LEAP or iLEAP or a fair on end-of-course tests in prior year(s), the multiplier will be 0.05.

iii. Schools can earn a maximum of 10 progress points to be added to the SPS.

NOTE: EXPLORE predicts PLAN and PLAN predicts ACT. As an example, if EXPLORE predicted a student would score between 15 and 19 on the PLAN, the student must score a 18 or higher (median is 17) in order to potentially earn progress points for the school.

c. Beginning in 2015-2016 (2016 SPS), only schools earning progress points through 3.b shall be applicable.

i. For combination schools that include both middle and high school grades (e.g., 6-12), the progress points shall be calculated by adding the points earned from each test group together. For sums that are greater than 10, a maximum of 10 points will be awarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 32:2034, 2035 (November 2006), LR 33:424 (March 2007), LR 33:2349 (November 2007), LR 33:2593 (December 2007), LR 34:430 (March 2008), LR 35:639 (April 2009), LR 36:1987 (September 2010), LR 38:3105 (December 2012), LR 39:305 (February 2013), LR 39:1421 (June 2013), LR 39:2441 (September 2013), LR 40:1313 (July 2014), LR 40:2507 (December 2014), LR 41:1481 (August 2015).

Shan N. Davis
Executive Director

1508#018

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for
School Administrators (LAC 28: CXV. Chapter 23)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2318, The TOPS University Diploma; §2319, The Career Diploma; §2320, Career Diploma Pathway for Students Assessed on the Louisiana Alternate Assessment, Level 1 (LAA 1); and §2321, Senior Projects. The revisions include an adjustment to the student population permitted to factor End of Course test scores as 5 percent of the final course grade. Previously, this provision only applied to students eligible for the Louisiana Alternate Assessment, Level 2 (LAA 2). Since the LAA 2 has been eliminated, the provision will now apply to students who meet the Act 833 (2014) eligibility criteria. Additionally, the policy revisions create a diploma option attainable by students with the most significant cognitive and/or adaptive disabilities who are evaluated on the alternate standards through LAA 1. The diploma requirements include academic, assessment, workforce-readiness, and transition components and mirror the traditional diploma pathways, to the extent possible, while allowing for the individualization necessary for this population of students.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2318. The TOPS University Diploma

A. - B.2.b. ...

3. Students enrolled in a course for which there is an EOC test must take the EOC test.

a. The EOC test score shall count a percentage of the student's final grade for the course.

b. The percentage shall be between 15 percent and 30 percent inclusive, and shall be determined by the LEA.

i. For students with disabilities identified under IDEA who meet the participation criteria found in *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities*: §405.B and R.S. 17:183.2, the EOC test score shall count for 5 percent of the students' final grade for the course.

c. The grades assigned for the EOC test achievement levels shall be as follows.

EOC Achievement Level	Grade
Excellent	A
Good	B
Fair	C
Needs Improvement	D or F

d. The DOE will provide conversion charts for various grading scales used by LEAs.

B.4. - C.6.a.vi. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:1482 (August 2015).

§2319. The Career Diploma

A. Curriculum and Entrance Requirements

1. The 23 units required for the career diploma shall include academic credits and a sequence of seven credits in career and technical education for incoming freshmen prior to 2014-2015 or participation in approved training programs that lead to an approved industry-based credential for incoming freshmen in 2014-15 and beyond.

2. Students with exceptionalities assessed on the regular academic content standards who meet certain requirements may attain a career diploma by meeting the requirements of their IEP. See *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities*. Students with exceptionalities assessed on the alternate academic content standards may attain a career diploma by meeting the requirements in §2320 of this bulletin.

B. - B.2.b. ...

3. Students enrolled in a course for which there is an EOC test must take the EOC test.

a. The EOC test score shall count a percentage of the student's final grade for the course.

b. The percentage shall be between 15 percent and 30 percent inclusive, and shall be determined by the LEA.

i. For students with disabilities identified under IDEA who meet the participation criteria found in *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities*: §405.B and R.S. 17:183.2, the EOC test score shall count for 5 percent of the students' final grade for the course.

c. The grades assigned for the EOC test achievement levels shall be as follows.

EOC Achievement Level	Grade
Excellent	A
Good	B
Fair	C
Needs Improvement	D or F

d. The DOE will provide conversion charts for various grading scales used by LEAs.

B.4. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, R.S. 17:183.3, R.S. 17:274, R.S. 17:274.1, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November

2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:1130 (April 2011), LR 37:2130 (July 2011), LR 37:3197 (November 2011), LR 38:761 (March 2012), LR 38:1005 (April 2012), LR 40:2522 (December 2014), LR 41:1482 (August 2015).

§2320. Career Diploma Pathway for Students Assessed on the Louisiana Alternate Assessment, Level 1 (LAA 1)

A. Introduction

1. Students who meet the participation criteria for the LAA 1 test in *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities* shall be eligible for a career diploma by satisfying the pathway requirements detailed in this Section.

2. This diploma pathway does not meet the federal definition of a standard high school diploma and students who receive the career diploma based on the pathway in this Section will remain eligible for special education and related services until the end of the school year in which they turn 22.

B. Course Requirement

1. The 23 course credits required for this diploma pathway shall include core academic courses, elective courses, and workforce-readiness or career courses as follows:

- a. English—4 courses;
- b. mathematics—4 courses;
- c. science—2 courses;
- d. social studies—2 courses;
- e. workforce-readiness and career—7-9 courses;
- f. electives (may include health and physical education)—2-4 courses;
- g. total—minimum of 23 courses.

2. Enrollment in Carnegie credit bearing courses and applied courses shall count toward the course credit requirement. The student's educational placement shall be determined by the IEP team and meet the least restrictive environment regulations found in *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*.

C. Assessment Requirement

1. All students shall participate in the high school assessment sequence of the LAA 1.

2. Students shall meet one of the two assessment requirements below in English language arts and mathematics to earn a career diploma:

- a. students shall earn a score of exceeds standards or meets standards on the LAA 1; or
- b. students shall demonstrate growth on the alternate standards through a portfolio of student achievement developed by the IEP team.
 - i. Portfolios shall include student data illustrating academic achievement and attainment of IEP goals throughout the student's high school experience.
 - ii. Portfolios shall be evaluated for completion by the district special education director or his designee.
 - iii. The end of the student's fourth year of high school is the earliest a portfolio may be evaluated to meet this requirement and must include data from all four years.

D. Workforce-Readiness and Career Education Requirement

1. Career diploma workforce-readiness and career education programs for students assessed on the LAA 1 shall include:

- a. a survey to determine the student's career interests;
- b. hands-on workplace experiences that are, to the extent practicable, tied to the student's interests and based in the community; and
- c. career-focused courses including, but not limited to, foundational workplace skills.

2. Students shall meet the following requirements:

- a. a minimum of seven courses focused on workforce-readiness and career preparation;
- b. a score, determined by the IEP team, on a workforce-readiness skills assessment; and
- c. attainment of at least one workforce-related IEP goal.

E. Transition Requirement

1. By the end of the eighth grade, the special education teacher serving on the student's IEP team shall develop, in consultation with a school counselor, an individual graduation plan for the student to be approved by IEP team prior to the student's start of ninth grade.

2. The individual graduation plan shall include a post-secondary career goal, a course sequence and workplace experience plan tied to the post-secondary goal, and the courses to be taken in the first year of high school,

3. The individual graduation plan shall be annually reviewed by the IEP team and any necessary adjustments shall be made.

4. Prior to the student exiting the school system, the IEP team shall create a detailed transition plan that meets one of the following:

- a. employment in integrated, inclusive work environments, based on the student's abilities and local employment opportunities, in addition to sufficient self-help skills to enable the student to maintain employment without direct or continuous educational support from the school district;
- b. demonstrated mastery of specific employability skills and self-help skills that indicate that he does not require direct and continuous educational support from the school district; or
- c. access to services that are not within the legal responsibility of public education or employment or educational options for which the student has been prepared by the academic program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, R.S. 17:183.3, R.S. 17:274, R.S. 17:274.1, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:1483 (August 2015).

§2321. Senior Projects

[Formerly §2320]

A. A senior project is a focused rigorous independent learning experience completed during the student's year of projected graduation from high school.

B. Each LEA allowing students to complete a senior project in partial fulfillment of the requirements for an academic endorsement shall develop local policy for senior projects that includes these requirements.

1. Each student must choose a challenging topic of interest approved by their parents or guardians and the school-level senior project committee.

2. Each student must have a senior project mentor.

3. Students must successfully complete the four components listed below with a score of satisfactory or higher on each component. The components will be evaluated locally using rubrics provided by the DOE:

a. research paper of 8 to 10 pages on an approved topic of the student's choice;

b. product or service related to the research requiring at least 20 hours of work;

c. portfolio that documents and reflects the senior project process;

d. presentation to a panel of three to five adults from the community and school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:240 (February 2006), repromulgated LR 41:1483 (August 2015).

Shan N. Davis
Executive Director

1508#019

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28: CXV.2314 and 2357)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2314, Carnegie Credit and Credit Flexibility; and §2357, Physical Education. The policy revisions clarify that Carnegie credit courses may be offered in middle school grades in all subject areas with the exception of physical education.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2314. Carnegie Credit and Credit Flexibility

A. LEAs may permit students to earn Carnegie credit as middle school students in all courses except physical education.

B. Students may earn Carnegie credit 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.

C. When awarding credit based on instructional time, LEAs shall provide a minimum of 7,965 instructional minutes for one Carnegie credit, and students shall be in

attendance for a minimum of 7,515 minutes. In order to grant one-half Carnegie credit, LEAs shall provide a minimum of 3,983 instructional minutes, and students shall be in attendance for a minimum of 3,758 minutes.

D. 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.

E. Students enrolled in a course for the first time, which is not a credit recovery course or part of an accelerated program, shall only earn credit according to the pathway in Paragraph B.1 of this Section once the school year has begun.

1. If a student fails a course, but meets the standard of proficiency on the end-of-course exam, the student may retain that score to be factored into their final grade in either a credit recovery course or a repeat of the traditional course.

F. Proficiency in a course with a state-administered end-of-course exam must be demonstrated using the end-of-course exam.

G. The LDE may require revisions of assessments in order to ensure that they adequately measure proficiency.

H. 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), amended LR 39:3260 (December 2013), LR 40:275 (February 2014), LR 41:1484 (August 2015).

Subchapter B. Academic Programs of Study

§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	1/2
Cheering	1/2
Extracurricular Sports	1/2
Dance Team	1/2

C. The required 1 1/2 units of physical education may only be earned in transitional ninth grade through twelfth grade.

D. - J.7. ...

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), LR 41:1484 (August 2015).

Shan N. Davis
Executive Director

1508#014

RULE

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators (LAC 28:LXXIX.2108, 2109, and 3303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*: §2108, Adding Electives to the Program of Studies-Middle and Secondary; §2109, High School Graduation Requirements; and §3303, Definitions. The revisions add a Section regarding the addition of electives to a program of study that mirrors the policy in the public version of Bulletin 741. Additionally, the revisions correct the effective date for the basic Core eligibility.

Title 28

EDUCATION

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators

Chapter 21. Curriculum and Instruction

Subchapter C. Secondary Schools

§2108. Adding Electives to the Program of Studies-Middle and Secondary

A. A school or school system shall develop a process for approving elective courses. This process shall ensure alignment with the curriculum and compliance with current BESE policy.

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 school or school system.

3. Electives shall include challenging content that require students to extend the knowledge and skills acquired through the core curriculum.

B. Each school or school system shall maintain records of all approved electives.

C. LDE reserves the authority to require the school or school system 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 41:1485 (August 2015).

§2109. High School Graduation Requirements

A. For incoming freshmen in 2009-2010 and beyond, the 24 units required for graduation shall include 16 required units and 8 elective units for the Louisiana Basic Core Curriculum, or 21 required units and 3 elective units for the Louisiana Core 4 Curriculum.

B. For incoming freshmen from 2009-2010 to 2013-2014 who are completing the Louisiana Core 4 Curriculum, the minimum course requirements shall be the following:

1. English—4 units, shall be English I, II, III, and IV;

2. mathematics—4 units, shall be:

a. algebra I (1 unit) or algebra I-Pt. 2;

b. geometry;

c. algebra II;

d. the remaining unit shall come from the following: financial mathematics, math essentials, advanced mathematics-pre-calculus, advanced mathematics-functions and statistics, pre-calculus, calculus, probability and statistics, discrete mathematics, AP calculus BC, or a locally-initiated elective as a math substitute;

3. science—4 units, shall be:

a. biology;

b. chemistry;

c. 2 units from the following courses: physical science, integrated science, physics I, physics of technology I, aerospace science, biology II, chemistry II, earth science, environmental science, physics II, physics of technology II, agriscience II, anatomy and physiology, or a locally initiated elective as a science substitute;

i. students may not take both integrated science and physical science.

ii. agriscience I is a prerequisite for agriscience II and is an elective course;

4. - 9. ...

C. For incoming freshmen in 2009-2010 through 2013-2014 who are completing the Louisiana Basic Core Curriculum, the minimum course requirements for graduation shall be the following.

C.1. - E.1.b.ii.(j). ...

c. science—2 units:

i. 1 unit of biology;

ii. 1 unit from the following:

(a). chemistry I;

(b). physical science;

(c). earth science;

(d). agriscience II;

NOTE: Agriscience I is a prerequisite for Agriscience II and is an elective course.

(e). environmental science;

(f). any AP or IB science course;

d. social studies—2 units:

i. 1 of the following:

(a). U.S. history;

(b). AP U.S. history;

(c). IB history of the Americas I;

ii. civics; or

(a). 1/2 unit of:

(i). government; or

(ii). AP U.S. government and politics;

comparative; or

- (iii). AP U.S. government and politics: US;
- and
- (b). 1/2 unit of:
 - (i). economics; or
 - (ii). AP macroeconomics; or
 - (iii). AP microeconomics;
 - e. health and physical education—2 units;
 - f. at least nine credits in an approved Jump Start course sequence, workplace experience or credentials;
 - g. total—23 units.

F. - F.3.b. ...

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. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 30:2776 (December 2004), LR 31:3081 (December 2005), LR 34:2099 (October 2008), LR 36:2849 (December 2010), LR 37:2142, 2144 (July 2011), repromulgated LR 37:2390 (August 2011), amended LR 37:2597 (September 2011), LR 38:769 (March 2012), LR 38:1008 (April 2012), LR 39:1444 (June 2013), LR 40:1682 (September 2014), LR 40:2535 (December 2014), LR 41:915 (May 2015), LR 41:1485 (August 2015).

Chapter 33. Glossary

§3303. Definitions

Locally Initiated Elective—an elective course developed by a school or school system according to the standards in §2108.

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 34:230 (February 2008), amended LR 36:2848 (December 2010), LR 38:1405 (June 2012), LR 39:1457 (June 2013), LR 41:1486 (August 2015).

Shan N. Davis
Executive Director

1508#020

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs—TOPS Core Curriculum Equivalents: Art Media I-IV (LAC 28:IV.703)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended 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)). (SG15161R)

**Title 28
EDUCATION**

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

Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§703. Establishing Eligibility

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

(e). For students graduating in academic year (high school) 2017-2018 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course(s)	Equivalent (Substitute) Course
Algebra I, Geometry and Algebra II	Integrated Mathematics I, II and III
Art	Media Arts I-IV
Any listed core course or its equivalent.	Any core curriculum course taken by a student who has been deemed to be gifted and talented pursuant to R.S. 17:1941 et seq., as implemented in State Board of Elementary and Secondary Education policy and in fulfillment of the student's Individualized Education Program shall be considered a gifted and talented course and shall fulfill the core curriculum requirement in its given subject area.

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

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

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

George Badge Eldredge
General Counsel

1508#030

RULE

**Tuition Trust Authority
Office of Student Financial Assistance**

START Saving Program—Interest Rates for the 2014 Calendar Year (LAC 28:VI.315)

The Louisiana Tuition Trust Authority has amended its START Saving Program rules (R.S. 17:3091 et seq.). (ST15162R)

**Title 28
EDUCATION**

**Part VI. Student Financial Assistance—Higher
Education Savings**

Chapter 3. Education Savings Account

§315. Miscellaneous Provisions

A. - B.30. ...

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

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

C. - S.2. ...

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

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

George Badge Eldredge
General Counsel

1508#029

RULE

**Office of the Governor
Board of Home Inspectors**

Visually Observable Evidence of
Suspected Mold Growth (LAC 46:XL.303)

The Board of Home Inspectors has amended LAC 46:XL.303 in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and the Louisiana Home Inspector Licensing Law, R.S. 37:1471 et seq. The text has been amended and adopted to provide a definition for required reporting in accordance with recently enacted R.S. 37:1478(A).

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XL. Home Inspectors

Chapter 3. Standards of Practice

§303. Definitions

A. ...

Visually Observable Evidence of Suspected Mold Growth—visually observable discoloration of the interior components within the climate controlled living space apparently occurring from moisture that may be indicative of

mold or microbial growth which is visually observable, without employing moisture, environmental or other testing methods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2745 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1689 (August 2004), LR 36:2861 (December 2010), LR 38:2532 (October 2012), LR 41:1487 (August 2015).

Albert J. Nicaud
Board Attorney

1508#027

RULE

**Office of the Governor
Crime Victims Reparations Board**

Eligibility for Sexual Assault Victims
(LAC 22:XIII.301)

The Crime Victims Reparations Board has promulgated rules and regulations regarding the awarding of compensation to applicants.

**Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

**Part XIII. Crime Victims Reparations Board
Chapter 3. Eligibility and Application Process
§301. Eligibility**

A. To be eligible for compensation, an individual must have suffered personal injury, death or catastrophic property loss as a result of a violent crime.

1. Victim Conduct and Behavior

a. - b.ii. ...

c. The following factors shall not be considered a reason for denying or reducing an award to a claimant who is a victim of a sexually oriented criminal offense, or who submits a claim on behalf of a victim of sexual assault:

i. the manner in which the victim was dressed at the time of the sexually oriented criminal offense;

ii. where the victim was located prior to the sexually oriented criminal offense;

iii. the time of the sexually oriented criminal offense;

iv. the occupation of the victim;

v. whether the victim:

(a). was or may have been under the influence of alcohol or drugs;

(b). had a previous sexual relationship with the alleged offender;

(c). was married to the alleged offender;

(d). was dating the alleged offender;

(e). consented to prior sexual activity with the alleged offender;

(f). has a history of being a victim of prior sexually oriented criminal offenses;

- (g). has a criminal record;
- (h). consented to the sexually oriented criminal offense if the victim is below the age of consent, mentally incapacitated or physically helpless;
- (i). continued to live with an alleged offender after the assault;
- (j). has a familial relationship to the alleged offender.

2. Collateral Sources

- a. - a.ii. ...
- b. Insurance
 - i. The victim/claimant must process any potential insurance before applying for reimbursement of mental health claims, except for victims of sexually oriented criminal offenses.
 - ii. For claims that pertain to victims of sexually oriented criminal offenses, the victim has the discretion to choose whether or not to file for private insurance or Medicaid coverage.

3. - 3.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May 1994), amended LR 22:709 (August 1996), LR 31:2009 (August 2005), LR 35:65 (January 2009), LR 36:2278 (October 2010), LR 37:1605 (June 2011), LR 41:1487 (August 2015).

Lamarr Davis
Chairman

1508#053

RULE

**Department of Health and Hospitals
Board of Pharmacy**

Electronic Product Verification
(LAC 46:LIII.1217 and 1509)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended §1217 of Chapter 12, Automated Medication Systems and §1509 of Chapter 15, Hospital Pharmacy of its rules, to allow pharmacies to use bar codes or other electronic product verification processes in lieu of the currently required manual product checking by pharmacists.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

**Chapter 12. Automated Medication Systems
§1217. Stocking and Restocking; Electronic Product
Verification**

A. - B. ...

C. Electronic Product Verification

1. A bar code verification, electronic verification, or similar verification process may be utilized to assure the correct selection of drugs to be placed into an automated medication system.

2. The use of a bar code, electronic, or similar verification process shall require an initial quality assurance validation followed by ongoing quality assurance reviews at intervals no greater than 90 days since the previous review, all conducted by a pharmacist.

3. When a bar code verification, electronic verification, or similar verification process is utilized as specified in this Paragraph and in the absence of any human intervention in the product selection process, the stocking and restocking functions in systems located either on-site or off-site may be performed by a pharmacy technician without the necessity of direct pharmacist supervision.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1273 (June 2000), effective July 1, 2000, amended LR 41:1488 (August 2015).

**Chapter 15. Hospital Pharmacy
§1509. Drug Distribution Control**

A. - A.3.e.iii. ...

B. Automated Medication Systems. A hospital pharmacy may use one or more automated medication systems in compliance with the provisions of Chapter 12, Automated Medication Systems of the board's rules.

1. When the pharmacy uses an electronic product verification process as described in §1217 of the board's rules, and in the absence of any subsequent human intervention in the automated drug product selection process, the pharmacist-in-charge may elect to forego manual checks of drug products selected in that manner, provided however, that such election by the pharmacist-in-charge shall require an initial quality assurance validation followed by an ongoing quality assurance reviews at intervals no greater than 90 days since the previous review, all conducted by a pharmacist.

2. The pharmacist-in-charge remains accountable to the board for the accuracy of all drug distribution activities.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2093 (October 2003), effective January 1, 2004, amended LR 40:2257 (November 2014), effective January 1, 2015, LR 41:1488 (August 2015).

Malcolm J. Broussard
Executive Director

1508#043

RULE

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

Hospital Licensing Standards
Therapeutic Recreational Therapists
(LAC 48:I.9501)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 48:I.9501 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2100-2115. 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 93. Hospitals

Subchapter R. Psychiatric Services (Optional)

§9501. Staffing

A. - F. ...

G. Therapeutic activities shall be clinically supervised and provided by therapeutic recreational therapists adequate in number to respond to the therapeutic activity needs of the patient population being served.

1. An individual who clinically supervises therapeutic recreation activities shall meet the following qualifications:

a. have a degree in therapeutic recreation therapy from an accredited post-secondary institution; or

b. have a degree in another field of study and has also attained certification in accordance with the National Council for Therapeutic Recreation Certification requirements.

2. An individual who provides therapeutic recreational services shall have the following qualifications:

a. a degree in therapeutic recreation from an accredited post-secondary institution; or

b. a degree in another field of study and has also attained certification in accordance with the National Council for Therapeutic Recreation Certification requirements; or

c. a minimum of 10 years' experience providing therapeutic recreational services; or

d. be currently employed as a therapeutic recreational specialist 2 per Louisiana Civil Service requirements.

3. Individuals currently providing therapeutic recreational services who do not meet the qualifications of §9501.G.1-2.d, shall have two years from the effective date of this Rule to qualify as therapeutic recreational therapists.

4. Licensed hospitals providing therapeutic recreational services pursuant to §9501 and whose staff do not meet the qualifications of §9501.G.2.a-d within the time frame provided for in §9501.G.3, shall submit to the department documentation which:

a. clearly indicates why the qualifications have not been met; and

b. provides evidence of a barrier to access of such services in the hospital's service area.

5. No hospital shall submit the documentation allowed for in §9501.G.4 more than once and the submission shall cover a period of no more than 12 months from the date of receipt by the department.

6. Recreational therapy shall be designed to:

a. restore, remediate and rehabilitate a person's level of functioning and independence in life activities;

b. promote health and wellness; and

c. reduce or eliminate the activity limitations and restrictions to participation in life situations caused by an illness or disabling condition.

NOTE: Examples of intervention modalities include, but are not limited to, creative arts (e.g., crafts, music, dance, drama, among others), sports, adventure programming, dance/movement, and leisure education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1489 (August 2015).

Kathy H. Kliebert
Secretary

1508#078

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Medicaid Eligibility
Federally-Facilitated Marketplace Assessments
(LAC 50:III.505)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:III.505 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 1. General Administration

Chapter 5. Application Processing

§505. Federally-Facilitated Marketplace Assessments

A. Effective October 1, 2015, Louisiana will no longer accept Medicaid eligibility determinations made by the federally-facilitated marketplace (FFM). Initial assessment of an applicant's Medicaid eligibility will be made by the FFM and transferred to the department to make the final Medicaid eligibility determination, which will result in the state becoming an assessment state.

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 41:1489 (August 2015).

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.

Kathy H. Kliebert
Secretary

1508#079

RULE

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

Targeted Case Management
Reimbursement Methodology
(LAC 50:XV.10701)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XV.10701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 107. Reimbursement

§10701. Reimbursement

A. - J. ...

K. Effective for dates of service on or after July 1, 2014, case management services provided to participants in the New Opportunities Waiver shall be reimbursed at a flat rate for each approved unit of service.

1. The standard unit of service is equivalent to one month and covers both service provision and administrative (overhead) costs.

- a. Service provision includes the core elements in:
 - i. §10301 of this Chapter;
 - ii. the case management manual; and
 - iii. contracted performance agreements.

2. All services must be prior authorized.

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 30:1040 (May 2004), amended LR 31:2032 (August 2005), LR 35:73 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1903 (September 2009), LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:97 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3302 (December 2013), LR 40:1700, 1701 (September 2014), LR 41:1490 (August 2015).

Kathy H. Kliebert
Secretary

1508#080

RULE

**Department of Health and Hospitals
Office for Citizens with Developmental Disabilities**

Single Point of Entry into the System
(LAC 48:IX.Chapter 7)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities (OCDD), pursuant to Act 128 of the 2005 Regular Legislative Session as contained in R.S. 28:451.1, is authorized to establish a developmental disabilities services system (system) and to serve as the single point of entry (SPOE) into the system at R.S. 28:454.1. This Rule establishes OCDD as the SPOE and to specify a fair, efficient and consumer-friendly determination process for system entry. This determination process for system entry is to be equitably and uniformly applied by the human service authorities and human service districts or OCDD contractor(s) throughout the state. The human service authorities and human service districts are referenced in this document as local governing entities (LGEs). A local governing entity (LGE) is an integrated human services delivery system with local accountability and management, which provides behavioral health and developmental disabilities services. "OCDD contractors" refers to regional system point of entry contractors who conduct eligibility determination for the early intervention system for children ages birth to three years.

Title 48

PUBLIC HEALTH—GENERAL

Part IX. Developmental Disabilities Services

Chapter 7. Single Point of Entry and Determination Process for System Entry

§701. Purpose

A. - B.2. ...

- 3. the presence of a developmental disability;
- 4. the diagnostic assessment;
- 5. the developmental assessment for children ages birth through three years; and
- 6. specialized accommodations, including transportation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:454.(1)(2), Acts 2013, No. 417, §3, eff. June 21, 2013.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1241 (July 2006), amended LR 41:1490 (August 2015).

§703. Definitions

A. *Developmental Disability*—defined in accordance with the Developmental Disability Law at R.S. 28:451.2(12) and 462(4)(c).

B. ...

C. *Entry Unit (EU)*—a section of the local governing entities (LGEs) that implements the developmental disabilities services system entry process.

D. *Entry Review Team (ERT)*—a transdisciplinary team including but not limited to, staff of the system entry unit, community services regional administrator or designee, and a psychologist. The team may also include a social worker, a nurse and/or other consultants as necessary.

E. - F. ...

G. *Local Governing Entity (LGE)*—an integrated human services delivery system with local accountability and management, which provides behavioral health and developmental disabilities services.

H. *OCDD Contractors*—regional system point of entry contractors who conduct eligibility determination for the early intervention system for children ages birth to three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:451.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1241 (July 2006), amended LR 41:1490 (August 2015).

§705. Single Point of Entry

A. The OCDD has responsibility for programmatic leadership in the designing and developing of all developmental disabilities services pursuant to agreements with the LGEs and OCDD contractors as statutorily constituted by state law and with public and private providers. Throughout this Rule, the term “entry unit” is used to describe the role of the LGEs and OCDD contractors in the OCDD system entry process.

B. The local governing entities (LGEs) are the Metropolitan Human Services District, the Capital Area Human Services District, the South Central Human Services Authority, the Acadiana Area Human Services Authority, the Imperial Calcasieu Human Services Authority, the Central Louisiana Human Services District, the Northwest Louisiana Human Services District, the Northeast Delta Human Services Authority, the Florida Parishes Human Services Authority and the Jefferson Parish Human Services Authority:

1. Metropolitan Human Services District—Orleans, Plaquemines and St. Bernard parishes;

2. Capital Area Human Services District—Ascension, East Baton Rouge, East Feliciana, Iberville, Point Coupee, West Baton Rouge, and West Feliciana parishes;

3. South Central Human Services Authority—Assumption, Lafourche, St. Charles, St. James, St. John, Terrebonne, and St. Mary parishes;

4. Acadiana Area Human Services District—Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, and Vermilion parishes;

5. Imperial Calcasieu Human Services Authority—Allen, Beauregard, Cameron, Calcasieu, and Jefferson Davis parishes;

6. Central Louisiana Human Services Authority—Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Vernon, and Winn parishes;

7. Northwest Louisiana Human Services District—Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine, and Webster parishes;

8. Northeast Delta Human Services Authority—Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Tensas, Union, and West Carroll parishes;

9. Florida Parishes Human Services Authority—Livingston, St. Helena, St. Tammany, Tangipahoa, and Washington parishes; and

10. Jefferson Parish Human Services Authority—Jefferson Parish.

C. - D.6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:454.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Human Services, Division of Mental Retardation/Developmental Disabilities, LR 16:31 (January 1990), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1241 (July 2006), LR 41:1491 (August 2015).

§707. Standards for the Determination Process for System Entry

A. The LGEs shall utilize specialized entry units for the determinations of system entry and entry review teams to review those determinations, which do not clearly meet the criteria for entry into the system. OCDD contractors shall utilize their early intervention eligibility teams for children ages birth to three years of age.

B. - C. ...

D. Requests for entry into the system must originate from the LGE in the geographic area from which the person or legally responsible party resides and can be made from only one such LGE or OCDD contractor at a time.

E. - F. ...

G. The face-to-face interview will be conducted at the entry unit location or at the applicant’s home for children ages birth to 3 years. If an applicant is unable to get to the entry unit location, the staff will conduct the interview at the person’s home or another agreed upon location. If a person fails to keep two appointments that are scheduled at locations outside the entry unit office, future appointments will be scheduled at the entry unit office.

H. - K.1.a. ...

b. family crisis exists with no caregiver support available; and

K.1.c. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:454.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1241 (July 2006), amended LR 41:1491 (August 2015).

§709. System Eligibility for Children between the Ages of 0-3 Years

A. Children from 0-3 years who are currently eligible for Louisiana’s early intervention system services as verified by receipt of all required early intervention system documents, including the individualized family services plan (IFSP), will meet criteria for entering the developmental disabilities services system.

B. The entry unit staff will refer the family or legal guardian to the early intervention system point of entry to seek an eligibility determination for early intervention services if the child is between the ages of 0-3 years and is not currently receiving services from the Early Intervention Program.

C. It is the responsibility of the parent or legal guardian to initiate contact with the local LGE entry unit after the IFSP transition conference. In those cases, the family will indicate its intention to participate in eligibility redetermination and will receive a letter from the Early Intervention Program advising of the need to contact the local LGE prior to the child's third birthday.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:454.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1242 (July 2006), amended LR 41:1491 (August 2015).

§711. Approval for Entry into the System

A. - A.2. ...

3. the protected date from the early intervention system for children who previously had early intervention eligibility.

B. If the entry process is not successfully completed within six months, the original date will no longer be "protected." A new date will be assigned upon completion of a new application. For children entering with an early intervention protected date, the date will be protected until the child's fifth birthdate.

C. Approval for entry into the system shall be based on:

1. the definition of a developmental disability in the Developmental Disabilities Law, R.S. 28:451.2(12) and/or 462(4)(c); and

2. ...

D. Entry Review Team

1. The LGEs shall establish an entry review team to review the documentation of persons who do not clearly meet the criteria for system entry contained herein. The OCDD contractors will utilize the child's eligibility team members to determine eligibility for early intervention.

2. - 3.d. ...

E. Persons who meet criteria for system entry will receive a statement of approval and a copy of the *Rights of People with Developmental Disabilities* from the LGE or the *Family Rights Handbook* from the OCDD contractor from which the persons applied for services and supports.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:454.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1242 (July 2006), amended LR 41:1492 (August 2015).

§713. Non-Approval for Entry into the System

A. ...

B. Persons who are receiving services and who receive a SOD will continue to receive services for thirty calendar days from the receipt date of the SOD or until the end date of the IFSP for children in early intervention.

C. Persons who receive a SOD have the right to reapply for services at the entry unit in the area of their residence and to request and receive an administrative hearing through the Division of Administrative Law (DAL).

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:454.2 or 464(13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1243 (July 2006), amended LR 41:1492 (August 2015).

§715. Redetermination of Eligibility

A. ...

B. The face-to-face interview will not be necessary if the OCDD entry staff has met with the person in the past six months and has consulted with the person on the results of the screening tool in order to ensure the measure is fair and meaningful. For children in early intervention, a face-to-face team meeting is required annually for redetermination.

C. Re-determination for eligibility for the system shall be required under the following conditions.

1. For children in early intervention, there must be an annual redetermination.

2. If a child transitions from EarlySteps, there must be a redetermination by age 3, reflective of the change in eligibility requirements and legal definitions of developmental disability for ages 3 and up, in accordance with the Louisiana Developmental Disability Law (R.S. 28:451.2).

3. If initial eligibility is established on or after age 3, but prior to age 10, redetermination will occur within 5 years of the initial determination. If the re-determination occurs prior to the person's tenth birthday and there are no additional questions that would require an additional re-determination, then a review upon the person's tenth birthday should be conducted due to changing eligibility requirements and definitions at that age. (A person must have three substantial functional limitations versus two substantial functional limitations for ages 3 to 10 years.)

4. If at age 10, when at least two statements of approval (SOA) have been issued and the presence of a clear lifelong developmental disability exists and is expected to persist indefinitely, no additional redeterminations will be needed in adolescence and adulthood.

5. If a person does not meet criteria noted above or enters the system after age 10 but before 22 years of age, redetermination will occur within 5 years of the initial determination. If the re-determination occurs prior to the person's sixteenth birthday, and there are no additional questions that would require an additional re-determination, then a review upon the person's sixteenth birthday should be conducted to coincide with transition period from school to work and to reassess continued need for services into adulthood.

6. If at age 22, when at least two SOAs have been issued and the presence of a clear, lifelong developmental disability exists and is expected to persist indefinitely, then no additional redeterminations will be required in adolescence and adulthood.

7. If a person enters the system after age 22 (or between ages 16-22), at least two determinations must occur within 3-5 years of one another to document and confirm presence of a lifelong developmental disability that is expected to persist indefinitely. No further redeterminations will be needed if there is no concern over transient nature of existing symptoms and need for continued assessment based upon ERT review.

D. If during the course of the initial determination process the ERT can establish substantial functional limitations in at least three life areas with scores greater than three standard deviations below the mean, the prognosis of the individual is such that there is no likelihood of significant improvements in those life areas, and there are no

co-occurring medical or behavioral health conditions that may impact the limitations and necessitate re-evaluation, the ERT may decide the person has no need for any further redetermination.

E. Any persons who were approved to participate in the system without requiring redetermination as of the date of adoption of this Rule will continue to be approved for entry into the system without redetermination, unless redetermination is requested as specified in this rule and/or required for participation in specific services.

F. Redetermination is required as outlined above and/or when:

1. diagnosis of a developmental disability, as defined by state law is tenuous:

a. the individual appears to have a developmental disability that is diagnosable, but further assessment is needed to verify that the disability will be life-long;

b. the individual has a co-occurring behavioral health condition that is prominent, but it is not clear that the limitations are solely attributable to mental illness, therefore further assessment is needed;

c. the individual has a medical condition and may have an accompanying developmental disability; however, it is not clear whether the limitations experienced by the individual are attributable to the developmental disability, therefore further assessment is necessary;

2. prognosis of a chronic life-long condition of a developmental disability is uncertain;

3. new assessment information is obtained that may impact prior determination of a presence of a developmental disability. (This will also apply to individuals who were granted a "lifetime SOA" prior to the adoption of this Rule.)

G. Redetermination may be requested by any one of the following parties:

1. LGE entry review team;
2. person requesting supports;
3. person's family or legal representative;
4. person's support coordinator;
5. person's service provider;
6. person's planning team;
7. person's physician determining level of care;
8. staff involved in the provision of supports;
9. state monitoring authorities;
10. courts of appropriate jurisdiction.

H. If a person requires redetermination for approval, the LGE entry unit staff will notify the person in writing, and as appropriate, the person's support coordinator and/or provider, sixty days prior to the SOA expiration date. The person then has thirty days in which to contact the EU staff to coordinate the redetermination process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:454.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1243 (July 2006), amended LR 41:1492 (August 2015).

§717. Closure of Requests for Supports and Services

A. Initial requests may be "closed" due to:

1. insufficient information based upon the person/family consistently not complying with obtaining needed information and/or participating in scheduled appointments;

2. denial for system entry (SOD) has been determined; or

3. request of the individual and/or family.

B. If the person does not respond to the initial redetermination letter within 30 calendar days, at least two additional attempts to contact the individual will be made prior to case closure within the next 30 calendar days. The additional attempts to contact the individual will utilize more than one mode of contact.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:454.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1243 (July 2006), amended LR 41:1493 (August 2015).

§719. OCDD Data Requirements

A. The LGEs and OCDD contractors shall provide monthly to the OCDD central office random samples of completed determinations with supporting documentation in accordance with OCDD's quality review methodologies.

B. The LGEs and OCDD contractors shall utilize OCDD's information management system for developmental disabilities to enter all information as required by OCDD's policies and procedures for system entry.

C. The LGEs and OCDD contractors shall provide additional information to OCDD as requested for the purpose of evaluating quality and compliance with state laws, policies and procedures relevant to system entry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:454.17

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 32:1243 (July 2006), amended LR 41:1493 (August 2015).

§721. OCDD Quality Reviews

A. The OCDD central office will conduct periodic quality reviews of the LGEs and OCDD contractors regarding the processes for the single point of entry and the determination process for system entry.

B. The purpose of the quality reviews is to assess overall accuracy in decision making, completeness of information relative to the determination reached, and adherence to the Developmental Disability Law as well as to the rules, policies, operational instructions and procedures required by the office pertaining to single point of entry and the determination process for system entry conducted by the LGEs and OCDD contractors.

C. The quality reviews may consist of analyses of the following:

1. - 4. ...

5. completeness, timeliness and accuracy of information required on OCDD's information management system for developmental disabilities.

D. The review findings and subsequent recommendations along with any needed technical assistance will be provided to the LGEs and OCDD contractors. Specific recommendations for improvement or correction actions must be carried out in order to maintain compliance with all laws, rules, policies and procedures relevant to the single point of entry or determination for system entry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:454.17.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals Office for Citizens with Developmental Disabilities, LR 32:1243 (July 2006), amended LR 41:1493 (August 2015).

Kathy H. Kliebert
Secretary

1508#049

RULE

Department of Public Safety and Corrections Gaming Control Board

Age Restrictions for the Casino; Methods to Prevent
Minors from Gaming Area (LAC 42:III.2915)

The Louisiana Gaming Control Board, pursuant to R.S. 27:15 and R.S. 27:24, has amended LAC 42:III.2915.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 29. Operating Standards

§2915. Age Restrictions for the Casino; Methods to Prevent Minors from Gaming Area

A. No persons under the age of 21 shall:

1. enter the designated gaming area, except responding emergency personnel acting in their official capacity;

A.2. - B.1. ...

2. posting signs at all entrances to the gaming area notifying patrons that persons under 21 years of age are not permitted to loiter in or about the gaming area. The signs shall be displayed in English, Spanish, and Vietnamese;

3. posting signs or other approved means displaying the date of birth of a person who is 21 years old that date; and

4. monitoring the access to the designated gaming area by all emergency service personnel under the age of 21 to ensure that they do not participate in gaming activities.

C. ...

D. As used in this Section, emergency service personnel are individuals who are:

1. employed or affiliated with a bonafide emergency service agency, department or company;

2. on official business rendering aid in an emergency situation; and

3. wearing clothing, uniforms or other insignia which distinguishes them as being affiliated with an emergency service agency, department or company.

E. As used in this Section, emergency services agency, department or company shall mean: police department, fire department, emergency medical service company, or private ambulance service company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1657 (July 2012), amended LR 41:1494 (August 2015).

Ronnie Jones
Chairman

1508#032

RULE

Department of Public Safety and Corrections Gaming Control Board

Casino Gaming Payment Interception (LAC 42:III.2737)

The Louisiana Gaming Control Board, pursuant to R.S. 27:15 and R.S. 27:24, has amended LAC 42:III.2737.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 27. Accounting Regulations

§2737. Casino Gaming Payment Interception

A. The Department of Children and Family Services (DCFS) shall provide real-time or immediate electronic access to a database containing current information for persons having child support arrearages or overpayments. This access shall be available to the entities licensed or permitted under chapters 1, 4, 5, or 7 of title 27 of the *Revised Statutes*.

1. Upon the availability of a single-point inquiry system, which allows for searches of one or more real-time databases containing debt information to entities licensed or permitted under chapters 1, 4, 5, or 7 of title 27 of the *Revised Statutes* the requirements of this Section will apply to that system. Debts owed to DCFS maintain priority over debts from this system in accordance with R.S. 47:1676(D)(4)(d).

B.1. Prior to issuing payment of winnings (either cash or a second or later progressive slot machine annuity payment) in an amount requiring the filing of a W-2G or substantially equivalent form, the payor shall access the DCFS database and/or any other system implemented in accordance with Subsection A of this Section to determine if the winning patron is recorded as owing overdue child support or receiving child support overpayments, or owing other debts to the state.

2. If the patron is recorded as owing a debt in the system(s), the payor may deduct up to \$35 as an administrative fee and shall then intercept the amount noted from the patron's winnings. Any amount remaining following the deduction of the administrative fee, intercept amount, and any other deductions required by law shall then be paid to the winning patron.

3. If the winning patron's information is not recorded in the database, a licensee shall maintain a record of the negative search results for each payment made to a cash prize winner by attaching a print out of the negative results; or similar "No Record Found" page generated by the database to the jackpot payout slip. A generated log of all searches made may be printed and maintained in the licensee's accounting records in lieu of attaching the negative results record to each jackpot payout slip.

4. If the winning patron's information is not recorded in the database(s), a permittee who issues a second or later progressive slot annuity payment shall maintain a copy of the negative results or other "No Record Found" page generated by the database for each payment made to a progressive slot jackpot annuitant.

C.1. Intercepted amounts shall be forwarded to DCFS within seven business days in accordance with R.S. 27:24(A)(5)(c) and shall include a record of the identifying information for the individual from whom the payment was intercepted and the amount intercepted from each individual. Alternatively, if the payment is owed to another agency, the payment shall be made in accordance with that agency's directive.

2. Licensees may aggregate multiple interception amounts for transfer to DCFS or another agency, provided they include a simultaneous record of the identifying information for the individuals from whom the payments were intercepted and the amount intercepted from each individual.

D.1. ...

a. the amount of the administrative fee charged for processing interceptions;

b. either a list of employees authorized to access the database(s) or an authorization noted in an authorized employee's job description;

c. procedures designed to prevent employees from willfully failing to withhold intercept payments identified in one or more state systems providing access to the casino;

d. procedures for restricting access to any DCFS or other state database to authorized employees in such a manner that identifies the employee accessing the database;

e. ...

f. procedures for accessing and searching the database;

g. procedures for preserving the confidentiality of the information retrieved from the database;

h. ...

i. procedures for preventing patrons with outstanding child support arrearages, overpayments, or other system identified debts, from transferring or assigning their jackpots to another patron;

j. ...

k. procedures for notifying patrons subject to interception of the withholding by providing them with a receipt stating the reason for the interception, the amount withheld, and contact numbers for the intercepting agency;

l. ...

m. procedures for attaching the documentation required by Subsection F of this Section to the jackpot slip in the event the database is inaccessible;

n. procedures for the timely forwarding intercepted payments to the appropriate agency; and

o. procedures to ensure payments to DCFS are the primary payments and ensuring intercepted funds are forwarded to the appropriate agency.

E. Any licensee or permittee who issues a second or later progressive slot machine annuity payment shall include in its internal controls, the procedures required in this Section for jackpot intercepts.

F. Any licensee or permittee searching the database or withholding money in accordance with R.S. 27:24(A), R.S. 47:1676(D)(4), and this Section, shall submit a monthly report to the division by the twentieth day of the month detailing the total number of searches of the databases, the number of matches found, the amount of jackpot winnings withheld, the amount of administrative fees retained for the

preceding month, and a breakdown of the amount withheld for each database.

G.1. In the event the database is off-line when a search is made, a licensee shall not be responsible for intercepting cash winnings provided it prints a copy of the screen notification that the system is inaccessible, records the name and prize amount for the winning patron, and timely notifies the appropriate database contact for each database down, of the error to ensure the technical difficulty is not with the licensee. The unavailability of the database shall not affect interception requirements for second or later progressive slot machine annuity payments.

2. Licensees may notify the appropriate database operator that the database is either off-line or experiencing other technical difficulties by electronic mail sent to an address provided by the appropriate database operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 37:1415 (May 2011), amended LR 41:1494 (August 2015).

Ronnie Jones
Chairman

1508#033

RULE

Department of Public Safety and Corrections Gaming Control Board

Internal Controls; Tips or Gratuities (LAC 42:III.2721)

The Louisiana Gaming Control Board, pursuant to R.S. 27:15 and R.S. 27:24, has amended LAC 42:III.2721.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 27. Accounting Regulations

§2721. Internal Controls; Tips or Gratuities

A. ...

B. No key gaming employee or any other gaming employee who serves in a supervisory position as outlined in the internal controls, shall accept a tip or gratuity on behalf of themselves. However an employee serving in a supervisory position may handle, transport and temporarily possess a tip on behalf of an eligible employee in accordance with the licensee's internal controls.

C. ...

D. All tips and gratuities given to dealers at table games, including poker dealers, shall be handled as described in the licensee's internal controls. Those controls should use one of the following methods.

1. Pooling of tips:

a. immediately deposited in a transparent locked box reserved for that purpose. If non-value chips are received at a roulette table, the marker button indicating their specific value shall not be removed from the slot or receptacle attached to the outer rim of the roulette wheel until after a dealer in the presence of a supervisor has converted the non-value chips into value chips. Procedures for accepting non-value chips received as tips shall be defined in the internal controls;

b. counted and recorded by a randomly selected dealer and a randomly selected employee who is independent of the tips being counted; and

c. placed in a pool for pro rata distribution among the dealers on a basis that coincides with the normal pay period. Tips or gratuities from this pool shall be deposited into the licensee's or casino operator's payroll account. Distributions to dealers from this pool shall be made in accordance with the payroll accounting practices and shall be subject to all applicable state and federal withholding taxes.

2. A licensee or casino operator may elect to handle tips generated by dealers separately from the pro rata distribution pool. Tips or gratuities may be assigned to the dealer generating the tip or gratuity, and the following procedures shall be used.

a. Each dealer shall have a locked transparent box marked with his name or otherwise coded for identification. Keys to these boxes shall be maintained by the cage department. When not in use, these boxes shall be stored in a locked storage cabinet or other approved lockable storage in the poker room. Keys to the storage cabinet shall be maintained and used as specified in the internal controls.

b. When a dealer arrives at his assigned table, the dealer shall obtain his marked transparent locked box. The box shall be placed at the table. If the dealer leaves the table, the dealer's marked box shall be removed from the table by the dealer and secured.

c. At the end of the dealer's shift, the dealer shall take that dealer's marked transparent locked box to the cage for counting. The cage employee shall unlock, empty, and relock the box. The cage employee shall count the contents of the box in the presence of the dealer. The amount shall be recorded on a three-part voucher and signed by the cage employee and the dealer. The three parts of the voucher shall be distributed as follows:

- i. one part shall be given to the dealer;
- ii. one part shall be maintained by the cage; and
- iii. one part shall be forwarded to the payroll department.

d. Tips or gratuities shall be deposited into the licensee's or casino operator's payroll account. Distribution to the dealer shall be made in accordance with the payroll accounting practices and shall be subject to all applicable state and federal withholding taxes and regulations. No distributions shall be made to the dealer in any other manner.

e. A poker room dealer may tip any cashier working as the poker room cashier during the poker room dealer's shift. Any such tip shall be handled when the poker room dealer's tips are counted as defined in this Section. A section of the dealer's tip voucher shall be marked to allow the dealer to indicate which cashier(s) the dealer wishes to tip and the amount. The tip shall be deducted from the dealer's total tips at the time of the count. Tips given to a cashier in this manner shall be distributed to the cashier in accordance

with the payroll accounting practices and shall be subject to all applicable state and federal withholding taxes and regulations. No tips from a poker room dealer shall be made to a cashier in any other manner.

E. Upon receipt from a patron of a tip or gratuity, a dealer assigned to the gaming table shall extend his arm in an overt motion and deposit such tip or gratuity in the transparent locked box reserved for such purpose.

F. All tips received by employees not covered in Subsection D of this Section shall be deposited into the licensee's or casino operator's payroll account and distributed to employees in accordance with the internal controls. Distributions to employees from this pool shall be made following the payroll accounting practices and shall be subject to all applicable state and federal withholding taxes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1640 (July 2012), amended LR 41:1495 (August 2015).

Ronnie Jones
Chairman

1508#034

RULE

Department of Public Safety and Corrections Gaming Control Board

Key Gaming Employee (LAC 42:III.1701)

The Louisiana Gaming Control Board, pursuant to R.S. 27:15 and R.S. 27:24, has amended LAC 42:III.1701.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 17. General Provisions

§1701. Definitions

A. - B. ...

* * *

Key Gaming Employee—an employee, agent or representative of a licensee, casino operator or permittee, whether or not a gaming employee, who holds or exercises critical or significant management or operating authority over the casino operator, licensee or permittee. Key gaming employee includes, but is not limited to:

a. - c. ...

d. Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1601 (July 2012), amended LR 41:1496 (August 2015).

Ronnie Jones
Chairman

1508#035

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Licenses and Permits—Suitability Determination
(LAC 42:III.2109)

The Louisiana Gaming Control Board, pursuant to R.S. 27:15 and R.S. 27:24, has amended LAC 42:III.2109.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 21. Licenses and Permits

§2109. Suitability Determination

A. ...

B. In accordance with R.S. 27:28, any person, who has the ability or capacity to exercise significant influence over the activities of an applicant, licensee, casino operator or permittee shall be required to submit to an investigation to determine suitability.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1610 (July 2012), amended LR 41:1497 (August 2015).

Ronnie Jones
Chairman

1508#036

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Managerial Representative on Premises (LAC 42:III.2955)

The Louisiana Gaming Control Board, pursuant to R.S. 27:15 and R.S. 27:24, has amended LAC 42:III.2955.B.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 29. Operating Standards

§2955. Managerial Representative on Premises

A. ...

B. Each licensee and casino operator shall provide, in writing, a current list of all managerial representatives on premises. Each managerial representative on premises shall have a valid current key or non-key gaming employee permit and shall be approved by the division. Employees acting as managerial representatives on behalf of the licensee or casino operator shall be selected from gaming permitted positions of managerial level or higher.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1661 (July 2012), amended LR 41:1497 (August 2015).

Ronnie Jones
Chairman

1508#037

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Non-Gaming Suppliers (LAC 42:III.2108)

The Louisiana Gaming Control Board, pursuant to R.S. 27:15 and R.S. 27:24, has amended LAC 42:III.2108.C.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 21. Licenses and Permits

§2108. Non-Gaming Suppliers

A. - C.11. ...

12. nationwide shipping services, including Federal Express, United Parcel Service, Airborne Express and Emory Freight;

13. publicly traded companies or wholly owned subsidiaries of publicly traded companies subject to regulation by the Securities and Exchange Commission, who are in good standing and are current with required filings; and

14. professional sports and racing teams regulated by national sanctioning bodies.

D. - I.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1609 (July 2012), amended LR 41:1497 (August 2015).

Ronnie Jones
Chairman

1508#038

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Progressive Electronic Gaming Devices (LAC 42:III.4204)

The Louisiana Gaming Control Board, pursuant to R.S. 27:15 and R.S. 27:24, has amended LAC 42:III.4204.D.4.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 42. Electronic Gaming Devices

§4204. Progressive Electronic Gaming Devices

A. - D.3.e. ...

4. Unless otherwise approved by the division, all progressive jackpot transfers shall be prominently posted at or near the applicable EGD at least seven days in advance of the requested transfer date.

D.5. - P.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1672 (July 2012), amended LR 41:1497 (August 2015).

Ronnie Jones
Chairman

1508#039

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Tax Clearance Required of an Applicant, Licensee or Permittee (LAC 42:III.2114)

The Louisiana Gaming Control Board, pursuant to R.S. 27:15 and R.S. 27:24, has amended LAC 42:III.2114.A.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 21. Licenses and Permits

§2114. Tax Clearances Required of an Applicant, Licensee or Permittee

A. The applicant, its officers, directors, any person with an economic interest of at least 5 percent in an applicant and any person who has the ability or capacity to exercise significant influence over the activities of the applicant shall provide tax clearances from the appropriate state agencies prior to the granting of a license or permit.

B. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1612 (July 2012), amended LR 41:1498 (August 2015).

Ronnie Jones
Chairman

1508#040

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Video Draw Poker—Application and License (LAC 42:XI.2405)

The Louisiana Gaming Control Board, pursuant to R.S. 27:15 and R.S. 27:24, has amended LAC 42:XI.2405.

Title 42

LOUISIANA GAMING

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2405. Application and License

A.1. - A.7. ...

8. All renewal applications, shall be submitted in completed form, including a Louisiana State Sales Tax Clearance Certificate. Out-of-state manufacturers shall not be required to submit a Louisiana State Sales Tax Clearance Certificate.

A.9. - B.4.a. ...

b. Sales tax clearance certificates from the state and all appropriate local taxing authorities shall be submitted to the division along with the annual fee as provided in Subparagraph B.4.a of this Section no later than July 1 of each year.

5. - 10.a. ...

b. If surrendered in accordance with Subparagraph B.10.a of this Section, no gaming activities may be conducted at the premises unless and until the license is returned to the licensee.

c. ...

d. Licenses surrendered in accordance with Subparagraph B.10.a of this Section shall not be subject to renewal unless the license has been returned to the licensee.

e. Failure to surrender the license as provided in Subparagraph B.10.a of this Section shall constitute grounds for revocation or suspension of the license.

11.a. Within 15 days following a force-majeure event which has not affected video poker operation but necessitates closing any part of the licensed entity in order to make repairs, a licensee shall notify the division which may, following an on-site inspection to evaluate damage to the premises, grant the licensee a 60-day waiver from the provisions of Subparagraph B.10.a of this Section.

B.11.b. - D.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 26:346 (February 2000), LR 26:2322 (October 2000), LR 27:61 (January 2001), LR 29:362 (March 2003), LR 30:267 (February 2004), repromulgated LR 30:439 (March 2004), amended LR 34:1037 (June 2008), LR 35:82 (January 2009), repromulgated LR 35:490 (March 2009), amended LR 36:2045 (September 2010), LR 38:2935 (November 2012), LR 40:1105, 1109 (June 2014), repromulgated LR 40:1382 (July 2014), amended LR 40:1384 (July 2014), amended LR 41:1498 (August 2015).

Ronnie Jones
Chairman

1508#041

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Video Draw Poker—Penalty Schedule (LAC 42:XI.2424)

The Louisiana Gaming Control Board, pursuant to R.S. 27:15 and R.S. 27:24, has amended LAC 42:XI.2424.B.

Title 42

LOUISIANA GAMING

Part XI. Video Poker

Chapters 1.-23. Reserved.

Chapter 24. Video Draw Poker

§2424. Enforcement Actions of the Board

A. ...

B. Penalty Schedule

Regulation Number	Violation Description	1st	2nd	3rd
Application and License				
* * *				
Video Gaming Devices				
* * *				

Regulation Number	Violation Description	1st	2nd	3rd
Revenues				
2409 C3b	Insufficient Funds Available For Electronic Transfer — (fine as shown on the right plus interest as per 2409.C.3.d)	250	500	1000 or Admin Action
* * *				
Regulatory, Communication, and Reporting Responsibilities				
* * *				
Devices				
* * *				
Gaming Establishments				
* * *				
Code of Conduct of Licensee				
* * *				
Investigations				
* * *				
Miscellaneous				
* * *				

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board. LR 36:2874 (December 2010), amended LR 38:2936 (November 2012), LR 40:1106, 1107, 1108, 1110 (June 2014), repromulgated LR 40:1383 (July 2014), amended LR 40:1385, 1385, 1386 (July 2014), LR 41:1498 (August 2015).

Ronnie Jones
Chairman

1508#042

RULE

**Department of Transportation and Development
Professional Engineering and Land Surveying Board**

Required Signatures on Board Checks
(LAC 46:LXI.717)

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.717.

This is a technical revision of existing rules under which LAPELS operates. The revision makes it clear that all board checks must be signed by at least one board member.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LXI. Professional Engineers and Land Surveyors
Chapter 7. Bylaws**

§717. Disbursements

A. Check Requirement. All disbursements over the amount of \$150 shall be made by check or approved electronic fund transfer.

B. Line Item Restrictions. Annual disbursements shall not exceed current budget line items.

C. Required Signatures on Checks. All checks must be signed by two of the following individuals (with at least one of the signatures being from either the treasurer or another board member as directed by the board):

1. treasurer;
2. executive director;
3. deputy executive director; or
4. any board member as directed by 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 2:58 (February 1976), amended LR 5:119 (May 1979), LR 11:1182 (December 1985), LR 21:1355 (December 1995), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1026 (July 2001), LR 30:1710 (August 2004), LR 37:2412 (August 2011), LR 41:1499 (August 2015).

Richard L. Savoie, P.E.
Deputy Executive Director

1508#028

RULE

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

Crappie Regulations—Eagle Lake
(LAC 76:VII.198)

Pursuant to the authority of *Louisiana Revised Statutes*, title 56, sections 6(25)(a), 325(c) and 326.3, the Louisiana Wildlife and Fisheries Commission has amended crappie regulations on Eagle Lake, Madison Parish, Louisiana. The new daily take and size regulations are 30 fish per person with an 11 inch minimum length limit.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 1. Freshwater Sports and Commercial
Fishing**

§198. Crappie Regulations—Eagle Lake

A. The recreational daily limit and total length limit for black crappie (*Pomoxis nigromaculatus*) and white crappie (*Pomoxis annularis*) on Eagle Lake located east of the Mississippi River in Madison Parish, Louisiana shall be as follows.

1. The recreational daily creel limit shall be 30 fish, in the aggregate.
2. The minimum total length limit shall be 11 inches.

B. This Rule shall become effective October 1, 2015 provided identical minimum total length limit and daily creel regulations by the Mississippi Wildlife, Fisheries and Parks Commission are implemented.

C. This Rule will expire four years from its effective date or if Mississippi Wildlife, Fisheries and Parks Commission

fails to maintain identical regulations for Eagle Lake at anytime during the four year period.

D. Upon completion of the four year period, a crappie population stock assessment and crappie angler opinion survey will be conducted to allow for a comprehensive evaluation of the regulation for future management recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 325(c) and 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 41:1499 (August 2015).

Edwin Manuel
Chairman

1508#055

Notices of Intent

NOTICE OF INTENT

Department of Children and Family Services Division of Programs Child Welfare Section

Guardianship Subsidy Program (LAC 67:V.4101 and 4103)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:V, Subpart 5, Foster Care, Chapter 41, Guardianship Subsidy Program, Sections 4101 and 4103.

Pursuant to United States Children's Bureau requirements for authorization of Louisiana's title IV-E state plan, adjustments to the foster care and guardianship subsidy programs are necessary to update required terminology related to the programs, types of available payments, and eligibility criteria. The proposed Rule will amend the option of subsidized guardianship and establish successor guardianship as a permanency option, therefore promoting the establishment of permanent families for children within relative foster care placements where adoption is not an alternative.

The department considers this amendment necessary in order to fulfill title IV-E state plan requirements and to avoid sanctions and penalties from the United States Children's Bureau.

This action was made effective by an Emergency Rule dated and effective June 10, 2015.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 5. Foster Care

Chapter 41. Guardianship Subsidy Program

§4101. Subsidizing Guardianship Arrangements for Children in Foster Care

A. Overview of Program Purpose

1. The Subsidized Guardianship Program enables the Department of Children and Family Services (DCFS) to make payments to certified relative and fictive kin caregivers on behalf of a child who otherwise might not be able to achieve permanency outside of department custody because of special needs or other circumstances. Subsidy payments shall be limited to a child(ren) for whom guardianship is indicated due to other more permanent options such as reunification with the parents, immediate unsubsidized custody to a relative or other caregiver, or adoption being determined unfeasible for the child. The guardianship subsidy applies only to a child(ren) for whom the DCFS holds legal custody, only to potential caregivers with whom the child had an established familial or emotional relationship prior to entering DCFS custody, and when the kinship placement provider becomes a certified foster caregiver according to the certification standards of the State, and, the child(ren) remains in the certified kinship placement for at least six consecutive months immediately

prior to entering the guardianship subsidy arrangement. The guardianship subsidy also applies to successor guardian(s) who meet the following criteria:

a. the successor guardian is named in the guardianship subsidy agreement with DCFS;

b. the successor guardian and all adult household members have satisfactorily completed fingerprint based criminal and child abuse/neglect background clearances; and

c. guardianship is transferred by a court to the successor guardian in accordance with *Louisiana Children's Code* articles 718 through 724.1.

2. The prospective guardianship family must meet basic foster care certification eligibility requirements or the successor guardianship criteria in all respects except for the ability to assume complete financial responsibility for the child's care.

B. Types of Subsidy Payments. The child may be subsidized for the following services up to age 18.

1. Maintenance. The maintenance subsidy includes basic living expenses such as board, room, clothing, spending money, and ordinary medical costs. The maintenance subsidy may be ongoing until the child reaches age 18, but must be renewed on a yearly basis. This renewal will be dependent upon the child remaining in the care of the guardian with whom the subsidy agreement was established. The amount of payment shall not exceed 80 percent of the state's regular foster care board rate based on the monthly flat rate payments of the regular foster care board rate for the corresponding age group. Monthly maintenance payments shall not be based on subsidized foster care arrangements such as specialized foster care, alternate family care, or therapeutic foster care. Changes in the maintenance subsidy rate routinely only occur once a year and the adjustment is typically made at the time of the subsidy renewal, or due to a change in the child's age. Adjustments to the maintenance subsidy rate may also occur due to availability of funds, legislative changes or adjustments to the regular foster care board rate.

2. Special Board Rate. Foster parents entering into a guardianship agreement for a foster child for whom a special board rate was received during the foster care episode may request up to a maximum of \$240 which is 80 percent of the special board rate amount of \$300. This is only provided if the care and needs of the child in the guardianship arrangement warrant this same special board rate. The continued need for the special board rate shall be reviewed at the time of the annual review. This review shall consist of a determination of whether the same level of specialized care by the guardian, for which the special board rate was being provided at the time of the subsidy agreement, continues to be necessary to meet the child's needs. Any reduction in the level of care required by the guardian should result in a decrease in the amount of special board rate compensation to the guardian.

3. Special Services

a. The special services subsidy is time limited and in some cases may be a one-time payment. It is the special

assistance given to handle an anticipated expense when no other family or community resource is available. If needed, it can be offered in addition to the maintenance and special board rate subsidy. The special services subsidy must be established as a part of the initial guardianship subsidy agreement, and may not be provided or renegotiated based on any circumstances which develop or issues identified after that point. Special services subsidies include the following types of needs:

i. special medical costs deemed medically necessary for the daily functioning of the child for any condition existing prior to the date of the initial judgment establishing guardianship with the kinship caregiver and not covered by Medicaid or other insurance;

ii. ongoing therapeutic treatment costs to complete current therapy and future treatment costs on a time limited basis up to 18 years of age, as department resources allow, related to the abuse/neglect received by the child and impacting the child's capacity to function effectively as part of the child's educational, family or social environment. This does not include the cost of residential care or psychiatric hospitalization, nor does it include therapeutic intervention for the sole purpose of providing behavior management assistance to the guardian;

iii. legal and court costs to the potential guardian family up to \$1000 for children who are not title IV-E eligible and up to \$2000 for children who are title IV-E eligible for establishing the guardianship arrangement. This service is only available for costs distinct and separate from the routine costs of the child in need of care proceedings to provide for costs to the potential guardian in establishing the guardianship arrangement. This legal and/or court fee will be provided as a non-reoccurring, one-time payment for each guardianship episode.

b. Medicaid Eligibility. The child remains eligible for Medicaid coverage up to 18 years of age when entering a guardianship subsidy arrangement from foster care. This coverage will be eligible utilizing title IV-E federal benefits if the child was title IV-E eligible at the time of the subsidy arrangement. For children not eligible for title IV-E, this coverage will be provided through title XIX federal benefits or state general funds. For a Louisiana child who is placed out of state in a potential guardianship placement or who moves to another state after the establishment of a guardianship subsidy, if the child is eligible for title IV-E guardianship subsidy payments, the child is also categorically eligible for Medicaid in the state in which the child resides whether that state participates in the title IV-E Guardianship Subsidy Assistance Program or not.

c. Chaffee Foster Care Independent Living Skills Training and Education Training Voucher Eligibility. The child is eligible for consideration for participation in the Chaffee Foster Care Independent Living Skills Training and for Education Training Vouchers if the child enters a guardianship arrangement from foster care after reaching 16 years of age, as long as the child meets any other program eligibility requirements.

C. Exploration of Guardianship Resources

1. Before a child is determined by the Department of Children and Family Services (DCFS) as eligible for a guardianship subsidy, it must be determined the child cannot be reunited with the parents, and resources for adoptive

placement must be explored by the child's worker. If the kinship family with whom the child is placed refuses to adopt the child or is unable to be certified as an adoptive family, the department has to show efforts to achieve the more permanent case goal of adoption for the child and demonstrate the benefits of maintaining the child in the placement in a guardianship arrangement as opposed to ongoing efforts in pursuing adoption or any other long term permanency arrangement. It is also necessary for the child's worker to discuss plans for a guardianship arrangement with the child and document the outcome of that discussion with the child, including agreement with that plan by any child 14 years of age up to 18 years of age. Lack of agreement by any child 14 years of age up to 18 years of age should be an ongoing topic of counseling regarding the benefits of the arrangement between the worker and the child, until a permanency option is achieved for the child or until the child attains 18 years of age.

2. Whenever an eligible child in the custody of DCFS is legally placed based on the interstate compact on the placement of children guidelines with a certified kinship caregiver in another state, the family shall be eligible for a guardianship subsidy under the same conditions as Louisiana residents.

D. Eligibility Criteria

1. The DCFS, Guardianship Subsidy Program, will determine the appropriateness of subsidy benefits, the type of subsidy, and, the level of the subsidy. An agreement form between the DCFS and the prospective guardianship parent(s), with clearly delineated terms, including designation of a successor guardian, if desired, must be signed prior to the granting of the final decree for guardianship. This agreement will be reviewed on an annual basis thereafter by the DCFS to insure ongoing eligibility.

2. Subsidy payments shall be limited to a child(ren) for whom guardianship is indicated due to other more permanent options such as reunification with the parents, or adoption being determined unfeasible for the child. The exception would be any child who has been receiving a subsidy payment and enters a successor guardianship. A more permanent option for placement is not required as these children do not re-enter state custody.

3. The guardianship subsidy applies only to a child(ren) for whom the DCFS holds legal custody, only to potential caregivers with whom the child had an established familial or emotional relationship prior to entering DCFS custody, and when the kinship placement provider becomes a certified foster caregiver according to the certification standards of the State, and, the child(ren) remains in the certified kinship placement for at least six consecutive months immediately prior to entering the guardianship subsidy arrangement. The exception would be children entering a successor guardianship. There is no requirement for the child to be in DCFS custody, to be with a caregiver with an established relationship, for certification of the caregiver, nor for a child to be placed with the successor guardian for any length of time prior to entering the guardianship subsidy arrangement.

4. A family is considered eligible for participation in the Guardianship Subsidy Program if they are related to the child or family of the child through blood or marriage or if there exists a fictive kin relationship, which is defined as a

relationship with those individuals connected to an individual child or the family of that child through bonds of affection, concern, obligation, and/or responsibility prior to the child's original entry into the custody of the state, and the individual(s) are considered by the child or family to hold the same level of relationship with the child or family as those individuals related by blood or marriage. The exception would be an individual considered for the successor guardianship named by the guardian in the guardianship subsidy agreement with DCFS.

E. Effects of Deaths of Guardians on Guardianship Subsidy

1. When a child has been placed in an approved guardianship placement with a guardianship subsidy agreement in effect and the guardian dies prior to the child reaching the age of majority, the child's eligibility for a guardianship subsidy shall not be affected if a successor guardian was named in the guardianship subsidy agreement. The child may remain in the care of a duly designated tutor/guardian as established by the guardian family prior to their death, without further involvement of the department. If the "duly designated" tutor/guardian requires financial assistance to maintain the care of the child and the individual was named in the guardianship subsidy agreement as a successor guardian, it is not necessary for the child to return to state custody and those individuals to become certified foster parents.

2. If no successor guardian was named in the guardianship subsidy agreement, any individual otherwise legally designated as a tutor/guardian for the child and requiring financial assistance to sustain the care of the child would have to return the child to state custody and those individuals would have to become certified foster parents. Adoption of the child by the family should be explored as well, since adoption is a more permanent relationship for the child and family. If the family and home are determined to be safe for the care of the child through assessment of the home environment, fingerprint based criminal records clearance, and child abuse/neglect clearances, the child may remain in the care of the family while they are certified.

3. Where a guardianship subsidy agreement is in effect and the guardians both die prior to the child reaching the age of majority, the subsidy agreement will end. The child may remain in the care of a duly designated tutor/guardian as established by the family prior to their death, without further involvement of the department.

4.a. If the designated tutor/guardian requires financial assistance to maintain the care of the child, it will be necessary for the child to return to state custody and those individuals to become certified as foster parents and provide care to the child six consecutive months after certification and immediately prior to entering into a guardianship subsidy agreement with the department. During the process of becoming certified as foster parents the family may continue to provide care to the child, as long as they are determined to be safe caregivers through a minimum of:

- i. department assessment of the home environment;
- ii. fingerprint based criminal records clearances on all adults in the home; and
- iii. child abuse/neglect clearances on all adults in the home.

b. Adoption of the child by the family will be explored by the department as well. There can be no financial support of the child by the state while being cared for by the family until such family has been certified, other than incidental expenditures routinely reimbursed to other non-certified caregivers of children in foster care. Each guardianship arrangement is considered a new episode. Therefore, the department may provide legal and court costs to support the establishment of this new legal guardianship arrangement between the potential guardian and the child up to \$1000 for children who are not title IV-E eligible and up to \$2000 for children who are title IV-E eligible.

AUTHORITY NOTE: Promulgated in accordance with P.L. 110-351 and P.L. 113-183.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:552 (March 2010), amended by the Department of Children and Family Services, Division of Programs, Child Welfare, LR 41:

§4103. Nonrecurring Expenses in Guardianship Arrangements

A. The Department of Children and Family Services (DCFS) sets forth criteria for reimbursement of nonrecurring expenses associated with establishing guardianship arrangements for children in foster care.

1. The amount of the payment made for nonrecurring expenses associated with establishing guardianship arrangements for children in foster care shall be determined through agreement between the guardian(s) and the DCFS. The agreement must indicate the nature and amount of the nonrecurring expenses to be paid.

2. The agreement for nonrecurring expenses must be signed prior to the final decree granting guardianship.

3. There must be no income eligibility requirement for guardian(s) in determining whether payments for nonrecurring expenses associated with establishing guardianship arrangements for children in foster care shall be made. However, potential guardians cannot be reimbursed for out-of-pocket expenses for which they have otherwise been reimbursed.

4. The maximum rate of reimbursement for nonrecurring expenses has been set at \$1000 for children who are not title IV-E eligible and up to \$2000 for children who are title IV-E eligible per guardianship arrangement.

5. In cases where siblings are placed and guardianship arrangements established, whether separately or as a unit, each child is treated as an individual with separate reimbursement for nonrecurring expenses up to the maximum amount allowable for each child.

6. In cases where a child has been returned to the custody of the state and a guardianship arrangement dissolved, the child is allowed separate and complete reimbursement for nonrecurring expenses up to the maximum amount allowable for establishing another guardianship arrangement.

7. Reimbursement is limited to costs incurred by or on behalf of guardian(s) not otherwise reimbursed from other sources. Payments for nonrecurring expenses shall be made directly by the DCFS.

8. When the guardianship arrangement for the child involves interstate placement, Louisiana will only be responsible for paying the nonrecurring expenses for the arrangement for the child when Louisiana is the child's legal

custodian and enters into the guardianship subsidy agreement with the caregiver.

9. The term nonrecurring expenses in relation to guardianship arrangements means reasonable and necessary legal fees, court costs, attorney fees and other expenses which are directly related to the legal establishment of the guardianship arrangement for a child in foster care, which are not incurred in violation of state or federal law, and which have not been reimbursed from other sources or other funds. Other expenses which are directly related to the legal establishment of the guardianship arrangement for a child in foster care means the costs of the arrangement incurred by or on behalf of the guardians and for which guardians carry the ultimate liability for payment. Such costs may include but are not limited to travel costs for the child and/or guardians to be present for the legal proceedings to establish the guardianship arrangement.

AUTHORITY NOTE: Promulgated in accordance with P.L. 110-351 and P.L. 113-183.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:554 (March 2010), amended by the Department of Children and Family Services, Division of Programs, Child Welfare, LR 41:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The Guardianship Subsidy Program provides necessary financial resources to relative or fictive kin caregivers to support and stabilize the placement of children to whom they are connected and willing to provide care and supervision. Many times families are unable to accept custody of a child to whom they are connected solely due to the additional financial burden on the family. This will also provide children greater permanency than remaining in foster care as the department and court will no longer be involved in the custody and supervision of the child and family, relinquishing full parental control to the relative or fictive kin caregiver through adulthood. The provisions also allow for the designation of a successor guardian to prevent children from reentering foster care when a designated guardian becomes deceased or incapacitated.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The family providing care to the child will have an established legal right to all educational and supervisory authority and rights to the child's care. Establishing a successor guardian for a child will ensure someone continues to have authority and rights regarding education and supervision of the child should a designated guardian becomes deceased or incapacitated. The biological parents may petition the court through civil proceedings to return the children to their care and supervision at any point they wish as they will retain parental rights to the child.

3. What effect will this have on the functioning of the family? The family providing care to the child will have the same parental controls, responsibilities, and rights for the child as long as the guardianship arrangement remains in effect, as they would have for their own children, without interference from the department or court.

4. What effect will this have on family earnings and family budget? The financial support of the guardianship subsidy will enable the family to provide necessary care and supervision to the child without financial burden on the family budget.

5. What effect will this have on the behavior and personal responsibility of children? Establishment of the permanent guardianship relationship will allow children to be permanent members of the caregiver family, thus stabilizing the role and position of the child in the family. This should support more positive behavioral interaction and personal responsibility by the child.

6. Is the family or local government able to perform the function as contained in this proposed Rule? The family will already have been the child's caregiver for at least six months prior to establishing the guardianship arrangement in original guardianship. Thus establishing the legal arrangement will only serve to support an already existing relationship by removing the department and the court from the family dynamic. When a successor guardianship is established the original guardian will be deceased or incapacitated and thus the successor guardianship arrangement will allow the child's new caregiver to receive the financial support and legal relationship to function as the child's caregiver.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through September 25, 2015, to Kim Glapion-Bertrand, Deputy Secretary of Programs, Department of Children and Family Services, P.O. Box 3776, Baton Rouge, LA 70821.

Public Hearing

A public hearing on the proposed Rule will be held on September 25, 2015 at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Suzy Sonnier
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Guardianship Subsidy Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to amend LAC 67:V, Subpart 5 Foster Care, Chapter 41 Guardianship Subsidy Program, Sections 4101 and 4103. The proposed rule will amend the option of Subsidized Guardianship and establish Successor Guardianship as a permanency option, therefore promoting the establishment

of permanent families for children within relative foster care placements where adoption is not an alternative.

The proposed rule will allow for children after six months of foster care placement with the relative to be placed legally in a guardianship relationship with that relative, which will be subsidized by the State to support the ongoing care of the child. The provision of this type of financial assistance to certified relative caregivers or successor guardians that are unable to adopt will allow for a greater number of children to successfully exit foster care while providing the relative or successor guardian the support necessary to sustain the placement.

The department estimates that 254 existing children would be eligible annually for successor guardianship. Of the 254 children eligible, the department estimates that 86 children will avail themselves of this opportunity. There is no net cost or savings anticipated as a result of this rule change because the same level of funds that would be typically expended on the care of these eligible children in Foster Care will now be reallocated and expended through the Guardianship Subsidy Program. The funding for Foster Care services is presently in the department's budget. Federal participation will not change.

The only cost associated with this proposed rule is the cost of publishing rulemaking, which is estimated to be approximately \$5,751 (\$2,875.50 State General Fund and \$2,875.50 Federal) in FY 15-16. This is a one-time cost that is routinely included in the department's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule 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)

This rule will have no impact as the funds are currently appropriated in the DCFS budget.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule should have no impact on competition and employment.

Kim Glapion-Bertrand
Deputy Secretary
1508#048

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Children and Family Services Division of Programs Economic Stability Section

Strategies to Empower People (STEP) Program (LAC 67:III.5721)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:III, Subpart 16, Strategies to Empower People (STEP) Program, Chapter 57, Strategies to Empower People (STEP) Program, Section 5721, Job Readiness.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) block grant, amendment of Section 5721 is necessary to give the department more flexibility in operating the STEP program by eliminating the work-eligible FITAP applicant requirement of registering for work during the application period and prior to certification with Louisiana Workforce Commission (LWC). Work-eligible

FITAP recipients will register for work when participating in job readiness activities. The proposed Rule does not eliminate any work requirements as specified by law. Work activity requirements including job readiness activities are included in Section 5713, Work Activities.

This action was made effective by an Emergency Rule dated and effective July 1, 2015.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 16. Strategies to Empower People (STEP)

Program

Chapter 57. Strategies to Empower People (STEP)

Program

Subchapter C. STEP Program Process

§5721. Job Readiness

A. DCFS will ensure job readiness services are provided through other state partners or through performance-based contracts.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 285, 2013 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:499 (March 2004), amended by the Department of Children and Family Services, Division of Programs, Economic Stability Section, LR 40:1678 (September 2014), LR 41:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through September 24, 2015, to Sammy Guillory, Deputy Assistant Secretary of Programs, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804.

Public Hearing

A public hearing on the proposed Rule will be held on September 24, 2015 at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Suzy Sonnier
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Strategies to
Empower People (STEP) Program**

NOTICE OF INTENT

**Department of Economic Development
Office of Business Development**

**Industrial Ad Valorem Tax Exemption Program
(LAC 13:I.Chapter 5)**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This rule proposes to continue the provisions of the July 1, 2015 emergency rule, which amends Louisiana Administrative Code (LAC), Title 67, Part III, Subpart 16 Strategies to Empower People (STEP) Program, Chapter 57 – Strategies to Empower People (STEP) Program, Section 5721 – Job Readiness. The proposed rule amends Section 5721 – Job Readiness to give the Department of Children and Family Services (DCFS) more flexibility in operating the STEP program.

The proposed rule eliminates the work-eligible Family Independence Temporary Assistance Program (FITAP) applicant requirement of registering for work during the application period and prior to certification with Louisiana Workforce Commission (LWC). Work-eligible FITAP recipients will now register for work when participating in Job Readiness activities. The proposed rule does not eliminate any cost requirements as specified by law. Work activity requirements including job readiness activities are included in Section 5713 – Work Activities.

The proposed rule will not impact the overall revenues or expenditures of the department. The rule allows the department to facilitate the expenditure of the federal Temporary Assistance for Needy Families (TANF) grant funding. The only cost associated with this proposed rule is the cost of publishing rulemaking. It is anticipated that \$1,065 (Federal) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule. This is a one-time cost that is routinely included in the department's operating budget.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this proposed rule 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)**

Implementation of this proposed rule will have no cost or economic benefit to directly affected persons or nongovernmental groups. Work-eligible FITAP recipients will now register for work when participating in Job Readiness activities.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This proposed rule will not have an impact on competition and employment for low-income families.

Sammy Guillory
Deputy Assistant Secretary
1508#047

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

These rules are being published in the *Louisiana Register* as required by R.S. 47:4351 et seq. The Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 36:104 hereby proposes to amend and reenact Sections 503, 505, 525, 527, 529, 533 and 535 for the administration of the Industrial Ad Valorem Tax Exemption Program in LAC 13:I.Chapter 5 to implement fees under the new fee schedule provided for by Act 361 of the 2015 Regular Session of the Louisiana Legislature.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

**Chapter 5. Industrial Ad Valorem Tax Exemption
Program**

§503. Advance Notification; Application

A. An advance notification of intent to apply for tax exemption shall be filed with the LED Office of Business Development (OBD) on the prescribed form prior to the beginning of construction or installation of facilities. The phrase "beginning of construction" shall mean the first day on which foundations are started, or, where foundations are unnecessary, the first day on which installation of the facility begins. An advance notification fee of \$250 shall be submitted with the form. The advance notification will expire and become void if no application is filed within 12 months of the estimated project ending date stated in the advance notification (subject to amendment by the applicant).

B. - B.3. ...

C. An application fee shall be submitted with the application in the amount equal to 0.5 percent of the estimated total amount of taxes to be exempted. In no case shall an application fee be smaller than \$500 and in no case shall a fee exceed \$15,000 per project.

D. - F.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2376 (August 2011), LR 41:

§505. Miscellaneous Capital Additions

A. - B.2. ...

C. An application fee shall be submitted with the MCA application in the amount equal to 0.5 percent of the estimated total amount of taxes to be exempted. In no case shall an application fee be smaller than \$500 and in no case shall a fee exceed \$15,000 per project.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), amended LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:865 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2377 (August 2011), LR 41:

§525. Effective Date of Contract; Project Completion Report

A. The owner of a new manufacturing establishment or addition shall document the beginning date of operations and the date that construction is substantially complete. The owner must file that information with OBD on the prescribed Project Completion Report form not later than 90 days after the beginning of operations, completion of construction, or receipt of the fully executed contract, whichever occurs last. A project completion report fee of \$250 shall be submitted with the form. The deadline for filing the Project Completion Report may be extended pursuant to §523.

B. ...

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development LR 37:2379 (August 2011), LR 41:

§527. Affidavit of Final Cost

A. Within six months of the beginning of operations, completion of construction, or receipt of the executed contract, whichever occurs last, the owner of a manufacturing establishment or addition shall file on the prescribed form an affidavit of final cost showing complete cost of the exempted project. A fee of \$250 shall be filed with the affidavit of final cost or any amendment to the affidavit of final cost. Upon request by OBD, a map showing the location of all facilities exempted in the project shall be submitted in order that the exempted property may be clearly identifiable. The deadline for filing the affidavit of final cost may be extended pursuant to §523.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Commerce, Office of Commerce and Industry, LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 41:

§529. Renewal of Tax Exemption Contract

A. Application for renewal of the exemption must be filed with OBD on the prescribed form not more than six

months before, and not later than, the expiration of the initial contract. A fee of \$250 shall be filed with the renewal application. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Upon proper showing of full compliance with the initial contract of exemption, the contract may be approved by the board for an additional period of up to but not exceeding five years.

B. ...

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 41:

§533. Reporting Requirements for Changes in Operations

A. OBD is to be notified immediately of any change which affects the tax exemption contract. This includes any changes in the ownership or operational name of a firm holding a tax exemption contract. A fee of \$250 shall be filed with a request for any contract amendment, including but not limited to, a change of ownership, change in name, or change in location. The board may consider restrictions or cancellation of a contract for cessation of the manufacturing operation, or retirement of any portion of the exempted equipment. Failure to report any material changes constitutes a breach of contract and, with approval by the board, shall result in restriction or termination.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 41:

§535. Sale or Transfer of Exempted Manufacturing Establishment

A. In the event an applicant should sell or otherwise dispose of property covered by a contract of exemption, the purchaser of the said plant or property may, within three months of the date of such act of sale, apply to the board for a transfer of the contract. A fee of \$250 shall be filed with a request to transfer the contract. The board shall consider all such applications for transfer of contracts of exemption strictly on the merits of the application for such transfer. No such transfer shall in any way impair or amend any of the provisions of the contract so transferred other than to change the name of the contracting applicant. Failure to request or apply for a transfer within the stipulated time period shall constitute a violation of the contract.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:868 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 41:

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 rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed rulemaking should have no provider impact as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments to Danielle Clapinski, Louisiana Department of Economic Development, P.O. Box 94185, Baton Rouge, LA 70804-9185; or physically delivered to Capitol Annex Building, Office of the Secretary, Second Floor, 1051 North Third Street, Baton Rouge, LA, 70802. Comments may also be sent by email to danielle.clapinski@la.gov. All comments must be received no later than 5 p.m., on September 28, 2015.

Public Hearing

A public hearing to receive comments on the Notice of Intent will be held on September 29, 2015 at 10 a.m. at the Department of Economic Development, 1051 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Industrial Ad Valorem
Tax Exemption Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no incremental costs or savings to state or local governmental units due to the implementation of these rules. The Department of Economic Development intends to administer the program with existing personnel.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Act 361 of the 2015 legislative session provides for the recovery costs for incentives or assistance granted by the department and authorizes the establishment of fees by rule promulgated in the APA, setting maximum fee amounts for the following documents filed with LED for purposes of the Industrial Tax Exemption Program: (1) advance notification fee, (2) filing application fee, (3) fee for affidavit of final cost, (4) fee for project completion report, (5) contract amendment fee, and (6) contract renewal fee. Based on this, agency self-generated revenue would increase by about \$1,500,000 in FY 16, FY 17, and FY 18.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The income of businesses participating in the program will slightly decrease by the amount of increased fees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will continue to gain competitively over companies that do not receive the program's benefits; however, the degree of competitive advantage will decrease slightly with these participating companies having to pay increased fees.

Anne G. Villa
Undersecretary
1508#056

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs
Acts of the 2015 Regular Session
(LAC 28:IV.301, 703, 801, 803, 805, 1005, and 1903)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend 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).

This rulemaking implements Acts 101, 403, and 230 of the 2015 Regular Session of the Louisiana Legislature by amending the TOPS rules to provide an alternative citizenship requirement, align the TOPS Tech core curriculum with the Career Diploma graduation requirements, and to change the TOPS Tech award to align its use with workforce priorities.

This rulemaking also implements Act 403 of the 2015 Regular Session of the Louisiana Legislature by adding alternative standardized tests that can be taken to be eligible for the TOPS Tech Early Start award. (SG16163NI)

Title 28

EDUCATION

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

Chapter 3. Definitions

§301. Definitions

A. 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.

Eligible Noncitizen—

a. for students graduating in the 2017-2018 academic year (high school) and prior, an individual who can provide documentation from the U.S. Citizenship and Immigration Services (USCIS) or its successor that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident, including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the United States must provide documentation from the USCIS to verify permanent residency. For 1997, 1998 and 1999 high school graduates, an eligible noncitizen shall be treated as meeting the citizenship requirements for an award under this Part;

b. for students graduating in the 2018-2019 academic year (high school) and later, a student who is not a citizen of the United States but who is the child of a non-United States citizen who is either serving in any branch of the United States armed forces or has been honorably discharged from any branch of the United States armed forces shall be treated as meeting the citizenship requirements for an award under this Part.

First-Time Student—

a. for students graduating through the 2015-2016 academic year (high school), a student who is awarded TOPS-Tech and enrolls for the first time, full-time in a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree to pursue a skill, occupational training, or technical training subsequent to high school graduation, and is enrolled full-time at the end of the fourteenth class day or later (ninth class day or later for quarter schools). The fact that a student who is eligible for a TOPS Tech award enrolls in an academic program at a post-secondary school prior or subsequent to graduation from high school, but prior to the required date for full time enrollment in a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree, shall not preclude the student from being a first-time student;

b. for students graduating in the 2016-2017 academic year (high school) or later, a student who is eligible for a TOPS-Tech award and enrolls for the first time, full-time in an eligible college or university in an associate's degree or other shorter-term training and education program that is aligned to state workforce priorities as determined by the Board of Regents and the Louisiana Workforce Investment Council and is enrolled full-time at the end of the fourteenth class day or later (ninth class day or later for quarter schools).

* * *

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 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 40:53 (January 2014), LR 40:281 (February 2014), LR 41:649, 658 (April 2015), LR 41:

Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§703. Establishing Eligibility

A. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, the student applicant must meet all of the following criteria:

1.a. for students graduating in academic year (high school) 2001-2002 and prior, be a United States citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within 60 days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U.S. citizenship and who otherwise qualify for a TOPS Award, will continue to satisfy the citizenship requirements for a TOPS Award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS Award will be suspended until such time as proof of citizenship is provided and canceled if such proof is not provided by May 1 of the following academic year (college). Students cancelled solely due to their failure to become a United States citizen within one year after the date of application shall be reinstated to their award if they are a United States citizen or a permanent resident as defined by the Bureau of Citizenship and Immigration Services and were eligible to apply for United States citizenship when cancelled and have met the requirements for maintaining eligibility for the award;

b. for students graduating in academic years (high school) 2002-2003 through 2017-2018, be a United States citizen or be a permanent resident as defined by the Bureau of Citizenship and Immigration Services and be eligible to apply for United States citizenship;

c. for students graduating in academic years (high school) 2018-2019 and later, be a United States citizen or an eligible noncitizen as defined in §301.

2. - 5.f.ii. ...

g. beginning with the 2004-2005 award year, eligible non-graduates who meet the following criteria:

i.(a). through the 2017-2018 academic year high school, be a United States citizen or be a permanent resident as defined by the United States Citizenship and Immigration Services and be eligible to apply for United States citizenship;

(b). beginning the 2018-2019 academic year (high school) and later, be a United States citizen or an eligible noncitizen as defined in §301;

A.5.g.ii. - J.4.b.ii. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR

31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:651, 664 (April 2015), LR 41:

Chapter 8. TOPS-Tech Award

§801. General Provisions

A. Legislative Authority. The TOPS-Tech Award was created by Act of the 1998 First Extraordinary Session of the Louisiana Legislature.

B. Description, History and Purpose

1. For students graduating through the 2015-2016 academic year (high school), the TOPS-Tech Award is a merit based scholarship program for Louisiana residents pursuing skill, occupational or technical training at eligible colleges and universities that offer a vocational or technical education certificate or diploma program or a non-academic undergraduate degree. The purpose of TOPS-Tech is to provide an incentive for qualified Louisiana residents to prepare for and pursue technical positions in Louisiana.

2. Beginning with students graduating in the 2016-2017 academic year (high school), the TOPS-Tech Award is a workforce scholarship program for Louisiana residents who enroll in an eligible college or university on a full-time basis in an associate's degree or other shorter-term training and education program that is aligned to state workforce priorities as determined by the Board of Regents and the Louisiana Workforce Investment Council.

C. - D.3. ...

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 24:1904 (October 1998), amended LR 26:1997 (September 2000), repromulgated LR 27:1854 (November 2001), amended LR 36:2856 (December 2010), LR 41:666 (April 2015), LR 41:

§803. Establishing Eligibility

A. To establish eligibility for the TOPS-Tech Award, the student applicant must meet the following criteria:

1. be a United States citizen or an eligible noncitizen as defined in §301.

2. - 3. ...

4. initially apply and enroll as a *first-time student* as defined in §301, unless granted an exception for cause by LASFAC, in an eligible post-secondary college or university defined in §301; and

4.a. - 5.d.iii. ...

6. if qualifying under the terms of §803.A.5.a, at the time of high school graduation:

a. have successfully completed one of the following core curriculums:

i. high school course work constituting the TOPS core curriculum for the Opportunity, Performance and Honors Awards as defined in §703.A.5 and documented on the student's official transcript as approved by the Louisiana Department of Education;

ii. for students graduating in the 2015-2016 academic year (high school) and later, the high school course work documented on the student's official transcript as

approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum.

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
2	English III, English IV, AP or IB English courses, Business English, Technical Writing, or comparable Louisiana Technical College courses offered by Jump Start regional teams as approved by the State Board of Elementary and Secondary Education.
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or an applied or hybrid algebra course
3	Geometry, Algebra II, Math Essentials, Financial Literacy, Business Math, Algebra III, Advanced Math - Functions and Statistics, Advanced Math - Pre-Calculus, Pre-calculus, or comparable Louisiana Technical College courses offered by Jump Start regional teams as approved by the State Board of Elementary and Secondary Education. Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry, and Algebra II, and shall equal three mathematics credits
1	Biology
1	Chemistry I, Earth Science, Environmental Science, Agriscience I and Agriscience II (both for one unit), Physical Science, or AP or IB science courses
1	U.S. History, AP U.S. History, or IB U.S. History
1	Civics, Government, AP U.S. Government and Politics: Comparative, or AP U.S. Government and Politics: United States
9	In Jump Start course sequences, workplace experiences, and credentials. A student shall complete a regionally designed series of Career and Technical Education Jump Start coursework and workplace-based learning experiences leading to a statewide or regional Jump Start credential. This shall include courses and workplace experiences specific to the credential, courses related to foundational career skills requirements in Jump Start, and other courses, including career electives, that the Jump Start regional team determines are appropriate for the career major.

iii. for students graduating in the 2000-2001 school year through the 2012-2013 school year, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum.

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III
1	English IV or substitute 1 unit of Business English
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Functions and Statistics], Discrete Mathematics, or Probability and Statistics (2 units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the 3 required math units
1	Biology
1	Chemistry or Applied Chemistry

Core Curriculum—TOPS-Tech Award	
Units	Course
1	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization, or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic)
Remaining Core Courses Shall Be Selected from One of the Following Options:	
Option 1—Total of 17 units	
1	Fine Arts Survey or substitute 2 units of performance courses in music, dance, or theater; or substitute 2 units of visual art courses; or substitute 2 units of studio art courses; or a course from the Career and Technical Program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute 1 unit as an elective from among the other subjects listed in this core curriculum
2	Foreign Language, Technical Writing, Speech I or Speech II
1	One unit from the secondary computer education program of studies that is approved by the BESE
or	
Option 2—Total of 19 Units	
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course.
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

iv. for students graduating through the 2001-2002 school year, the TOPS-Tech core curriculum as follows;

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III
1	English IV or Business English
1	Algebra I (1 unit) or Applied Algebra IA and 1B (2 units)
1	Algebra II
1	Geometry or Applied Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry or Applied Physics
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, non-public)
1	Fine Arts Survey or any approved vocational course in the areas of Agriscience, Business Education, Family and Consumer Science, Health Occupations, Marketing Education, Technology Education, or Trade and Industrial Education; (or substitute 2 units of performance courses in music, dance or theater; or 2 units of studio art or 2 units of visual art courses; or 1 elective from among the other subjects listed in this core curriculum)
2	In a single Foreign Language. (1 unit for students graduating from high school during the 1996-97 and 1997-98 school years.) or Technical Writing, Speech I or Speech II (2 units).

Core Curriculum—TOPS-Tech Award	
Units	Course
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least 1/2 unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; or substitute at least 1/2 unit of an elective from among the other subjects listed in this core curriculum)

v. for students graduating in the 2013-2014 school year and thereafter, the high school course work document on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum;

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III
1	English IV or substitute 1 unit of Business English
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Functions and Statistics], Discrete Mathematics, or Probability and Statistics (2 units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the 3 required math units
1	Biology
2	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, or Chemistry or Applied Chemistry, Chemistry II, Physics, Physics II or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, non-public)
Remaining Core Courses Shall Be Selected from One of the Following Options	
Option 1—Total of 17 Units	
1	Fine Arts Survey or drafting (one unit) or substitute 2 units of performance courses in music, dance, or theater; or substitute 2 units of visual art courses; or substitute 2 units of studio art courses; or a course from the Career and Technical Program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute 1 unit as an elective from among the other subjects listed in this core curriculum
2	Foreign Language, Technical Writing, Speech I or Speech II
1	One unit from the secondary computer education program of studies that is approved by the BESE
or	
Option 2—Total of 19 Units	
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

A.6.b. - B.4.b.ii. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005), LR 33:437 (March 2007), LR 33:2614 (December 2007), LR 35:230 (February 2009), LR 36:491 (March 2010), LR 36:2270 (October 2010), LR 36:2856 (December 2010), LR 38:3159 (December 2012), LR 41:654 (April 2015), LR 41:

§805. Maintaining Eligibility

A. - A.4. ...

5.a. for students graduating through the 2015-2016 academic year (high school), continue to enroll and accept the TOPS Tech Award as a full-time student in an eligible college or university defined in §301, and maintain an enrolled status throughout the academic year (TOPS) (enrollment in a summer session is optional and is not required to meet this requirement), unless granted an exception for cause by LASFAC; and

b. for students graduating in the 2016-2017 academic year (high school) and later, continue to enroll in an eligible college or university in an associate's degree or other shorter-term training and education program that is aligned to state workforce priorities as determined by the Board of Regents and the Louisiana Workforce Investment Council, and maintain an enrolled status throughout the academic year (TOPS) (enrollment in a summer session is optional and is not required to meet this requirement), unless granted an exception for cause by LASFAC;

A.6. - E. ...

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 24:1905 (October 1998) amended LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), repromulgated LR 27:1856 (November 2001), amended LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:880 (June 2003), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1165 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:438 (March 2007), LR 35:1489 (August 2009), LR 38:3160 (December 2012), LR 40:1002 (May 2014), LR 41:666 (April 2015), LR 41:

Chapter 10. TOPS-Tech Early Start Award

§1005. Establishing Eligibility

A. - A.3. ...

4. score at least 15 on the English subsection and 15 on the mathematics subsection of the ACT PLAN assessment or a successor assessment administered as part of Louisiana's educational planning and assessment system or the ACT or an equivalent concordant value of the SAT or have attained a silver level score on the assessments of the ACT WorkKeys system;

5. enroll in a course in an industry-based occupational or vocational education credential program in a top demand occupation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 41:375 (February 2015), LR 41:

Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions

§1903. Responsibilities of Post-Secondary Institutions

A. - A.2.h. ...

3. Beginning with the 2013-2014 academic year (TOPS), an institution shall also report:

a. a student's completion of a program of study;

b. through the 2015-2016 academic year (TOPS) whether the program of study was academic or technical;

c. type of credential (degree, certificate, diploma, baccalaureate);

d. semester of completion; and

e. beginning with the 2015-2016 academic year (TOPS):

i. the CIP code for the program of study in which the student is enrolled;

ii. the degree level code for the program of study in which the student is enrolled;

iii. the increment key assigned by the Board of Regents that provides each program a unique key for the program of study in which the student is enrolled.

B. Program Billing. Each term, institutions shall bill LASFAC for students who are recipients of a TOPS Award or a GO-Youth ChalleNGe Program grant and who have enrolled at the institution in accordance with the following terms and conditions:

1.a. through the 2016-2017 academic year (college), institutions may only bill for students who have been certified by LASFAC as eligible for a TOPS Award or a GO-Youth ChalleNGe Program grant; and

b. beginning with the 2017-2018 academic year (college), institutions may bill for students who have been certified by LASFAC as eligible for a TOPS Opportunity, Performance, or Honors Award and may only bill for a TOPS-Tech award if the student is enrolled in an associate's degree or other shorter-term training and education program that is aligned to state workforce priorities as determined by the Board of Regents and the Louisiana Workforce Investment Council at that institution;

B.2. - G.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3111, 3114 (December 2005), LR 33:1340 (July 2007), LR 35:1233 (July 2009), LR 35:1490 (August 2009), LR 35:1491 (August 2009), LR 36:2857 (December 2010), LR 40:282 (February 2014), LR 40:1003 (May 2014), LR 41:667 (April 2015), LR 41:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG16163NI) until 4:30 p.m., September 9, 2015, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Scholarship/Grant Programs
Acts of the 2015 Regular Session**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of the changes required by Acts 101, 230 and 403 of the 2015 Regular Legislative Session may result in a change in TOPS expenditures. Act 101 provides that students who are not citizens of the United States but who are the children of noncitizens serving in the Armed Forces or who have been honorably discharged from service in the Armed Forces meet the citizenship requirements of the TOPS statute beginning with the 2019-2020 SFY, thus additional students may qualify for a TOPS Award. This may result in increased expenditures but these are anticipated to be minimal and will not occur until the 2019-2020 Fiscal Year. Act 230 limits TOPS Tech expenditures for students graduating during the 2017-2018 academic year and after to programs of study that are approved by the Workforce Investment Council and Board of Regents. It is difficult to determine the impact of the changes until a formal listing of programs of study is adopted. Adding programs of study that are currently ineligible for TOPS Tech may increase expenditures, while deleting currently eligible programs of study may result in a savings. Act 403 aligns the TOPS Tech Core Curriculum with the Department of Education's Career Diploma graduation requirements and will not have a significant impact on TOPS Tech eligibility or on TOPS expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Act 230 could potentially impact future students' use of the TOPS Tech award. Depending on the list of eligible programs adopted by the Board of Regents and the Workforce Investment Council, more or less students may utilize the award than in the past. Students deciding to attend a postsecondary institution, who are otherwise eligible (met ACT and GPA requirements), who choose not to utilize the award because their program of study is not on the approved list will be required to find other

means of financing their educations, which may include student loans.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected by the proposed change.

Robyn Rhea Lively
Senior Attorney
1508#012

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs
TOPS Core Curriculum Equivalents
Photography I, Photography II, and Digital Photography
(LAC 28:IV.703)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend 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).

This rulemaking adds photography I, photography II, and digital photography as course equivalents to art in the TOPS core curriculum for students who graduate from high school beginning in the 2017-2018 academic year (high school). (SG16164NI)

Title 28

EDUCATION

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

**Chapter 7. Taylor Opportunity Program for Students
(TOPS) Opportunity, Performance, and
Honors Awards**

§703. Establishing Eligibility

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

(e). For students graduating in academic year (high school) 2017-2018 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course(s)	Equivalent (Substitute) Course
Algebra I, Geometry and Algebra II	Integrated Mathematics I, II and III
Art	Media Arts I-IV; Photography I, Photography II, and Digital Photography
Any listed core course or its equivalent.	Any core curriculum course taken by a student who has been deemed to be gifted and talented pursuant to R.S. 17:1941 et. seq. as implemented in State Board of Elementary and Secondary Education policy and in fulfillment of the student's Individualized Education Program shall be considered a gifted and talented course and shall fulfill the core curriculum requirement in its given subject area.

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

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:657, 664 (April 2015), LR 41:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG16164NI) until 4:30 p.m., September 9, 2015, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Scholarship/Grant Programs TOPS Core Curriculum Equivalents Photography I, Photography II, and Digital Photography

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

In accordance with the requirements of R.S. 17:3048.1.C(2)(e) and with the prior approval of BESE and the concurrence of Regents, the proposed rule change modifies the Scholarship and Grant Program rules to add Photography I and II and Digital Photography courses as an equivalent (substitute) course to the Art Core Curriculum Course effective for students graduating during the 2017-2018 high school academic year

and thereafter. There are no estimated implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated effects on economic benefits to directly affected persons or non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

Robyn Rhea Lively
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1508#011

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Division

Physical Protection of Byproduct Material;
Distribution of Source Material to Exempt Persons and
General Licensees; Domestic Licensing of Special
Nuclear Material; and Safeguards Information
(LAC 33:XV.102, 103, 303, 321, 340, 1519 and 1601,
1603, 1605, 1607, 1609, 1611, 1613, 1615, 1617, 1619,
1621, 1623, 1625, 1627, 1629, 1631, 1633, 1635, 1637,
1641, 1643, 1645, 1647, 1649, 1651, 1661, 1663,
1665 and 1699)(RP060ft)

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 Radiation Protection regulations, LAC 33:XV.102, 103, 303, 321, 340, 1519 and 1601, 1603, 1605, 1607, 1609, 1611, 1613, 1615, 1617, 1619, 1621, 1623, 1625, 1627, 1629, 1631, 1633, 1635, 1637, 1641, 1643, 1645, 1647, 1649, 1651, 1661, 1663, 1665 and 1699 (Log # RP060ft).

This Rule is identical to federal regulations found in 10 CFR 30, 37, 40 and 70, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule makes major changes to the requirements for physical protection of category 1 and category 2 quantities of radioactive materials. It also makes minor changes to the distribution of source material to exempt persons and general licensees. This Rule was promulgated by the Nuclear Regulatory Commission (NRC) as RATS IDs 2013-1, 2013-2, 2015-1 and 2015-2. This Rule will update the state regulations to be compatible with changes in the federal regulations. The changes in the state regulations are category A, B, C and H and S requirements for the state of Louisiana

to remain an NRC agreement state. The basis and rationale for this Rule are to mirror the federal regulations and maintain an adequate agreement state program. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection

Chapter 1. General Provisions

§102. Definitions and Abbreviations

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain chapter may be found in that Chapter.

* * *

Agreement State—any state with which the U.S. Nuclear Regulatory Commission or the U.S. Atomic Energy Commission has entered into an effective agreement under subsection 274.b of the Atomic Energy Act of 1954, as amended. Non-agreement State means any other state.

* * *

Atomic Energy Act—Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto.

* * *

Becquerel—the SI unit of measurement of radioactivity; it is equal to one disintegration per second. One curie is equal to 3.7×10^{10} becquerels (Bq).

* * *

Commission—the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

* * *

Curie—the amount of radioactive material that disintegrates at the rate of 37 billion atoms per second or 3.7×10^{10} disintegrations per second (dps). Commonly used submultiples of the curie are the millicurie and the microcurie. One millicurie (mCi) is equal to 0.001 curie, which is equal to 3.7×10^7 dps. One microcurie (μ Ci) is equal to 0.000001 curie, which is equal to 3.7×10^4 dps. One curie is equal to 3.7×10^{10} becquerels.

* * *

Government Agency—any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the government.

* * *

License Issuing Authority—the licensing agency that issued the license, i.e. the department, the U.S. Nuclear Regulatory Commission, or the appropriate agency of an agreement state.

* * *

Lost or Missing Licensed (or Registered) Material—licensed (or registered) material whose location is unknown. It includes material that has been shipped but has not reached its destination and whose location cannot be readily traced in the transportation system.

* * *

State—a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin

Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

* * *

United States—when this term is used in a geographical sense, it includes Puerto Rico, all territories, and possessions of the United States.

* * *

Unrefined and Unprocessed Ore—ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining. Processing does not include sieving or encapsulation of ore, or preparation of samples for laboratory analysis.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2563 (November 2000), LR 26:2767 (December 2000), LR 30:1171, 1188 (June 2004), amended by the Office of Environmental Assessment, LR 31:44 (January 2005), LR 31:1064 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:811 (May 2006), LR 32:1853 (October 2006), LR 33:1016 (June 2007), LR 33:2175 (October 2007), LR 34:982 (June 2008), LR 36:1771 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2748 (November 2012), LR 40:283 (February 2014), LR 40:1338 (July 2014), LR 40:1926 (October 2014), LR 41:1276 (July 2015), LR 41:

§103. Exemptions

A. - B.4.b. ...

C. Carriers. Common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service are exempt from the regulations in this Part and the requirements for a license set forth in this Part to the extent that they transport or store byproduct material in the regular course of carriage for another or storage incident thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of the Secretary, Legal Division, LR 41:

Chapter 3. Licensing of Byproduct Material

Subchapter A. Exemptions

§303. Unimportant Quantities of Source Material

A. - B. ...

C. Any person is exempt from the requirements for a license and from the regulations set forth in this Chapter to the extent that such person receives, possesses, uses, or transfers the following.

1. - 2. ...

a. glazed ceramic tableware manufactured before August 27, 2013, provided that the glaze contains not more than 20 percent by weight source material;

b. glassware containing not more than two percent by weight source material, or for glassware manufactured before August 27, 2013, 10 percent by weight source material, but not including commercially manufactured glass

brick, pane glass, ceramic tile, or other glass or ceramic used in construction;

2.c. - 5. ...

a. each counterweight has been impressed with the following legend, clearly legible through any plating or other covering: "DEPLETED URANIUM";

b. each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED";

c. the exemption contained in this Subsection shall not be deemed to authorize the chemical, physical, or metallurgical treatment or processing of any such counterweights other than repair or restoration of any plating or other covering; and

d. the requirements specified in Subparagraphs C.5.a and b of this Section need not be met by counterweights manufactured prior to December 31, 1969, provided that such counterweights were manufactured under a specific license issued by the Atomic Energy Commission and were impressed with the legend required by 10 CFR 40.13(c)(5)(ii) in effect on June 30, 1969.

6. - 6.b. ...

7. Thorium or uranium contained in or on finished optical lenses and mirrors, provided that each lens or mirror does not contain more than 10 percent by weight thorium or uranium or, for lenses manufactured before August 27, 2013, 30 percent by weight of thorium, and that the exemption contained in this Subsection does not authorize either:

a. the shaping, grinding, or polishing of such lens or mirror or manufacturing processes other than the assembly of such lens or mirror into optical systems and devices without any alteration of the lens or mirror; or

b. the receipt, possession, use, or transfer of uranium or thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments.

8. Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, provided that:

a. the thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

b. the thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.

9. No person shall initially transfer for sale or distribution a product containing source material to persons exempt under Subsection C of this Section, or equivalent regulations of an agreement state, unless authorized by a license issued under 10 CFR 40.52 to initially transfer such products for sale or distribution.

a. Persons initially distributing source material in products covered by the exemptions in Subsection C of this Section before August 27, 2013, without specific authorization may continue such distribution for one year beyond the aforementioned date. Initial distribution may also be continued until the department takes final action on a pending application for license or license amendment to specifically authorize distribution submitted no later than one year beyond this date.

b. Persons authorized to manufacture, process, or produce these materials or products containing source material by an agreement state, and persons who import finished products or parts, for sale or distribution, shall be authorized by a license issued under 10 CFR 40.52 for

distribution only and are exempt from the requirements of 10 CFR 19 and 20, and LAC 33:XV.325.A.1 and 2.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1226 (August 2001), amended by the Office of the Secretary, Legal Division, LR 41:

Subchapter C. General Licenses

§321. General Licenses: Source Material

A. A general license is hereby issued authorizing commercial and industrial firms; research, educational, and medical institutions; and federal, state, and local government agencies to receive, possess, use, and transfer uranium and thorium, in their natural isotopic concentrations and in the form of depleted uranium, for research, development, educational, operational, or commercial purposes in the following forms and quantities:

1. no more than 1.5 kg (3.3 lb) of uranium and thorium in dispersible forms (e.g., gaseous, liquid, powder, etc.) at any one time. Any material processed by the general licensee that alters the chemical or physical form of the material containing source material shall be accounted for as a dispersible form. A person authorized to possess, use, and transfer source material under this paragraph may not receive more than a total of 7 kg (15.4 lb) of uranium and thorium in any one calendar year. Persons possessing source material in excess of these limits as of August 27, 2013, may continue to possess up to 7 kg (15.4 lb) of uranium and thorium at any one time for one year beyond this date, or until the department takes final action on a pending application submitted on or before August 27, 2014, for a specific license for such material; and receive up to 70 kg (154 lb) of uranium or thorium in any one calendar year until December 31, 2014, or until the department takes final action on a pending application submitted on or before August 27, 2014, for a specific license for such material; and

2. no more than a total of 7 kg (15.4 lb) of uranium and thorium at any one time. A person authorized to possess, use, and transfer source material under this Paragraph may not receive more than a total of 70 kg (154 lb) of uranium and thorium in any one calendar year. A person may not alter the chemical or physical form of the source material possessed under this Paragraph unless it is accounted for under the limits of Paragraph A.1 of this Section; or

3. no more than 7 kg (15.4 lb) of uranium, removed during the treatment of drinking water, at any one time. A person may not remove more than 70 kg (154 lb) of uranium from drinking water during a calendar year under this Paragraph; or

4. no more than 7 kg (15.4 lb) of uranium and thorium at laboratories for the purpose of determining the concentration of uranium and thorium contained within the material being analyzed at any one time. A person authorized to possess, use, and transfer source material under this Paragraph may not receive more than a total of 70 kg (154 lb) of source material in any one calendar year.

B. Any person who receives, possesses, uses, or transfers source material in accordance with the general license issued in Subsection A of this Section is exempt from the provisions of Chapters 4 and 10 of these regulations to the extent that such receipt, possession, use, and transfer are within the terms of such general license, except that such person shall comply with the provisions of LAC 33:XV.332.D.1.e.iii and LAC 33:XV.460 to the extent necessary to meet the provisions of Paragraph C.2 and Subsection F of this Section. However, this exemption does not apply to any person who also holds a specific license issued under this Chapter.

C. Any person who receives, possesses, uses, or transfers source material in accordance with the general license in Subsection A of this Section:

1. is prohibited from administering source material or the radiation therefrom, either externally or internally, to human beings except as may be authorized by the department in a specific license;

2. shall not abandon such source material. Source material may be disposed of as follows:

a. a cumulative total of 0.5 kg (1.1 lb) of source material in a solid, nondispersible form may be transferred each calendar year, by a person authorized to receive, possess, use, and transfer source material under this general license to persons receiving the material for permanent disposal. The recipient of source material transferred under the provisions of this Subparagraph is exempt from the requirements to obtain a license under this part to the extent the source material is permanently disposed. This provision does not apply to any person who is in possession of source material under a specific license issued under this Chapter; or

b. in accordance with LAC 33:XV.460;

3. is subject to the provisions in Chapter 3; and

4. shall not export such source material except in accordance with 10 CFR 110.

D. - E.5. ...

F. Any person who receives, possesses, uses, or transfers source material in accordance with Subsection A of this Section shall conduct activities so as to minimize contamination of the facility and the environment. When activities involving such source material are permanently ceased at any site, if evidence of significant contamination is identified, the general licensee shall notify the Office of Environmental Compliance by telephone at (225) 765-0160 as soon as possible about such contamination and may consult with the department as to the appropriateness of sampling and restoration activities to ensure that any contamination or residual source material remaining at the site where source material was used under this general license is not likely to result in exposures that exceed the limits in LAC 33:XV.332.D.1.e.iii.

G. No person may initially transfer or distribute source material to persons generally licensed under Paragraphs A.1 or 2 of this Section, or equivalent regulations of an agreement state, unless authorized by a specific license issued in accordance with Subsection H of this Section or equivalent provisions of an agreement state. This prohibition does not apply to analytical laboratories returning processed samples to the client who initially provided the sample. Initial distribution of source material to persons generally

licensed by Subsection A of this Section before August 27, 2013, without specific authorization may continue for one year beyond this date. Distribution may also be continued until the department takes final action on a pending application for license or license amendment to specifically authorize distribution submitted on or before August 27, 2014.

H. Requirements for License to Initially Transfer Source Material for Use Under the Small Quantities of Source Material General License

1. An application for a specific license to initially transfer source material for use under this Section, or equivalent regulations of an agreement state, will be approved if the applicant satisfies the general requirements specified in LAC 33:XV.325.A and the applicant submits adequate information on, and the department approves the methods to be used for quality control, labeling, and providing safety instructions to recipients.

I. Conditions of Licenses to Initially Transfer Source Material for Use under the Small Quantities of Source Material General License: Quality Control, Labeling, Safety Instructions, and Records and Reports

1. Each person licensed under Subsection H of this Section shall label the immediate container of each quantity of source material with the type of source material, quantity of material, and the words, "radioactive material."

2. Each person licensed under Subsection H of this Section shall ensure that the quantities and concentrations of source material are as labeled and indicated in any transfer records.

3. Each person licensed under Subsection H of this Section shall provide the information specified in this Paragraph to each person to whom source material is transferred for use under this Section. This information shall be transferred before the source material is transferred for the first time in each calendar year to the particular recipient. The required information includes:

a. a copy of LAC 33:XV.321 and 340; and

b. appropriate radiation safety precautions and instructions relating to handling, use, storage, and disposal of the material.

4. Each person licensed under Subsection H of this Section shall report transfers as follows:

a. file a report with the Office of Environmental Compliance. The report shall include the following information:

i. the name, address, and license number of the person who transferred the source material;

ii. for each general licensee under this Section to whom greater than 50 grams (0.11 lb) of source material has been transferred in a single calendar quarter:

(a). the name and address of the general licensee to whom source material is distributed;

(b). a responsible agent, by name and/or position and phone number, of the general licensee to whom the material was sent; and

(c). the type, physical form, and quantity of source material transferred; and

iii. the total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients;

b. file a report with each responsible agreement state agency that identifies all persons, operating under provisions equivalent to this Section, to whom greater than 50 grams (0.11 lb) of source material has been transferred within a single calendar quarter. The report shall include the following information specific to those transfers made to the agreement state being reported to:

i. the name, address, and license number of the person who transferred the source material;

ii. the name and address of the general licensee to whom source material was distributed; a responsible agent, by name and/or position and phone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred; and

iii. the total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients within the agreement state;

c. submit each report by January 31 of each year covering all transfers for the previous calendar year. If no transfers were made to persons generally licensed under this Section during the current period, a report shall be submitted to the department indicating so. If no transfers have been made to general licensees in a particular agreement state during the reporting period, this information shall be reported to the responsible agreement state agency upon request of the agency.

5. Each person licensed under Subsection H of this Section shall maintain all information that supports the reports required by this Section concerning each transfer to a general licensee for a period of one year after the event is included in a report to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2524 (October 2005), LR 33:2177 (October 2007), amended by the Office of the Secretary, Legal Division, LR 41:

Subchapter D. Specific Licenses

§340. Transfer of Source or Byproduct Material

A. No licensee shall transfer source or byproduct material except as authorized pursuant to this Section.

B. Except as otherwise provided in the license and subject to the provisions of LAC 33:XV.340.C and D, any licensee may transfer source or byproduct material:

1. to the department (a licensee may transfer source or byproduct material to the department only after receiving prior approval from the department);

2. to the agency in any agreement state which regulates radioactive material according to an agreement under section 274 of the Atomic Energy Act;

3. ...

4. to any person authorized to receive such material under terms of a general license or its equivalent, or a specific license or equivalent licensing document issued by

the administrative authority, the U.S. Nuclear Regulatory Commission, any other agreement state, or any licensing state, or to any person otherwise authorized to receive such material by the federal government or any agency thereof, the administrative authority, any other agreement state, or any licensing state;

5. to any person in an agreement state, subject to the jurisdiction of that state, who has been exempted from the licensing requirements and regulations of that state, to the extent permitted under such exemption; or

6. as otherwise authorized by the department in writing.

C. Before transferring source or byproduct material to a specific licensee of the department, the U.S. Nuclear Regulatory Commission, another agreement state, or a licensing state, or to a general licensee who is required to register with the department, the U.S. Nuclear Regulatory Commission, any other agreement state, or a licensing state, prior to receipt of the source or byproduct material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form, and quantity of source or byproduct material to be transferred.

D. - D.1. ...

2. The transferor may have in his or her possession a written certification by the transferee that he or she is authorized by license or registration certificate to receive the type, form, and quantity of source or byproduct material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date.

3. For emergency shipments, the transferor may accept oral certification by the transferee that he or she is authorized by license or registration certificate to receive the type, form, and quantity of source or byproduct material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date, provided that the oral certification is confirmed in writing within 10 days.

4. ...

5. When none of the methods of verification described in Paragraphs D.1-4 of this Section are readily available or when a transferor desires to verify that information received by one of such methods is correct or up-to-date, the transferor may obtain and record confirmation from the department, the U.S. Nuclear Regulatory Commission, or the licensing agency of any other agreement state or licensing state that the transferee is licensed to receive the source or byproduct material.

E. Preparation for shipment and transport of radioactive material shall be in accordance with the provisions of Chapter 15 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2573 (November 2000), amended by the Office of the Secretary, Legal Division, LR 41:

Chapter 15. Transportation of Radioactive Material
§1519. Advance Notification of Shipment of Irradiated
Reactor Fuel and Nuclear Waste
[Formerly §1516]

A. - A.1. ...

B. Advance notification is also required for shipments of licensed material, other than irradiated fuel, meeting the following three conditions:

B.1. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.B and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1269 (June 2000), LR 26:2602 (November 2000), amended by the Office of Environmental Assessment, LR 30:2029 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2537 (October 2005), LR 33:2190 (October 2007), LR 34:2111 (October 2008), amended by the Office of the Secretary, Legal Division, LR 40:1928 (October 2014), LR 41:

Chapter 16. Physical Protection of Category 1 and
Category 2 Quantities of Radioactive
Material

Subchapter A. General Provisions

§1601. Purpose and Scope

A. Purpose. This Chapter has been established to provide the requirements for the physical protection program for any licensee who possesses an aggregated category 1 or category 2 quantity of radioactive material listed in Appendix A of this Chapter. These requirements provide reasonable assurance of the security of category 1 or category 2 quantities of radioactive material by protecting these materials from theft or diversion. Specific requirements for access to material, use of material, transfer of material, and transport of material are included. No provision of this Chapter authorizes possession of licensed material.

B. Scope

1. Subchapters B and C of this Chapter apply to any person who, under the regulations in this Chapter, possesses or uses at any site, an aggregated category 1 or category 2 quantity of radioactive material.

2. Subchapter D of this Chapter applies to any person who, under the regulations of this Chapter:

a. transports or delivers to a carrier for transport in a single shipment, a category 1 or category 2 quantity of radioactive material; or

b. imports or exports a category 1 or category 2 quantity of radioactive material; the provisions only apply to the domestic portion of the transport.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1603. Definitions

A. As used in this Chapter, the following definitions apply. Other definitions as used in this Chapter may be found in applicable Chapters of LAC 33:XV.

Access Control—a system for allowing only approved individuals to have unescorted access to the security zone and for ensuring that all other individuals are subject to escorted access.

Aggregated—accessible by the breach of a single physical barrier that would allow access to radioactive material in any form, including any devices that contain the radioactive material, when the total activity equals or exceeds a category 2 quantity of radioactive material.

Approved Individual—an individual whom the licensee has determined to be trustworthy and reliable for unescorted access in accordance with Subchapter B of this Chapter and who has completed the training required by LAC 33:XV.1623.C.

Background Investigation—the investigation conducted by a licensee or applicant to support the determination of trustworthiness and reliability.

Carrier—a person engaged in the transportation of passengers or property by land or water as a common, contract, private carrier, or by civil aircraft.

Category 1 Quantity of Radioactive Material—a quantity of radioactive material meeting or exceeding the category 1 threshold in Table 1 of Appendix A to this Chapter. This is determined by calculating the ratio of the total activity of each radionuclide to the category 1 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a category 1 quantity. Category 1 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

Category 2 Quantity of Radioactive Material—a quantity of radioactive material meeting or exceeding the category 2 threshold but less than the category 1 threshold in Table 1 of Appendix A to this Chapter. This is determined by calculating the ratio of the total activity of each radionuclide to the category 2 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a category 2 quantity. Category 2 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

Diversion—the unauthorized movement of radioactive material subject to this Chapter to a location different from the material's authorized destination inside or outside of the site at which the material is used or stored.

Escorted Access—accompaniment while in a security zone by an approved individual who maintains continuous direct visual surveillance at all times over an individual who is not approved for unescorted access.

Fingerprint Orders—the orders issued by the U.S. Nuclear Regulatory Commission or the legally binding requirements issued by agreement states that require fingerprints and criminal history records checks for individuals with unescorted access to category 1 and category 2 quantities of radioactive material or safeguards information-modified handling.

Local Law Enforcement Agency (LLEA)—a public or private organization that has been approved by a federal, state, or local government to carry firearms, make arrests, and has the capability and authority to provide an armed response in the jurisdiction where the licensed category 1 or category 2 quantity of radioactive material is used, stored, or transported.

Mobile Device—a piece of equipment containing licensed radioactive material that is either mounted on wheels, casters, or otherwise equipped for moving without a need for disassembly or dismounting; or equipment designed to be hand carried. Mobile devices do not include stationary equipment installed in a fixed location.

Movement Control Center—an operations center that is remote from transport activity and that maintains position information on the movement of radioactive material, receives reports of attempted attacks or thefts, provides a means for reporting these and other problems to appropriate agencies, and can request and coordinate appropriate aid.

No-Later-Than Arrival Time—the date and time that the shipping licensee and receiving licensee have established as the time at which an investigation will be initiated if the shipment has not arrived at the receiving facility. The no-later-than arrival time may not be more than 6 hours after the estimated arrival time for shipments of category 2 quantities of radioactive material.

Reviewing Official—the individual who shall make the trustworthiness and reliability determination of an individual to determine whether the individual may have, or continue to have, unescorted access to the category 1 or category 2 quantities of radioactive materials that are possessed by the licensee.

Sabotage—deliberate damage, with malevolent intent, to a category 1 or category 2 quantity of radioactive material, a device that contains a category 1 or category 2 quantity of radioactive material, or the components of the security system.

Safe Haven—a readily recognizable and readily accessible site at which security is present or from which, in the event of an emergency, the transport crew can notify and wait for the local law enforcement authorities.

Security Zone—any temporary or permanent area determined and established by the licensee for the physical protection of category 1 or category 2 quantities of radioactive material.

Telemetric Position Monitoring System—a data transfer system that captures information by instrumentation and/or measuring devices about the location and status of a transport vehicle or package between the departure and destination locations.

Trustworthiness and Reliability—characteristics of an individual considered dependable in judgment, character, and performance, such that unescorted access to category 1 or category 2 quantities of radioactive material by that individual does not constitute an unreasonable risk to the public health and safety or security. A determination of trustworthiness and reliability for this purpose is based upon the results from a background investigation.

Unescorted Access—solitary access to an aggregated category 1 or category 2 quantity of radioactive material or the devices that contain the material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1605. Specific Exemptions

A. The department may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this

Chapter as it determines are authorized by law and will not endanger life, property, the common defense, or security, and are otherwise in the public interest.

B. Any licensee's NRC-licensed activities are exempt from the requirements of Subchapters B and C of this Chapter to the extent that its activities are included in a security plan required by 10 CFR 73.

C. A licensee who possesses radioactive waste that contains category 1 or category 2 quantities of radioactive material is exempt from the requirements of Subchapters B, C, and D of this Chapter. However, any radioactive waste that contains discrete sources, ion-exchange resins, or activated material that weighs less than 2,000 kg (4,409 lbs) is not exempt from the requirements of this Chapter. The licensee shall implement the following requirements to secure the radioactive waste:

1. use continuous physical barriers that allow access to the radioactive waste only through established access control points;
2. use a locked door or gate with monitored alarm at the access control point;
3. assess and respond to each actual or attempted unauthorized access to determine whether an actual or attempted theft, sabotage, or diversion occurred; and
4. immediately notify the LLEA and request an armed response from the LLEA upon determination that there was an actual or attempted theft, sabotage, or diversion of the radioactive waste that contains category 1 or category 2 quantities of radioactive material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

Subchapter B. Background Investigations and Access Control Program

§1607. Personnel Access Authorization Requirements for Category 1 or Category 2 Quantities of Radioactive Material

A. General

1. Each licensee who possesses an aggregated quantity of radioactive material at or above the category 2 threshold shall establish, implement, and maintain its access authorization program in accordance with the requirements of this Subchapter.

2. An applicant for a new license and each licensee who would become newly subject to the requirements of this Subchapter upon application for modification of its license shall implement the requirements of this Subchapter, as appropriate, before taking possession of an aggregated category 1 or category 2 quantity of radioactive material.

3. Any licensee who has not previously implemented the Security Orders or been subject to the provisions of Subchapter B of this Chapter shall implement the provisions of this Subchapter B before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

B. General Performance Objective. The licensee's access authorization program shall ensure that the individuals specified in Paragraph C.1 of this Section are trustworthy and reliable.

C. Applicability

1. Licensees shall subject the following individuals to an access authorization program:

a. any individual whose assigned duties require unescorted access to category 1 or category 2 quantities of radioactive material or to any device that contains the radioactive material; and

b. reviewing officials.

2. Licensees need not subject the categories of individuals listed in LAC 33:XV.1615.A.1-13 to the investigation elements of the access authorization program.

3. Licensees shall approve for unescorted access to category 1 or category 2 quantities of radioactive material only those individuals with job duties that require unescorted access to category 1 or category 2 quantities of radioactive material.

4. Licensees may include individuals needing access to safeguards information-modified handling under 10 CFR 73 in the access authorization program under Subpart B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1609. Access Authorization Program Requirements

A. Granting Unescorted Access Authorization

1. Licensees shall implement the requirements of this Subchapter for granting initial or reinstated unescorted access authorization.

2. Individuals who have been determined to be trustworthy and reliable shall also complete the security training required by LAC 33:XV.1623.C before being allowed unescorted access to category 1 or category 2 quantities of radioactive material.

B. Reviewing Officials

1. Reviewing officials are the only individuals who may make trustworthiness and reliability determinations that allow individuals to have unescorted access to category 1 or category 2 quantities of radioactive materials possessed by the licensee.

2. Each licensee shall name one or more individuals to be reviewing officials. After completing the background investigation on the reviewing official, the licensee shall provide under oath, or affirmation, a certification that the reviewing official is deemed trustworthy and reliable by the licensee. The fingerprints of the named reviewing official shall be taken by a law enforcement agency, federal or state agencies that provide fingerprinting services to the public, or commercial fingerprinting services authorized by a state to take fingerprints. The licensee shall recertify that the reviewing official is deemed trustworthy and reliable every 10 years in accordance with LAC 33:XV.1611.C.

3. Reviewing officials shall be permitted to have unescorted access to category 1 or category 2 quantities of radioactive materials or access to safeguards information or safeguards information-modified handling, if the licensee possesses safeguards information or safeguards information-modified handling.

4. Reviewing officials cannot approve other individuals to act as reviewing officials.

5. A reviewing official does not need to undergo a new background investigation before being named by the licensee as the reviewing official if:

a. the individual has undergone a background investigation that included fingerprinting, a Federal Bureau of Investigation (FBI) criminal history records check, and

has been determined to be trustworthy and reliable by the licensee; or

b. the individual is subject to a category listed in LAC 33:XV.1615.A.

C. Informed Consent

1. Licensees may not initiate a background investigation without the informed and signed consent of the subject individual. This consent shall include authorization to share personal information with other individuals or organizations as necessary to complete the background investigation. Before a final adverse determination, the licensee shall provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed during the background investigation. Licensees do not need to obtain signed consent from those individuals that meet the requirements of LAC 33:XV.1611.B. A signed consent shall be obtained prior to any reinvestigation.

2. The subject individual may withdraw his or her consent at any time. Licensees shall inform the individual that:

a. if an individual withdraws his or her consent, the licensee may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew his or her consent; and

b. the withdrawal of consent for the background investigation is sufficient cause for denial or termination of unescorted access authorization.

D. Personal History Disclosure. Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee's access authorization program for the reviewing official to make a determination of the individual's trustworthiness and reliability. Refusal to provide, or the falsification of, any personal history information required by this Subchapter is sufficient cause for denial or termination of unescorted access.

E. Determination Basis

1. The reviewing official shall determine whether to permit, deny, unfavorably terminate, maintain, or administratively withdraw an individual's unescorted access authorization based on an evaluation of all of the information collected to meet the requirements of this Subchapter.

2. The reviewing official may not permit any individual to have unescorted access until the reviewing official has evaluated all of the information collected to meet the requirements of this Subchapter and determined that the individual is trustworthy and reliable. The reviewing official may deny unescorted access to any individual based on information obtained at any time during the background investigation.

3. The licensee shall document the basis for concluding whether or not there is reasonable assurance that an individual is trustworthy and reliable.

4. The reviewing official may terminate or administratively withdraw an individual's unescorted access authorization based on information obtained after the background investigation has been completed and the individual granted unescorted access authorization.

5. Licensees shall maintain a list of persons currently approved for unescorted access authorization. When a licensee determines that a person no longer requires

unescorted access or meets the access authorization requirement, the licensee shall remove the person from the approved list as soon as possible, but no later than seven working days, and take prompt measures to ensure that the individual is unable to have unescorted access to the material.

F. Procedures. Licensees shall develop, implement, and maintain written procedures for implementing the access authorization program. The procedures shall include provisions for the notification of individuals who are denied unescorted access. The procedures shall include provisions for the review, at the request of the affected individual, of a denial or termination of unescorted access authorization. The procedures shall contain a provision to ensure that the individual is informed of the grounds for the denial or termination of unescorted access authorization and allow the individual an opportunity to provide additional relevant information.

G. Right to Correct and Complete Information

1. Prior to any final adverse determination, licensees shall provide each individual subject to this Subchapter with the right to complete, correct, and explain information obtained as a result of the licensee's background investigation. Confirmation of receipt by the individual of this notification shall be maintained by the licensee for a period of one year from the date of the notification.

2. If, after reviewing his or her criminal history record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, update, or explain anything in the record, the individual may initiate challenge procedures. These procedures include direct application by the individual challenging the record to the law enforcement agency that contributed the questioned information or a direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, Attn: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306 as set forth in 28 CFR 16.30 through 16.34. In the latter case, the Federal Bureau of Investigation (FBI) shall forward the challenge to the agency that submitted the data, and shall request that the agency verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. Licensees shall provide at least 10 days for an individual to initiate action to challenge the results of an FBI criminal history records check after the record being made available for his or her review. The licensee may make a final adverse determination based upon the criminal history records only after receipt of the FBI's confirmation or correction of the record.

H. Records

1. The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

2. The licensee shall retain a copy of the current access authorization program procedures as a record for three years after the procedure is no longer needed. If any portion of the procedure is superseded, the licensee shall retain the superseded material for three years after the record is superseded.

3. The licensee shall retain the list of persons approved for unescorted access authorization for three years after the list is superseded or replaced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1611. Background Investigations

A. Initial Investigation. Before allowing an individual unescorted access to category 1 or category 2 quantities of radioactive material or to the devices that contain the material, licensees shall complete a background investigation of the individual seeking unescorted access authorization. The scope of the investigation shall encompass at least the seven years preceding the date of the background investigation or since the individual's 18th birthday, whichever is shorter. The background investigation shall include at a minimum:

1. fingerprinting and an FBI identification and criminal history records check in accordance with LAC 33:XV.1613;

2. verification of true identity. Licensees shall verify the true identity of the individual who is applying for unescorted access authorization to ensure that the applicant is who he or she claims to be. A licensee shall review official identification documents (e.g., driver's license; passport; government identification; certificate of birth issued by the state, province, or country of birth) and compare the documents to personal information data provided by the individual to identify any discrepancy in the information. Licensees shall document the type, expiration, and identification number of the identification document, or maintain a photocopy of identifying documents on file in accordance with LAC 33:XV.1617. Licensees shall certify in writing that the identification was properly reviewed, and shall maintain the certification and all related documents for review upon inspection;

3. employment history verification. Licensees shall complete an employment history verification, including military history. Licensees shall verify the individual's employment with each previous employer for the most recent seven years before the date of application;

4. verification of education. Licensees shall verify that the individual participated in the education process during the claimed period;

5. character and reputation determination. Licensees shall complete reference checks to determine the character and reputation of the individual who has applied for unescorted access authorization. Unless other references are not available, reference checks may not be conducted with any person who is known to be a close member of the individual's family, including but not limited to the

individual's spouse, parents, siblings, or children, or any individual who resides in the individual's permanent household. Reference checks under this Subchapter shall be limited to whether the individual has been and continues to be trustworthy and reliable;

6. the licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the individual (e.g., seek references not supplied by the individual); and

7. if a previous employer, educational institution, or any other entity with which the individual claims to have been engaged fails to provide information or indicates an inability or unwillingness to provide information within a time frame deemed appropriate by the licensee but at least after 10 business days of the request or if the licensee is unable to reach the entity, the licensee shall document the refusal, unwillingness, or inability in the record of investigation; and attempt to obtain the information from an alternate source.

B. Grandfathering

1. Individuals who have been determined to be trustworthy and reliable for unescorted access to category 1 or category 2 quantities of radioactive material under the fingerprint orders may continue to have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. These individuals shall be subject to the reinvestigation requirement.

2. Individuals who have been determined to be trustworthy and reliable under the provisions of 10 CFR 73 or the security orders for access to safeguards information, safeguards information-modified handling, or risk-significant material may have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. The licensee shall document that the individual was determined to be trustworthy and reliable under the provisions of 10 CFR 73 or a security order. Security order, in this context, refers to any order that was issued by the NRC that required fingerprints and an FBI criminal history records check for access to safeguards information, safeguards information-modified handling, or risk significant material such as special nuclear material or large quantities of uranium hexafluoride. These individuals shall be subject to the reinvestigation requirement.

C. Reinvestigations. Licensees shall conduct a reinvestigation every 10 years for any individual with unescorted access to category 1 or category 2 quantities of radioactive material. The reinvestigation shall consist of fingerprinting and an FBI identification and criminal history records check in accordance with LAC 33:XV.1613. The reinvestigations shall be completed within 10 years of the date on which these elements were last completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1613. Requirements for Criminal History Records Checks of Individuals Granted Unescorted Access to Category 1 or Category 2 Quantities of Radioactive Material

A. General Performance Objective and Requirements

1. Except for those individuals listed in LAC 33:XV.1615 and those individuals grandfathered under LAC 33:XV.1611.B, each licensee subject to the provisions of this Subchapter shall fingerprint each individual who is to be permitted unescorted access to category 1 or category 2 quantities of radioactive material. Licensees shall transmit all collected fingerprints to the NRC for transmission to the FBI. The licensee shall use the information received from the FBI as part of the required background investigation to determine whether to grant or deny further unescorted access to category 1 or category 2 quantities of radioactive materials for that individual.

2. The licensee shall notify each affected individual that his or her fingerprints will be used to secure a review of his or her criminal history record, and shall inform him or her of the procedures for revising the record or adding explanations to the record.

3. Fingerprinting is not required if a licensee is reinstating an individual's unescorted access authorization to category 1 or category 2 quantities of radioactive materials if:

a. the individual returns to the same facility that granted unescorted access authorization within 365 days of the termination of his or her unescorted access authorization; and

b. the previous access was terminated under favorable conditions.

4. Fingerprints do not need to be taken if an individual who is an employee of a licensee, contractor, manufacturer, or supplier has been granted unescorted access to category 1 or category 2 quantities of radioactive material, access to safeguards information, or safeguards information-modified handling by another licensee, based upon a background investigation conducted under this Subchapter, the Fingerprint Orders, or 10 CFR 73. An existing criminal history records check file may be transferred to the licensee asked to grant unescorted access in accordance with the provisions of LAC 33:XV.1617.C.

5. Licensees shall use the information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access authorization to category 1 or category 2 quantities of radioactive materials, access to safeguards information, or safeguards information-modified handling.

B. Prohibitions

1. Licensees may not base a final determination to deny an individual unescorted access authorization to category 1 or category 2 quantities of radioactive material solely on the basis of information received from the FBI involving:

- a. an arrest more than one year old for which there is no information of the disposition of the case; or
- b. an arrest that resulted in dismissal of the charge or an acquittal.

2. Licensees may not use information received from a criminal history records check obtained under this Subchapter in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall licensees use the information in any way that would discriminate among individuals on the basis of race, religion, national origin, gender, or age.

C. Procedures for Processing of Fingerprint Checks

1. For the purpose of complying with this Subchapter, licensees shall use an appropriate method listed in 10 CFR 37.7 to submit all information and fees regarding fingerprinting to the U.S. Nuclear Regulatory Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1615. Relief from Fingerprinting, Identification, and Criminal History Records Checks and Other Elements of Background Investigations for Designated Categories of Individuals Permitted Unescorted Access to Certain Radioactive Materials

A. Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, and other elements of the background investigation are not required for the following individuals prior to granting unescorted access to category 1 or category 2 quantities of radioactive materials:

1. an employee of the Nuclear Regulatory Commission or of the executive branch of the U.S. Government who has undergone fingerprinting for a prior U.S. Government criminal history records check;
2. a member of Congress;
3. an employee of a member of Congress or Congressional committee who has undergone fingerprinting for a prior U.S. Government criminal history records check;
4. the governor of a state or his or her designated state employee representative;
5. federal, state, or local law enforcement personnel;
6. state Radiation Control Program directors and state Homeland Security advisors or their designated state employee representatives;
7. agreement state employees conducting security inspections on behalf of the NRC under an agreement executed under section 274.i. of the Atomic Energy Act;
8. representatives of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA safeguards agreement who have been certified by the NRC;
9. emergency response personnel who are responding to an emergency;
10. commercial vehicle drivers for road shipments of category 2 quantities of radioactive material;
11. package handlers at transportation facilities such as freight terminals and railroad yards;

12. any individual who has an active federal security clearance, provided that he or she makes available the appropriate documentation. Written confirmation from the agency/employer that granted the federal security clearance or reviewed the criminal history records check shall be provided to the licensee. The licensee shall retain this documentation for a period of three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material; and

13. any individual employed by a service provider licensee for which the service provider licensee has conducted the background investigation for the individual and approved the individual for unescorted access to category 1 or category 2 quantities of radioactive material. Written verification from the service provider shall be provided to the licensee. The licensee shall retain the documentation for a period of three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

B. Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, are not required for an individual who has had a favorably adjudicated U.S. Government criminal history records check within the last five years, under a comparable U.S. Government program involving fingerprinting and an FBI identification and criminal history records check provided that he or she makes available the appropriate documentation. Written confirmation from the agency/employer that reviewed the criminal history records check shall be provided to the licensee. The licensee shall retain this documentation for a period of three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material. These programs include, but are not limited to:

1. national agency check;
2. transportation worker identification credentials (TWIC) under 49 CFR 1572;
3. Bureau of Alcohol, Tobacco, Firearms, and Explosives background check and clearances under 27 CFR 555;
4. Health and Human Services security risk assessments for possession and use of select agents and toxins under 42 CFR 73;
5. hazardous material security threat assessment for hazardous material endorsement to commercial drivers license under 49 CFR 1572; and
6. Customs and Border Protection's Free and Secure Trade (FAST) Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1617. Protection of Information

A. Each licensee who obtains background information on an individual under this Subchapter shall establish and maintain a system of files and written procedures for protection of the record and the personal information from unauthorized disclosure.

B. The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his or her representative, or to those who have a need to have access to the information in performing assigned duties in the process of granting or denying unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling. No individual authorized to have access to the information may disseminate the information to any other individual who does not have a need to know.

C. The personal information obtained on an individual from a background investigation may be provided to another licensee:

1. upon the individual's written request to the licensee holding the data to disseminate the information contained in his or her file; and

2. the recipient licensee verifies information such as name, date of birth, social security number, gender, and other applicable physical characteristics.

D. The licensee shall make background investigation records obtained under this Subchapter B of this Chapter available for examination by an authorized representative of the department to determine compliance with the regulations and laws.

E. The licensee shall retain all fingerprint and criminal history records (including data indicating no record) received from the FBI, or a copy of these records if the individual's file has been transferred, on an individual for three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1619. Access Authorization Program Review

A. Each licensee shall be responsible for the continuing effectiveness of the access authorization program. Each licensee shall ensure that access authorization programs are reviewed to confirm compliance with the requirements of this Subchapter and that comprehensive actions are taken to correct any noncompliance that is identified. The review program shall evaluate all program performance objectives and requirements. Each licensee shall periodically (at least annually) review the access program content and implementation.

B. The results of the reviews, along with any recommendations, shall be documented. Each review report shall identify conditions that are adverse to the proper performance of the access authorization program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.

C. Review records shall be maintained for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

Subchapter C. Physical Protection Requirements During Use

§1621 Security Program

A. Applicability

1. Each licensee who possesses an aggregated category 1 or category 2 quantity of radioactive material shall establish, implement, and maintain a security program in accordance with the requirements of Subchapter C of this Chapter.

2. An applicant for a new license and each licensee who would become newly subject to the requirements of this Subchapter upon application for modification of its license shall implement the requirements of this Subchapter, as appropriate, before taking possession of an aggregated category 1 or category 2 quantity of radioactive material.

3. Any licensee who has not previously implemented the Security Orders or been subject to the provisions of Subchapter C of this Chapter shall provide written notification to the Office of Environmental Compliance at least 90 days before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

B. General Performance Objective. Each licensee shall establish, implement, and maintain a security program that is designed to monitor and, without delay, detect, assess, and respond to an actual or attempted unauthorized access to category 1 or category 2 quantities of radioactive material.

C. Program Features. Each licensee's security program shall include the program features, as appropriate, described in LAC 33:XV.1623, 1625, 1627, 1629, 1631, 1633, and 1635.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1623. General Security Program Requirements

A. Security Plan

1. Each licensee identified in LAC 33:XV.1621.A shall develop a written security plan specific to its facilities and operations. The purpose of the security plan is to establish the licensee's overall security strategy to ensure the integrated and effective functioning of the security program required by this Subchapter. The security plan shall, at a minimum:

- a. describe the measures and strategies used to implement the requirements of this Subchapter; and

- b. identify the security resources, equipment, and technology used to satisfy the requirements of this Subchapter.

2. The security plan shall be reviewed and approved by the individual with overall responsibility for the security program.

3. A licensee shall revise its security plan as necessary to ensure the effective implementation of department requirements. The licensee shall ensure that:

- a. the revision has been reviewed and approved by the individual with overall responsibility for the security program; and

b. the affected individuals are instructed on the revised plan before the changes are implemented.

4. The licensee shall retain a copy of the current security plan as a record for three years after the security plan is no longer required. If any portion of the plan is superseded, the licensee shall retain the superseded material for three years after the record is superseded.

B. Implementing Procedures

1. The licensee shall develop and maintain written procedures that document how the requirements of this Subchapter and the security plan will be met.

2. The implementing procedures and revisions to these procedures shall be approved in writing by the individual with overall responsibility for the security program.

3. The licensee shall retain a copy of the current procedure as a record for three years after the procedure is no longer needed. Superseded portions of the procedure shall be retained for three years after the record is superseded.

C. Training

1. Each licensee shall conduct training to ensure that those individuals implementing the security program possess and maintain the knowledge, skills, and abilities to carry out their assigned duties and responsibilities effectively. The training shall include instruction in:

a. the licensee's security program and procedures to secure category 1 or category 2 quantities of radioactive material, and in the purposes and functions of the security measures employed;

b. the responsibility to report promptly to the licensee any condition that causes or may cause a violation of department requirements;

c. the responsibility of the licensee to report promptly to the local law enforcement agency and licensee any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material; and

d. the appropriate response to security alarms.

2. In determining those individuals who shall be trained on the security program, the licensee shall consider each individual's assigned activities during authorized use and response to potential situations involving actual or attempted theft, diversion, or sabotage of category 1 or category 2 quantities of radioactive material. The extent of the training shall be commensurate with the individual's potential involvement in the security of category 1 or category 2 quantities of radioactive material.

3. Refresher training shall be provided at a frequency not to exceed 12 months and when significant changes have been made to the security program. This training shall include:

a. review of the training requirements of Subsection C of this Section and any changes made to the security program since the last training;

b. reports on any relevant security issues, problems, and lessons learned;

c. relevant results of department inspections; and

d. relevant results of the licensee's program review and testing and maintenance.

4. The licensee shall maintain records of the initial and refresher training for three years from the date of the training. The training records shall include dates of the

training, topics covered, a list of licensee personnel in attendance, and related information.

D. Protection of Information

1. Licensees authorized to possess category 1 or category 2 quantities of radioactive material shall limit access to and unauthorized disclosure of their security plan, implementing procedures, and the list of individuals that have been approved for unescorted access.

2. Efforts to limit access shall include the development, implementation, and maintenance of written policies and procedures for controlling access to, and for proper handling and protection against unauthorized disclosure of, the security plan and implementing procedures.

3. Before granting an individual access to the security plan or implementing procedures, licensees shall:

a. evaluate an individual's need to know the security plan or implementing procedures; and

b. if the individual has not been authorized for unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling, the licensee shall complete a background investigation to determine the individual's trustworthiness and reliability. A trustworthiness and reliability determination shall be conducted by the reviewing official and shall include the background investigation elements contained in LAC 33:XV.1611.A.2-7.

4. Licensees need not subject the following individuals to the background investigation elements for protection of information:

a. the categories of individuals listed in LAC 33:XV.1615.A.1-13; or

b. security service provider employees, provided written verification that the employee has been determined to be trustworthy and reliable, by the required background investigation in LAC 33:XV.1611.A.2-7, has been provided by the security service provider.

5. The licensee shall document the basis for concluding that an individual is trustworthy and reliable and should be granted access to the security plan or implementing procedures.

6. Licensees shall maintain a list of persons currently approved for access to the security plan or implementing procedures. When a licensee determines that a person no longer needs access to the security plan or implementing procedures or no longer meets the access authorization requirements for access to the information, the licensee shall remove the person from the approved list as soon as possible, but no later than seven working days, and take prompt measures to ensure that the individual is unable to obtain the security plan or implementing procedures.

7. When not in use, the licensee shall store its security plan and implementing procedures in a manner to prevent unauthorized access. Information stored in nonremovable electronic form shall be password protected.

8. The licensee shall retain as a record for three years after the document is no longer needed:

a. a copy of the information protection procedures; and

b. the list of individuals approved for access to the security plan or implementing procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1625. Local Law Enforcement Agency (LLEA) Coordination

A. A licensee subject to this Subchapter shall coordinate, to the extent practicable, with a local law enforcement agency (LLEA) for responding to threats to the licensee's facility, including any necessary armed response. The information provided to the LLEA shall include:

1. a description of the facilities and the category 1 and category 2 quantities of radioactive materials along with a description of the licensee's security measures that have been implemented to comply with Subchapter C of this Chapter; and

2. a notification that the licensee will request a timely armed response by the LLEA to any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of material.

B. The licensee shall notify the Office of Environmental Compliance by telephone at (225) 765-0160 within three business days if:

1. the LLEA has not responded to the request for coordination within 60 days of the coordination request; or

2. the LLEA notifies the licensee that the LLEA does not plan to participate in coordination activities.

C. The licensee shall document its efforts to coordinate with the LLEA. The documentation shall be kept for three years.

D. The licensee shall coordinate with the LLEA at least every 12 months, or when changes to the facility design or operation adversely affect the potential vulnerability of the licensee's material to theft, sabotage, or diversion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1627. Security Zones

A. Licensees shall ensure that all aggregated category 1 and category 2 quantities of radioactive material are used or stored within licensee established security zones. Security zones may be permanent or temporary.

B. Temporary security zones shall be established as necessary to meet the licensee's transitory or intermittent business activities, such as periods of maintenance, source delivery, and source replacement.

C. Security zones shall, at a minimum, allow unescorted access only to approved individuals through:

1. isolation of category 1 and category 2 quantities of radioactive materials by the use of continuous physical barriers that allow access to the security zone only through established access control points. A physical barrier is a natural or man-made structure or formation sufficient for the isolation of the category 1 or category 2 quantities of radioactive material within a security zone; or

2. direct control of the security zone by approved individuals at all times; or

3. a combination of continuous physical barriers and direct control.

D. For category 1 quantities of radioactive material during periods of maintenance, source receipt, preparation for shipment, installation, or source removal or exchange,

the licensee shall, at a minimum, provide sufficient individuals approved for unescorted access to maintain continuous surveillance of sources in temporary security zones and in any security zone in which physical barriers or intrusion detection systems have been disabled to allow such activities.

E. Individuals not approved for unescorted access to category 1 or category 2 quantities of radioactive material shall be escorted by an approved individual when in a security zone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1629. Monitoring, Detection, and Assessment

A. Monitoring and Detection

1. Licensees shall establish and maintain the capability to continuously monitor and detect without delay all unauthorized entries into its security zones. Licensees shall provide the means to maintain continuous monitoring and detection capability in the event of a loss of the primary power source, or provide for an alarm and response in the event of a loss of this capability to continuously monitor and detect unauthorized entries.

2. Monitoring and detection shall be performed by:

a. a monitored intrusion detection system that is linked to an on-site or off-site central monitoring facility;

b. electronic devices for intrusion detection alarms that will alert nearby facility personnel;

c. a monitored video surveillance system;

d. direct visual surveillance by approved individuals located within the security zone; or

e. direct visual surveillance by a licensee designated individual located outside the security zone.

3. A licensee subject to this Subchapter shall also have a means to detect unauthorized removal of the radioactive material from the security zone. This detection capability shall provide:

a. for category 1 quantities of radioactive material, immediate detection of any attempted unauthorized removal of the radioactive material from the security zone. Such immediate detection capability shall be provided by: electronic sensors linked to an alarm; continuous monitored video surveillance; or direct visual surveillance; or

b. for category 2 quantities of radioactive material, weekly verification through physical checks, tamper indicating devices, use, or other means to ensure that the radioactive material is present.

B. Assessment. Licensees shall immediately assess each actual or attempted unauthorized entry into the security zone to determine whether the unauthorized access was an actual or attempted theft, sabotage, or diversion.

C. Personnel Communications and Data Transmission

1. For personnel and automated or electronic systems supporting the licensee's monitoring, detection, and assessment systems, licensees shall:

a. maintain continuous capability for personnel communication and electronic data transmission and processing among site security systems; and

b. provide an alternative communication capability for personnel, and an alternative data transmission and processing capability, in the event of a loss of the primary

means of communication or data transmission and processing. Alternative communications and data transmission systems may not be subject to the same failure modes as the primary systems.

D. Response. Licensees shall immediately respond to any actual or attempted unauthorized access to the security zones, or actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material at licensee facilities or temporary job sites. For any unauthorized access involving an actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material, the licensee's response shall include requesting, without delay, an armed response from the LLEA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1631. Maintenance and Testing

A. Each licensee subject to this Subchapter shall implement a maintenance and testing program to ensure that intrusion alarms, associated communication systems, and other physical components of the systems used to secure or detect unauthorized access to radioactive material are maintained in operable condition and are capable of performing their intended function when needed. The equipment relied on to meet the security requirements of this Chapter shall be inspected and tested for operability and performance at the manufacturer's suggested frequency. If there is no suggested manufacturer's suggested frequency, the testing shall be performed at least annually, not to exceed 12 months.

B. The licensee shall maintain records on the maintenance and testing activities for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1633. Requirements for Mobile Devices

A. Each licensee who possesses mobile devices containing category 1 or category 2 quantities of radioactive material shall:

1. have two independent physical controls that form tangible barriers to secure the material from unauthorized removal when the device is not under direct control and constant surveillance by the licensee; and

2. for devices in or on a vehicle or trailer, unless the health and safety requirements for a site prohibit the disabling of the vehicle, the licensee shall utilize a method to disable the vehicle or trailer when not under direct control and constant surveillance by the licensee. Licensees shall not rely on the removal of an ignition key to meet this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1635. Security Program Review

A. Each licensee shall be responsible for the continuing effectiveness of the security program. Each licensee shall ensure that the security program is reviewed to confirm compliance with the requirements of Subchapter C of this Chapter and that comprehensive actions are taken to correct any noncompliance that is identified. The review shall include the radioactive material security program content and implementation. Each licensee shall periodically (at least annually) review the security program content and implementation.

B. The results of the review, along with any recommendations, shall be documented. Each review report shall identify conditions that are adverse to the proper performance of the security program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.

C. The licensee shall maintain the review documentation for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1637. Reporting of Events

A. The licensee shall immediately notify the LLEA after determining that an unauthorized entry resulted in an actual or attempted theft, sabotage, or diversion of a category 1 or category 2 quantity of radioactive material. As soon as possible after initiating a response, but not at the expense of causing delay or interfering with the LLEA response to the event, the licensee shall notify the Office of Environmental Compliance by telephone at (225) 765-0160 as soon as possible. In no case shall the notification to the department be later than four hours after the discovery of any attempted or actual theft, sabotage, or diversion.

B. The licensee shall assess any suspicious activity related to possible theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material and notify the LLEA as appropriate. As soon as possible but not later than four hours after notifying the LLEA, the licensee shall notify the Office of Environmental Compliance by telephone at (225) 765-0160.

C. The initial telephonic notification required by Subsection A of this Section shall be followed within a period of 30 days by a written report submitted to the Office of Environmental Compliance. The report shall include sufficient information for departmental analysis and evaluation, including identification of any necessary corrective actions to prevent future instances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

Subchapter D. Physical Protection in Transit

§1641. Additional Requirements for Transfer of Category 1 and Category 2 Quantities of Radioactive Material

A. A licensee transferring a category 1 or category 2 quantity of radioactive material to a licensee of the Nuclear Regulatory Commission or an agreement state shall meet the license verification provisions listed below instead of those listed in LAC 33:XV.340.D.

1. Any licensee transferring category 1 quantities of radioactive material to a licensee of the Nuclear Regulatory Commission or an agreement state, prior to conducting such transfer, shall verify with the NRC's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred and that the licensee is authorized to receive radioactive material at the location requested for delivery. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

2. Any licensee transferring category 2 quantities of radioactive material to a licensee of the Nuclear Regulatory Commission or an agreement state, prior to conducting such transfer, shall verify with the NRC's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

3. In an emergency where the licensee cannot reach the license issuing authority and the license verification system is nonfunctional, the licensee may accept a written certification by the transferee that it is authorized by license to receive the type, form, and quantity of radioactive material to be transferred. The certification shall include the license number, current revision number, issuing agency, expiration date, and for a category 1 shipment the authorized address. The licensee shall keep a copy of the certification. The certification shall be confirmed by use of the NRC's license verification system or by contacting the license issuing authority by the end of the next business day.

4. The transferor shall keep a copy of the verification documentation as a record for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1643. Applicability of Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material During Transport

A. For shipments of category 1 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in LAC 33:XV.1645.A and E; LAC 33:XV.1647; LAC 33:XV.1649.A.1, B.1, and C; and LAC 33:XV.1651.A, C, E, G, and H.

B. For shipments of category 2 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in LAC 33:XV.1645.B-E; LAC 33:XV.1649.A.2, A.3, B.2, and C; and LAC 33:XV.1651.B, D, and F-H. For those shipments of category 2 quantities of radioactive material that meet the criteria of LAC 33:XV.1519.B, the shipping licensee shall also comply with the advance notification provisions of LAC 33:XV.1519.

C. The shipping licensee shall be responsible for meeting the requirements of this Subchapter unless the receiving licensee has agreed in writing to arrange for the in-transit physical protection required under this Subchapter.

D. Each licensee who imports or exports category 1 quantities of radioactive material shall comply with the requirements for physical protection during transit contained in LAC 33:XV.1645.A.2 and E; LAC 33:XV.1647; LAC 33:XV.1649.A.1, B.1, and C; and LAC 33:XV.1651.A, C, E, G, and H for the domestic portion of the shipment.

E. Each licensee who imports or exports category 2 quantities of radioactive material shall comply with the requirements for physical protection during transit contained in LAC 33:XV.1649.A.2, A.3, and B.2; and LAC 33:XV.1651.B, D, and F-H for the domestic portion of the shipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1645. Preplanning and Coordination of Shipment of Category 1 or Category 2 Quantities of Radioactive Material

A. Each licensee who plans to transport, or deliver to a carrier for transport, licensed material that is a category 1 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall:

1. preplan and coordinate shipment arrival and departure times with the receiving licensee;

2. preplan and coordinate shipment information with the governor or the governor's designee of any state through which the shipment will pass to discuss the state's intention to provide law enforcement escorts, and identify safe havens; and

3. document the preplanning and coordination activities.

B. Each licensee who plans to transport, or deliver to a carrier for transport, licensed material that is a category 2 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall coordinate the shipment no-later-than arrival time and the expected shipment arrival with the receiving licensee. The licensee shall document the coordination activities.

C. Each licensee who receives a shipment of a category 2 quantity of radioactive material shall confirm receipt of the shipment with the originator. If the shipment has not arrived by the no-later-than arrival time, the receiving licensee shall notify the originator.

D. Each licensee, who transports or plans to transport a shipment of a category 2 quantity of radioactive material, and determines that the shipment will arrive after the no-

later-than arrival time provided in accordance with Subsection B of this Section, shall promptly notify the receiving licensee of the new no-later-than arrival time.

E. The licensee shall retain a copy of the documentation for preplanning and coordination and any revision thereof, as a record for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1647. Advance Notification of Shipment of Category 1 Quantities of Radioactive Material

A. As specified in Paragraphs A.1 and A.2 of this Section, each licensee shall provide advance notification to the Office of Environmental Compliance by telephone at (225) 765-0160, and in writing, of the shipment of licensed material in a category 1 quantity, through or across the boundary of the state, before the transport, or delivery to a carrier for transport of the licensed material outside the confines of the licensee's facility or other place of use or storage.

1. Procedures for Submitting Advance Notification

a. A notification shall be made to the Office of Environmental Compliance by telephone at (225) 765-0160.

b. A written notification delivered by mail shall be postmarked at least seven days before transport of the shipment commences at the shipping facility.

c. A written notification delivered by any means other than mail shall reach the Office of Environmental Compliance at least four days before the transport of the shipment commences and shall reach the Office of Environmental Compliance at least four days before transport of a shipment within or through the state.

2. Information to be Furnished in Advance Notification of Shipment. Each advance notification of shipment of category 1 quantities of radioactive material shall contain the following information, if available at the time of notification:

a. the name, address, and telephone number of the shipper, carrier, and receiver of the category 1 radioactive material;

b. the license numbers of the shipper and receiver;

c. a description of the radioactive material contained in the shipment, including the radionuclides and quantity;

d. the point of origin of the shipment and the estimated time and date that shipment will commence;

e. the estimated time and date that the shipment is expected to enter each state along the route;

f. the estimated time and date of arrival of the shipment at the destination; and

g. a point of contact, with a telephone number, for current shipment information.

3. Revision Notice

a. The licensee shall provide any information not previously available at the time of the initial notification, as soon as the information becomes available but not later than commencement of the shipment, to the Office of Environmental Compliance by telephone at (225) 765-0160.

b. A licensee shall promptly notify the Office of Environmental Compliance by telephone at (225) 765-0160

of any changes to the information provided in accordance with Paragraph A.2 and Subparagraph A.3.a of this Section.

4. Cancellation Notice. Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice to the Office of Environmental Compliance by telephone at (225) 765-0160. The licensee shall send the cancellation notice before the shipment would have commenced or as soon thereafter as possible. The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being cancelled.

5. Records. The licensee shall retain a copy of the advance notification and any revision and cancellation notices as a record for three years.

6. Protection of Information. State officials, state employees, and other individuals, whether or not licensees of the Nuclear Regulatory Commission or an agreement state, who receive schedule information of the kind specified in LAC 33:XV.1647.A.2 shall protect that information against unauthorized disclosure as specified in LAC 33:XV.1623.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1649. Requirements for Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material During Shipment

A. Shipments by Road

1. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:

a. ensure that movement control centers are established that maintain position information from a remote location. These control centers shall monitor shipments 24 hours a day, seven days a week, and have the ability to communicate immediately, in an emergency, with the appropriate law enforcement agencies;

b. ensure that redundant communications are established that allow the transport to contact the escort vehicle (when used) and movement control center at all times. Redundant communications may not be subject to the same interference factors as the primary communication;

c. ensure that shipments are continuously and actively monitored by a telemetric position monitoring system or an alternative tracking system reporting to a movement control center. A movement control center shall provide positive confirmation of the location, status, and control over the shipment. The movement control center shall be prepared to promptly implement preplanned procedures in response to deviations from the authorized route or a notification of actual, attempted, or suspicious activities related to the theft, loss, or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route;

d. provide an individual to accompany the driver for those highway shipments with a driving time period greater than the maximum number of allowable hours of service in a 24-hour duty day as established by the Department of Transportation Federal Motor Carrier Safety Administration. The accompanying individual may be another driver;

e. develop written normal and contingency procedures to address:

i. notifications to the communication center and law enforcement agencies;

ii. communication protocols that shall include a strategy for the use of authentication codes and duress codes and provisions for refueling or other stops, detours, and locations where communication is expected to be temporarily lost;

iii. loss of communications; and

iv. responses to an actual or attempted theft or diversion of a shipment; and

f. ensure that drivers, accompanying personnel, and movement control center personnel have access to the normal and contingency procedures.

2. Each licensee who transports category 2 quantities of radioactive material shall maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance.

3. Each licensee who delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall use carriers that:

a. have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and/or surveillance, the package tracking system shall allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control;

b. maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and

c. have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.

B. Shipments by Rail

1. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:

a. ensure that rail shipments are monitored by a telemetric position monitoring system or an alternative tracking system reporting to the licensee, third-party, or railroad communications center. The communications center shall provide positive confirmation of the location of the shipment and its status. The communications center shall implement preplanned procedures in response to deviations from the authorized route or to a notification of actual, attempted, or suspicious activities related to the theft or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route; and

b. ensure that periodic reports to the communications center are made at preset intervals.

2. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall use carriers that:

a. have established package tracking systems. An established package tracking system is a documented,

proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and/or surveillance, the package tracking system shall allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control;

b. maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and

c. have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.

C. Investigations. Each licensee who makes arrangements for the shipment of category 1 quantities of radioactive material shall immediately conduct an investigation upon the discovery that a category 1 shipment is lost or missing. Each licensee who makes arrangements for the shipment of category 2 quantities of radioactive material shall immediately conduct an investigation, in coordination with the receiving licensee, of any shipment that has not arrived by the designated no-later-than arrival time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1651. Reporting of Events

A. The shipping licensee shall notify the appropriate LLEA and the Office of Environmental Compliance by telephone at (225) 765-0160 within one hour of its determination that a shipment of category 1 quantities of radioactive material is lost or missing. The appropriate LLEA would be the law enforcement agency in the area of the shipment's last confirmed location. During the investigation required by LAC 33:XV.1649.C, the shipping licensee will provide agreed upon updates to the Office of Environmental Compliance by telephone at (225) 765-0160 on the status of the investigation.

B. The shipping licensee shall notify the Office of Environmental Compliance by telephone at (225) 765-0160 within four hours of its determination that a shipment of category 2 quantities of radioactive material is lost or missing. If, after 24 hours of its determination that the shipment is lost or missing, the radioactive material has not been located and secured, the licensee shall immediately notify the Office of Environmental Compliance by telephone at (225) 765-0160.

C. The shipping licensee shall notify the designated LLEA along the shipment route as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment or suspicious activities related to the theft or diversion of a shipment of a category 1 quantity of radioactive material. As soon as possible after notifying the LLEA, the licensee shall notify the Office of Environmental Compliance by telephone at (225) 765-0160 upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment of category 1 radioactive material.

D. The shipping licensee shall notify the Office of Environmental Compliance by telephone at (225) 765-0160 as soon as possible upon discovery of any actual or

attempted theft or diversion of a shipment, or any suspicious activity related to the shipment, of a category 2 quantity of radioactive material.

E. The shipping licensee shall notify the Office of Environmental Compliance by telephone at (225) 765-0160 and the LLEA as soon as possible upon recovery of any lost or missing category 1 quantities of radioactive material.

F. The shipping licensee shall notify the Office of Environmental Compliance by telephone at (225) 765-0160 as soon as possible upon recovery of any lost or missing category 2 quantities of radioactive material.

G. The initial telephonic notification required by Subsections A-D of this Section shall be followed within a period of 30 days by a written report submitted to the Office of Environmental Compliance. A written report is not required for notifications on suspicious activities required by Subsections C and D of this Section. The report shall set forth the following information:

1. a description of the licensed material involved, including kind, quantity, and chemical and physical form;
2. a description of the circumstances under which the loss or theft occurred;
3. a statement of disposition, or probable disposition, of the licensed material involved;
4. actions that have been taken, or will be taken, to recover the material; and
5. procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed material.

H. Subsequent to filing the written report, the licensee shall also report any additional substantive information on the loss or theft within 30 days after the licensee learns of such information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

Subchapter E. Reserved.

Subchapter F. Records and Inspections

§1661. Form of Records

A. Each record required by this Chapter shall be legible throughout the retention period specified by each department regulation. The record may be the original or a reproduced copy or a microform, provided that the copy or microform is

authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications, shall include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1663. Record Retention

A. Licensees shall maintain the records that are required by the regulations in this Chapter for the period specified by the appropriate regulation. If a retention period is not otherwise specified, these records shall be retained until the department terminates the facility's license. All records related to this Chapter may be destroyed upon department termination of the facility license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

§1665. Inspections

A. Each licensee shall afford to the department at all reasonable times opportunity to inspect category 1 or category 2 quantities of radioactive material and the premises and facilities wherein the nuclear material is used, produced, or stored.

B. Each licensee shall make available to the department for inspection, upon reasonable notice, records kept by the licensee pertaining to its receipt, possession, use, acquisition, import, export, or transfer of category 1 or category 2 quantities of radioactive material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

Subchapter Z. Appendices

§1699. Appendices

Appendix A—Category 1 and Category 2 Threshold

Radioactive Material	Category 1 (TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)
Americium-241	60	1,620	0.6	16.2
Americium-241/Be	60	1,620	0.6	16.2
Californium-252	20	540	0.2	5.40
Cobalt-60	30	810	0.3	8.10
Curium-244	50	1,350	0.5	13.5
Cesium-137	100	2,700	1	27.0
Gadolinium-153	1,000	27,000	10	270
Iridium-192	80	2,160	0.8	21.6
Plutonium-238	60	1,620	0.6	16.2
Plutonium-239/Be	60	1,620	0.6	16.2
Promethium-147	40,000	1,080,000	400	10,800

Radioactive Material	Category 1 (TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)
Radium-226	40	1,080	0.4	10.8
Selenium-75	200	5,400	2	54.0
Strontium-90	1,000	27,000	10	270
Thulium-170	20,000	540,000	200	5,400
Ytterbium-169	300	8,100	3	81.0

The terabecquerel (TBq) values are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only.

Note: *Calculations Concerning Multiple Sources or Multiple Radionuclides*

The "sum of fractions" methodology for evaluating combinations of multiple sources or multiple radionuclides is to be used in determining whether a location meets or exceeds the threshold and is thus subject to the requirements of this Chapter.

I. If multiple sources of the same radionuclide and/or multiple radionuclides are aggregated at a location, the sum of the ratios of the total activity of each of the radionuclides shall be determined to verify whether the activity at the location is less than the category 1 or category 2 thresholds of Table 1, as appropriate. If the calculated sum of the ratios, using the equation below, is greater than or equal to 1.0, then the applicable requirements of this Chapter apply.

II. First determine the total activity for each radionuclide from Table 1. This is done by adding the activity of each individual source, material in any device, and any loose or bulk material that contains the radionuclide. Then use the equation below to calculate the sum of the ratios by inserting the total activity of the applicable radionuclides from Table 1 in the numerator of the equation and the corresponding threshold activity from Table 1 in the denominator of the equation.

Calculations shall be performed in metric values (i.e., TBq) and the numerator and denominator values shall be in the same units.

R₁ = total activity for radionuclide 1

R₂ = total activity for radionuclide 2

R_N = total activity for radionuclide n

AR₁ = activity threshold for radionuclide 1

AR₂ = activity threshold for radionuclide 2

AR_N = activity threshold for radionuclide n

$$\sum_{i=1}^n \left[\frac{R_i}{AR_i} + \frac{R_2}{AR_2} + \frac{R_n}{AR_n} \right] \geq 1.0$$

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP060ft. Such comments must be received no later than September 24, 2015, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be

purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP060ft. This regulation is available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on September 24, 2015, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

1508#045

NOTICE OF INTENT

Office of the Governor
Division of Administration
Office of Group Benefits

Employee Benefits (LAC 32:I.Chapters 3, 7, and 11)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(1), vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to chapter 12 of title 42 of the *Louisiana Revised Statutes*, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend several provisions of Title 32 in the *Louisiana Administrative Code*. This action will enhance member clarification and provide for the administration, operation, and management of health care benefits effectively for the program and member. Accordingly, OGB hereby gives Notice of Intent to adopt the following rules to become effective January 1, 2016, unless promulgated thereafter, in which case they would become effective upon promulgation.

Title 32
EMPLOYEE BENEFITS
Part I. General Provisions

Chapter 3. Uniform Provisions—Participation in the Office of Group Benefits

§303. Enrollment Procedures for Participation in OGB Health Coverage and Life Insurance

A. - A.2. ...

3. The requesting agency shall obtain an experience rating from OGB.

a. The requesting agency shall submit claims experience under its prior plan for the 36-month period immediately prior to its application together with the required advance payment for the experience rating.

A.3.b. - B. ...

C. Any state agency, school board, political subdivision, or other eligible entity that elects to participate in the OGB health program remains responsible for its own compliance with enrollment and coverage requirements of the federal Patient Protection and Affordable Care Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:338 (February 2015), effective March 1, 2015, amended LR 41:

§305. Retiree Eligibility

A. For the purpose of determining eligibility to participate in OGB health coverage and life insurance, the term retiree shall refer only to an individual who was an enrollee immediately prior to the date of retirement and who, upon retirement, satisfied one of the following categories:

1. immediately received a retirement plan distribution from an approved state or governmental agency defined benefit plan;

2. - 2.c. ...

d. maintained continuous coverage with an OGB plan of benefits as an eligible dependent until he/she became eligible to receive a retirement plan distribution from an approved state governmental agency defined benefit plan as a former state employee; or

3. immediately received a retirement plan distribution from a state-approved or state governmental agency approved defined contribution plan and has accumulated the total number of years of creditable service which would have entitled him/her to receive a retirement plan distribution from the defined benefit plan of the retirement system for which the employee would have otherwise been eligible. The appropriate state governmental agency or retirement system responsible for administration of the defined contribution plan is responsible for certification of eligibility to OGB.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:339 (February 2015), effective March 1, 2015, amended LR 41:

§307. Persons to be Covered

A. - A.1. ...

2. Covered Persons, Both Employees. No one may be enrolled simultaneously as an employee and as a dependent under an OGB plan, nor may a dependent be covered as a dependent of more than one employee. If a covered

dependent is eligible for coverage as an employee, he/she may choose to be covered separately at a later OGB designated enrollment period. Coverage shall be effective as directed by the OGB designated enrollment period.

3. - 3.d. ...

4. Effective Dates of Coverage, Existing Employee. Existing employees may only enroll in a plan during open enrollment or as otherwise specified by the OGB health plan document. Coverage for the employee will be effective on the first day of the new plan year or on the date set forth in the OGB health plan document.

5. Re-Enrollment Previous Employment for Health Benefits and Life Insurance

a. An employee whose employment terminated while covered who is re-employed within 12 months of the date of termination will be considered a re-enrollment previous employment applicant.

b. If an employee acquires an additional dependent during the period of termination, that dependent may be covered if added within 30 days of re-employment.

6. Members of Boards and Commissions. Except as otherwise provided by law, members of boards or commissions are not eligible for participation in an OGB plan of benefits. This section does not apply to members of school boards or members of state boards or commissions who are determined by the participating employer and in accordance with federal and state law to be full-time employees.

7. Legislative Assistants. Legislative assistants are eligible to participate in an OGB plan if they are determined to be full-time employees by the participating employer under applicable federal and state law or pursuant to R.S. 24:31.5(C), either:

a. receive at least 60 percent of the total compensation available to employ the legislative assistant if a legislator employs only one legislative assistant; or

b. is the *primary legislative assistant* as defined in R.S. 24:31.5(C) when a legislator employs more than one legislative assistant.

B. - B.1.b. ...

c. Coverage for re-employed retirees is governed by LAC 32:1.323.B, Employer Responsibility.

2. Effective Date of Coverage

a. Retiree coverage will be effective on the first day of the month following the date of retirement if the retiree and participating employer have agreed to make and are making the required contributions. For purposes of eligibility, the date of retirement shall be the date the person is eligible to receive a retirement plan distribution. (for example, if date of retirement is July 15, retiree coverage will begin August 1; if date of retirement is August 1, retiree coverage will begin September 1).

C. Documented Dependent Coverage

1. Eligibility. A documented dependent, in the OGB Primary Plan document, of an eligible employee or retiree will be eligible for dependent coverage on the later of the following dates:

1.a. - 2.b. ...

D. Special Enrollments—HIPAA. Certain eligible persons may enroll as provided for by HIPAA under circumstances, terms, and conditions for special enrollments.

E. ...

F. Medicare Advantage Option for Retirees (effective January 1, 2016)

1. Retirees who are eligible to participate in an OGB sponsored Medicare Advantage plan who cancel participation in an OGB plan of benefits upon enrollment in an OGB sponsored Medicare Advantage plan may re-enroll in an OGB offered plan of benefits upon withdrawal from or termination of coverage in the Medicare Advantage plan at Medicare's open enrollment or OGB's open enrollment period.

2. Retirees who elect to participate in a Medicare Advantage plan not sponsored by OGB will not be allowed to re-enroll in a plan offered by OGB upon withdrawal from or termination of coverage in the Medicare Advantage plan.

G - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:339 (February 2015), effective March 1, 2015, amended LR 41:

§313. Enrollee Coverage Termination

A. An enrollee may terminate coverage as set forth in the applicable OGB health plan document. Applications made by active enrollees shall be provided to their HR liaison and applications made by retired enrollees shall be provided to OGB.

B. An Enrollee may terminate coverage during an OGB designated enrollment period. Application is required to be made as directed for the OGB designated enrollment period.

C. Subject to continuation of coverage and COBRA rules, all benefits of an enrollee will terminate, without application, under plans offered by OGB on the earliest of the following dates:

1. date OGB terminates;
2. date the group or agency employing the enrollee terminates or withdraws from OGB;
3. date contribution is due if the group or agency fails to pay the required contribution for the enrollee;
4. date contribution is due if the enrollee fails to make any contribution which is required for the continuation of coverage;
5. last day of the month of the enrollee's death; or
6. last day of the month in which the enrollee is eligible for OGB plan coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:341 (February 2015), effective March 1, 2015, amended LR 41:

§315. Dependent Coverage Termination

A. An enrollee may terminate dependent coverage as set forth in the applicable OGB health plan document. Applications made by active enrollees shall be provided to their HR liaison and applications made by retired enrollees shall be provided to OGB.

B. An enrollee may terminate dependent coverage during an OGB designated enrollment period. Application is required to be made as directed for the OGB designated enrollment period.

C. Subject to continuation of coverage and COBRA rules, dependent coverage will terminate, without application, under any OGB plan of benefits on the earliest of the following dates:

1. last day of the month the enrollee is covered;
2. last day of the month in which the dependent, as defined by OGB, is an eligible dependent of the enrollee;
3. for grandchildren for whom the enrollee does not have court ordered legal custody or has not adopted, on the date the child's parent loses eligibility under the respective OGB health; or
4. upon discontinuance of all dependent coverage under OGB plans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:341 (February 2015), effective March 1, 2015, amended LR 41:

§317. Change of Classification

A. Adding or Deleting Dependents. When a dependent is added to the enrollee's coverage due to a HIPAA special enrollment event or deleted from the enrollee's coverage consistent with a change in the dependent's status, as set forth in the applicable OGB health plan document, applications made by active enrollees shall be provided to their HR liaison and applications made by retired enrollees shall be provided to OGB. Application is required to be made within 30 days of the event.

B. When a dependent is added to or deleted from the enrollee's coverage during an OGB designated enrollment period, application is required to be made as directed for the OGB designated enrollment period.

C. Effective Date of Change in Classification

1. When adding a dependent due to a HIPAA special enrollment event or deleting a dependent due to a change in the dependent's status results in a change in classification, the change in classification will be effective on the date of the event. Application for adding or deleting a dependent is required to be made within 30 days of the date of the event.

2. When the addition or deletion of a dependent changes the classification of coverage, the new premium rate will be charged for the entire month if the date of the HIPAA special enrollment event or the date of the change in the dependent's status occurs before the fifteenth day of the month. If the date of the HIPAA special enrollment event or the date of the change in the dependent's status occurs on or after the fifteenth day of the month, the new premium rate will not be charged until the first day of the following month.

D. Notification of Change. It is the enrollee's responsibility to make application for any change in classification of coverage that affects the enrollee's contribution amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:341 (February 2015), effective March 1, 2015, amended LR 41:

§323. Employer Responsibility

A. It is the responsibility of the participating employer to submit timely enrollment and coverage changes using OGB's electronic enrollment system or other approved submission method, and to review and certify all necessary documentation to OGB on behalf of its employees. Employees of a participating employer will not, by virtue of furnishing any documentation to OGB be considered agents

of OGB, and no representation made by any participating employer at any time will change the provisions of an OGB plan of benefits.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:345 (February 2015), effective March 1, 2015, amended LR 41:

Chapter 7. Group Benefits Policy and Planning Board

§701. Elected Board Member Seats

A. Per R.S. 42:882, the Group Benefits Policy and Planning Board (OGB board) shall be composed of 11 voting members, with 2 members elected by retired participants of OGB plans of benefits, as follows:

1. one retiree member who shall be elected from among retired teachers or other school employees;
2. one retiree member who shall be elected from among retired state employees.

B. Elected members shall be confirmed by the Senate.

C. The chief executive officer shall certify election results to the Secretary of State and to the Senate for confirmation.

D. Upon appointment or election, each member for an elected seat shall serve with authority to act until his/her term expires or until the secretary of the Senate communicates that a member is rejected or not confirmed, whichever occurs first. Upon notice that a member for an elected seat is rejected or not confirmed, the respective member shall cease all member acts immediately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:

§703. Candidate Eligibility

A. A candidate for a position on the OGB board must be a participant in an OGB plan of benefits as of the specified nomination date.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees, State Employees Group Benefits Program, LR 6:200 (May 1980), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:347 (February 2015), effective March 1, 2015, LR 41:

§705. Petitions for Candidacy

A. To become a candidate, a person must be nominated by petition of 25 or more OGB plan enrollees from the constituency he/she will represent.

B. Each enrollee's signature must be accompanied by his/her printed name, the last four digits of their Social Security number, and the agency they are affiliated with.

C. Each petition for candidacy must be signed by the OGB chief executive officer or his/her designated representative certifying that each candidate and each petitioner is a plan participant from the constituency he/she will represent, on the specified nomination date.

D. Petitions for candidacy must be received by OGB on or before the date indicated on the nomination materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees, State Employees Group Benefits Program, LR 6:200 (May 1980), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:347 (February 2015), effective March 1, 2015, LR 41:

§709. Balloting Procedure

A. All retired enrollees in an OGB plan of benefits on the specified election date are eligible to vote.

B. Each eligible retired enrollee may cast only one vote for any candidate listed on the ballot for his respective retiree group.

C. Each eligible retired enrollee must follow the voting directions provided by OGB. In the event OGB contracts with an election vendor for a particular election, each eligible retired enrollee must follow the voting directions provided by OGB's election vendor for his/her vote to be counted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees, State Employees Group Benefits Program, LR 6:200 (May 1980), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:347 (February 2015), effective March 1, 2015, LR 41:

§713. Election Results

A. The chief executive officer will certify the election results to the Senate for confirmation.

B. The chief executive officer will notify the successful candidates of his/her election.

C. The chief executive officer will announce the election results at the first regularly scheduled board meeting following the election.

D. The chief executive officer will certify the election results to the Secretary of State.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees, State Employees Group Benefits Program, LR 6:200 (May 1980), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:348 (February 2015), effective March 1, 2015, LR 41:

§715. Uniform Election Dates

A. For each election date, the following dates will apply:

1. On second Wednesday in January, OGB submits nomination sheets to each agency benefits coordinator.

2. The second Wednesday in February is the nomination cutoff date. Nominees must be certified by the OGB chief executive officer or his/her designee before nominations can be accepted by OGB.

3. On the third Wednesday in February, OGB will hold the drawing at its principal office to determine the position each candidate will have on the ballot. All candidates are invited to attend or send a representative.

4. Prior to the first Wednesday in March, ballots will be sent to the proper authority for distribution.

5. The second Wednesday in April is the deadline for OGB to receive completed ballots.

6. By the third Wednesday in April, all completed ballots shall be counted.

7. By the first Wednesday in May, the chief executive officer shall certify the election results to the Senate for confirmation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees, State Employees Group Benefits Program, LR 7:122 (March 1981), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:348 (February 2015), effective March 1, 2015, LR 41:

§717. Petition Form

A. Nominating Petition. Nominations will be submitted on a form substantially in compliance with the following.

We the undersigned OGB enrollees are retired teachers or retired school employees/retired state employees and hereby nominate _____ for membership on the Office of Group Benefits Policy and Planning Board.				
Signature	Printed Name	Last 4 of SSN	Agency	Date
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				
21.				
22.				
23.				
24.				
25.				
I hereby certify the persons signing this petition are retired teachers or other school employees/retired state employees and OGB retired enrollees as of the specified nomination date.				
_____ OGB Chief Executive Officer or his/her designated representative				

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees, State Employees Group Benefits Program, LR 7:50 (February 1981), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:348 (February 2015), effective March 1, 2015, LR 41:

Chapter 11. Contributions

§1105. Penalty for Late Payment of Premiums

A. If any participating employer fails to remit, in full, both the employer and employee contributions to OGB within 30 days after receipt of the monthly invoice premium statement, then at the request of OGB, the state treasurer shall withhold from state funds due the participating employer the full amount of the delinquent employer and employee contributions. The participating employer shall also pay a penalty equal to 1 percent of the total amount due and unpaid, compounded monthly. The state treasurer shall remit this amount directly to OGB.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees, State Employees Group Benefits Program, LR 26:2788 (December 2000), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:349 (February 2015), effective March 1, 2015, LR 41:

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 Rule will have no net impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

Because the impact of the proposed action is based on the plan selected by each individual enrollee, the impact is indeterminable as to:

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

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., September 10, 2015, to Susan T. West, Chief Executive Officer, Office of Group Benefits, P.O. Box 44036, Baton Rouge, LA 70804.

Public Hearing

A public hearing on this proposed Rule may be scheduled for September 28, 2015, at 10 a.m. in the Louisiana Purchase Room, located on the first floor of the Claiborne Building, located at 1201 North Third Street, Baton Rouge, LA 70802, if requested.

Susan T. West
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Employee Benefits**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Due to the proposed administrative rule changes potentially resulting in both an indeterminable increase in state expenditures and an indeterminable decrease in state expenditures, the specific net governmental expenditure impact of the rule changes cannot be determined.

The Office of Group Benefits (OGB) proposes the removal of any reference to “husband and wife” to gender-neutral terms, due to the extension of group health and life insurance benefits to dependents of married same-sex enrollees. Such benefits were extended as a result of the U.S. Supreme Court ruling on *Obergfell et al. v. Hodges*, Director, Ohio Department of Health, et al., which ordered that all states must allow same-sex marriage. To the extent impacted state employees take advantage of this rule change; these individuals will likely be paying more in premium (enrollee+spouse or family) than the current plan choice. Due to the state (employer) paying a portion of the premiums, if state employees select this coverage type, state costs will increase by an indeterminable amount. In addition, the increase in the number of dependents covered by the plan could have a positive or negative actuarial impact depending upon the health conditions of the newly covered individuals. The cost impact to state or local government units associated with offering benefits to dependents of married same-sex enrollees is indeterminable, as the OGB is not able to accurately estimate how many members this change could impact.

The OGB proposes to change the rules governing the re-enrollment of persons previously enrolled in OGB-sponsored health and life plans who are re-employed within 12 months of their termination of prior employment and participation in an OGB-sponsored health and life plan. Current rules only allow such persons to reenroll in the coverage classification or tier (enrollee only, enrollee+children, enrollee+spouse, family) that was in force on the date of their termination. There may be instances where such a rule would cause participating employers to be out of compliance with the federal Patient Protection and Affordable Care Act (ACA), which could result in penalties being assessed to the employer. The cost savings (by means of penalty avoidance) to state or local government units associated with this proposed administrative rule change is indeterminable, as the OGB is not able to accurately estimate how many members this could impact.

The OGB proposes ending the current practice of allowing enrolled Medicare-eligible retirees who terminate participation in OGB-sponsored group health plan in order to enroll and participate in a Medicare Advantage health plan not sponsored by OGB the ability to reenroll in an OGB-sponsored health plan, effective January 1, 2016. The proposed change will not affect those Medicare-eligible retirees who were previously or are still enrolled in an OGB-sponsored group health plan and have terminated or will terminate their participation prior to January 1, 2016. The cost savings to state or local government units associated with the proposed administrative rule change is indeterminable, as the OGB is not able to accurately estimate how many members this could ultimately impact.

The OGB proposes ending the current practice of extending health insurance coverage to the dependent children of dependent children of an enrollee, effective January 1, 2016. This proposed change will not affect those secondary dependents that are currently covered by OGB; they will maintain their coverage until such time as the primary dependent child of the enrollee is no longer eligible for coverage. The cost savings to state or local government units

associated with this proposed administrative rule change is indeterminable, as OGB is not able to accurately estimate how many members this could ultimately impact.

Other proposed administrative rule changes include modifications to the Group Benefits Policy & Planning Board. Pursuant to Act 146 of 2015, the proposed rule change reduces the board composition from 16 members to 11 members with the Speaker of the House appointing 3 members, the President of the Senate appointing 3 members, the Governor appointing 3 members and 2 elected retiree members.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The specific revenue impact to the OGB as a result of the proposed rule changes cannot be accurately determined, as it is dependent upon the choices of members (such as extending health coverage to married same-sex dependents) for which the population is not known. It is likely that the population of members who would be affected by the proposed rule changes is small, and will not result in any substantial impact to the revenues of the agency.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The cost or economic benefits to directly affected persons cannot be accurately determined, as each member’s eligibility circumstances are unique. For example, if a member changes from enrollee only to enrollee + spouse based upon the gender-neutral rule change, that enrollee will be responsible for paying a higher premium (employee portion). In addition, retired enrollees who terminate participation in OGB-sponsored health plans in order to participate in non-sponsored Medicare Advantage plans will lose the benefit of having a portion of their premium paid by their former employing state agency.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no measurable impact on competition and employment anticipated in association with these proposed administrative rule changes. The proposed rule changes are eligibility rule changes, and will not impact benefits offered, which are a significant component of the compensation package of state and certain local public sector employment. Individuals consider compensation packages across alternative private and public sector employment opportunities. For those who could be impacted in the future, these eligibility rule changes will make the compensation package less beneficial. The proposed rule changes may influence the decisions to seek and accept employment in both the public and private sectors.

Susan T. West
Chief Executive Officer
1508#024

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Adult Behavioral Health Services
(LAC 50:XXXIII.Chapters 61-67)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 61-67 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the

provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amended the provisions governing adult behavioral health services in order to ensure the provider certification, assessment, and reevaluation criteria are in alignment with the approved Medicaid state plan (*Louisiana Register*, Number 41, Volume 2).

The department now proposes to amend the provisions governing adult behavioral health services in order to: 1) update the service criteria for culturally competent care; 2) revise the recipient qualifications and assessment criteria; 3) remove service limitations for psychosocial rehabilitation and crisis intervention services; and 4) revise the reimbursement methodology to reflect the integration of specialized behavioral health services into Bayou Health by establishing capitation payments to managed care organizations rather than a statewide management organization.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 7. Adult Behavioral Health Services

Chapter 61. General Provisions

§6101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid state plan for behavioral health services rendered to adults with behavioral health disorders. These services shall be administered under the authority of the Department of Health and Hospitals, in collaboration with the managed care organizations (MCOs), which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:358 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§6103. Recipient Qualifications

A. Individuals, 21 years of age and older, who meet Medicaid eligibility and clinical criteria established in §6103.B, shall qualify to receive adult behavioral health services.

B. - B.4. ...

C. a person with a primary diagnosis of a substance use disorder without an additional co-occurring qualifying mental health diagnosis shall not meet the criteria for acute stabilization needs.

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 38:358 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 41:

Chapter 63. Services

§6301. General Provisions

A. - B. ...

C. There shall be recipient involvement throughout the planning and delivery of services.

1. Services shall be:

a. delivered in a culturally and linguistically competent manner; and

b. respectful of the individual receiving services.

2. Services shall be appropriate to individuals of diverse racial, ethnic, religious, sexual, and gender identities and other cultural and linguistic groups.

3. Services shall be appropriate for:

a. age;

b. development; and

c. education.

4. Repealed.

D. Anyone providing behavioral health services must operate within their scope of practice license.

E. ...

F. Services may be provided at a site-based facility in the community or in the individual's place of residence as outlined in the plan of care. Services shall not be furnished in an institution.

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 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 41:

§6303. Assessments

A. - B. ...

C. The assessments shall be conducted by a physician or licensed mental health practitioner (LMHP) (in consultation with a psychiatrist who must complete portions of the assessment) who is trained to administer the evaluation and operates within their scope of license, and who is annually recertified. The evaluation and re-evaluation must be face-to-face using the targeting and needs-based assessment criteria designated by the department for this purpose.

D. The evaluation and re-evaluation must be finalized through the MCO using qualified personnel. Needs-based eligibility evaluations are conducted at least every 12 months.

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

HISTORICAL NOTE: Bureau of Health Services Financing, LR 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 41:

§6305. Plan of Care

A. - B.1. ...

C. The plan of care shall be developed by an LMHP, or an interdisciplinary team that includes an LMHP, who acts as an advocate for the individual and is a source of information for the individual and the team.

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 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§6307. Covered Services

A. The following behavioral health services shall be reimbursed under the Medicaid Program:

1. therapeutic services, including diagnosis and treatment, delivered by licensed mental health professionals (LMHPs);

2. - 3. ...

B. Service Exclusions. The following shall be excluded from Medicaid reimbursement:

1. components that are not provided to, or directed exclusively toward the treatment of, the Medicaid eligible individual;

2. services provided at a work site which are job tasks oriented and not directly related to the treatment of the recipient's needs;

3. any services or components in which the basic nature of which are to supplant housekeeping, homemaking, or basic services for the convenience of an individual receiving services; and

4. services rendered in an institute for mental disease.

C. - C.4. 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 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 65. Provider Participation

§6501. Provider Responsibilities

A. Each provider of behavioral health services shall enter into a contract with one or more of the managed care organizations in order to receive reimbursement for Medicaid covered services.

B. All services shall be delivered in accordance with federal and state laws and regulations, the provisions of this Rule, the provider manual, and other notices or directives issued by the department. The provider shall create and maintain documents to substantiate that all requirements are met.

C. ...

D. Anyone providing behavioral health services must be certified by the department, or its designee, in addition to operating within their scope of practice license.

E. Providers shall maintain case records that include, at a minimum:

1. a copy of the plan of care and treatment plan;

2. - 5. ...

6. the goals of the plan of care and/or treatment plan.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:360 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 41:

Chapter 67. Reimbursement

§6701. Reimbursement Methodology

A. Effective for dates of service on or after December 1, 2015, the department, or its fiscal intermediary, shall make monthly capitation payments to the MCOs.

B. The capitation rates paid to the MCOs shall be actuarially sound rates and the MCOs will determine the rates paid to its contracted providers. No payment shall be less than the minimum Medicaid rate.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:360 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, September 24, 2015 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: Adult Behavioral Health Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule may increase programmatic costs to the state by an indeterminable amount in FY 15-16, FY 16-17 and FY 17-18. It is anticipated that \$1,188(\$594 SGF and \$594 FED) will be expended in FY 15-16 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 may increase revenue collections by an indeterminable amount in FY 15-16, FY 16-17 and FY 17-18. It is anticipated that \$594 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to amend the provisions governing adult behavioral health services in order to update the service criteria for culturally competent care, revise the recipient qualifications and assessment criteria, remove service limitations for psychosocial rehabilitation and crisis intervention services; and revise the reimbursement methodology to reflect the integration of specialized behavioral health services into Bayou Health by establishing capitation payments to managed care organizations rather than a statewide management organization. It is anticipated that the implementation of this proposed rule may have economic benefits for behavioral health services providers in FY 15-16, FY 16-17, and FY 17-18, and may increase the programmatic costs to the Medicaid Program by an indeterminable amount if the removal of service limitations on psychosocial rehabilitation and crisis intervention services increases utilization of these services and the anticipated offsetting savings from decreased inpatient hospital services utilization is not realized.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1508#069

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

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

Behavioral Health Services
Louisiana Bayou Health and
Coordinated System of Care Waiver
(LAC 50:XXXIII.Chapters 1-9)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 1-9 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 statewide management organization (SMO) in order to include the administration of behavioral health services covered under the LaCHIP Affordable Plan (Phase 5) and to revise the provisions governing recipient coverage (*Louisiana Register*, Volume 41, Number 7).

The department now proposes to amend the provisions governing behavioral health services coordinated by the SMO to: 1) narrow the SMO's scope of service administration to coordinated system of care (CSoC) services only; 2) revise the enrollment provisions; and 3) revise the reimbursement methodology to reflect the integration of specialized behavioral health services into Bayou Health by establishing capitation payments for recipients enrolled in managed care organizations (MCOs). For recipients enrolled with the CSoC contractor, reimbursement shall be based upon the established Medicaid fee schedule for behavioral health services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 1. Louisiana Bayou Health and Coordinated System of Care Waiver

Chapter 1. Managed Care Organizations and Coordinated System of Care Contractor

§101. General Provisions

A. The Medicaid Program hereby adopts provisions to establish a comprehensive system of delivery for specialized behavioral health and physical health services. These services shall be administered through the Louisiana Bayou Health and Coordinated System of Care (CSoC) Waiver under the authority of the Department of Health and Hospitals (DHH), in collaboration with managed care organizations (MCOs) and the coordinated system of care (CSoC) contractor, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. The provisions of this Rule shall apply only to the services provided to Medicaid recipients/enrollees by or through an MCO or the CSoC contractor.

C. Managed care organizations shall operate as such, and the CSoC contractor shall operate as a prepaid inpatient health plan (PIHP). The MCOs were procured through a competitive request for proposal (RFP) process. The CSoC contractor was procured through an emergency process consistent with 45 CFR part 92. The MCOs and CSoC contractor shall assist with the state's system reform goals to support individuals with behavioral health and physical health needs in families, homes, communities, schools, and jobs.

D. Through the utilization of MCOs and the CSoC contractor, it is the department's goal to:

1. - 4. ...

E. The CSoC contractor shall be paid on a non-risk basis for specialized behavioral health services rendered to children/youth enrolled in the Coordinated System of Care Waiver. The MCOs shall be paid on a risk basis for

specialized behavioral health and physical health services rendered to adults and children/youth.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:360 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§103. Recipient Participation

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

1. children who are blind or have a disability and related populations, under age 18;
2. aged and related populations, age 65 and older who are not blind, do not have a disability, and are not members of the §1931 adult population;
3. children who receive foster care or adoption assistance (title IV-E), or who are in foster care or who are otherwise in an out-of-home placement;
4. children with special health care needs as defined in §1932(a);
5. Native Americans;
6. full dual eligibles (for behavioral health services only);
7. children residing in an intermediate care facility for persons with developmental disabilities (for behavioral health services only);
 - a. - b. Repealed.
8. all enrollees of waiver programs administered by the DHH Office for Citizens with Developmental Disabilities (OCDD) or the DHH Office of Aging and Adult Services (OAAS) (mandatory for behavioral health services only);
9. all Medicaid children functionally eligible for the CSoC;
10. adults residing in a nursing facility (for behavioral health services only);
11. supplemental security income/transfer of resources/long-term care related adults and children (for behavioral health services only); and
12. transfer of resources/long-term care adults and children (for behavioral health services only).

NOTE: Recipients qualifying for retroactive eligibility are enrolled in the waiver.

B. Mandatory participants shall be automatically enrolled and disenrolled from the MCOs or the CSoC contractor.

C. Notwithstanding the provisions of Subsection A of this Section, the following Medicaid recipients are excluded from enrollment in the MCOs and the CSoC contractor:

1. - 3. ...
4. recipients of refugee medical assistance;
5. recipients enrolled in the Spend-Down Medically Needy Program;
6. - 7. ...
8. recipients enrolled in the Take Charge Plus Program;
9. recipients enrolled in the Greater New Orleans Community Health Connection (GNOCHC) program; and

10. recipients enrolled in the Long-Term Care Medicare Co-Insurance program.

D. Any Medicaid eligible person is suspended from participation during a period of incarceration.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:361 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:1286 (July 2015), LR 41:

§105. Enrollment Process

A. The MCOs and the CSoC contractor shall abide by all enrollment and disenrollment policies and procedures as outlined in the contract entered into by department.

B. The MCOs and the CSoC contractor shall ensure that mechanisms are implemented to assess each Medicaid enrollee identified as having special health care needs in order to identify any ongoing conditions that require a course of treatment or regular care monitoring. The assessment mechanism shall incorporate appropriate health care professionals.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:361 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§107. Enrollee Rights and Responsibilities

A. The enrollee's rights shall include, but are not limited to the right to:

1. - 2. ...
3. appeal an MCO and CSoC contractor decision through the MCO's and CSoC contractor's internal process and/or the state fair hearing process;
4. receive a response about a grievance or appeal decision within a reasonable period of time determined by the department;
5. - 8. ...

B. The Medicaid recipient/enrollee's responsibilities shall include, but are not limited to:

1. informing their MCO or CSoC contractor of the loss or theft of their Medicaid identification card;
2. ...
3. being familiar with their MCO's or CSoC contractor's procedures to the best of his/her abilities;
4. contacting their MCO or CSoC contractor, by telephone or in writing (formal letter or electronically, including email), to obtain information and have questions clarified;
5. - 7. ...
8. accessing services only from specified providers contracted with their MCO or CSoC contractor.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:361 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 3. Managed Care Organizations and the Coordinated System of Care Contractor Participation

§301. Participation Requirements and Responsibilities

A. In order to participate in the Medicaid Program, an MCO and the CSoC contractor shall execute a contract with the department, and shall comply with all of the terms and conditions set forth in the contract.

B. MCOs and the CSoC contractor shall:

1. manage contracted services;
2. establish credentialing and re-credentialing policies consistent with federal and state regulations;
3. ensure that provider selection policies and procedures do not discriminate against particular providers that serve high-risk populations or specialize in conditions that require costly treatment;

a. Repealed.

4. maintain a written contract with subcontractors that specifies the activities and reporting responsibilities delegated to the subcontractor, and such contract shall also provide for the MCOs' or CSOC contractor's right to revoke said delegation, terminate the contract, or impose other sanctions if the subcontractor's performance is inadequate;

5. contract only with providers of services who are licensed and/or certified and meet the state of Louisiana credentialing criteria;

6. ensure that contracted rehabilitation providers are employed by a rehabilitation agency or clinic licensed and/or certified, and authorized under state law to provide these services;

7. sub-contract with a sufficient number of providers to render necessary services to Medicaid recipients/enrollees;

8. require each provider to implement mechanisms to assess each Medicaid enrollee identified as having special health care needs in order to identify special conditions of the enrollee that require a course of treatment or regular care monitoring;

9. ensure that treatment plans or plans of care meet the following requirements:

a. are developed by the enrollee's primary care provider (PCP) with the enrollee's participation and in consultation with any specialists' providing care to the enrollee, with the exception of treatment plans or plans of care developed for recipients in the Home and Community Based Services (HCBS) Waiver. The wraparound agency shall develop plans of care according to wraparound best practice standards for recipients who receive behavioral health services through the HCBS Waiver;

b. are approved by the MCO or CSoC contractor in a timely manner, if required;

c. are in accordance with any applicable state quality assurance and utilization review standards; and

d. allow for direct access to any specialist for the enrollee's condition and identified needs, in accordance with the contract; and

10. ensure that Medicaid recipients/enrollees receive information:

a. in accordance with federal regulations and as described in the contract and departmental guidelines;

b. on available treatment options and alternatives in a manner appropriate to the enrollee's condition and ability to understand; and

c. about available experimental treatments and clinical trials along with information on how such research can be accessed even though the Medicaid Program will not pay for the experimental treatment.

11 - 12.c. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:362 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§303. Benefits and Services

A. Benefits and services shall be rendered to Medicaid recipients/enrollees as provided under the terms of the contract and department-issued guidelines.

B. The MCO and CSoC contractor:

1. shall ensure that medically necessary services are sufficient in amount, duration, or scope to reasonably be expected to achieve the purpose for which the services are being furnished;

2. - 3.b....

4. shall provide benefits and services as outlined and defined in the contract and shall provide medically necessary and appropriate care to enrollees; and

C. The benefits and services provided to enrollees shall include, but are not limited to, those services specified in the contract between the MCOs and the CSoC contractor and the department.

1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:362 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§305. Service Delivery

A. The MCOs and CSoC contractor shall ensure that services rendered to enrollees are medically necessary, are authorized or coordinated, and are provided by professionals according to their scope of practice and licensing in the state of Louisiana.

B. ...

C. MCOs shall offer a contract to all federally qualified health centers (FQHCs), rural health clinics (RHCs), and tribal clinics. Enrollees shall have a choice of available providers in the plan's network to select from. The CSoC contractor shall be required to contract with at least one FQHC in each medical practice region of the state (according to the practice patterns within the state) if there is an FQHC which can provide substance use disorder services or specialty mental health services under state law and to the extent that the FQHC meets the required provider qualifications.

D. MCOs and the CSoC contractor shall ensure that the recipient is involved throughout the planning and delivery of services.

1. Services shall be:
 - a. delivered in a culturally and linguistically competent manner; and
 - b. respectful of the individual receiving services.
2. Services shall be appropriate to individuals of diverse racial, ethnic, religious, sexual, and gender identities and other cultural and linguistic groups.
3. Services shall be appropriate for:
 - a. age;
 - b. development; and
 - c. education.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:363 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 5. Reimbursement

§501. General Provisions

A. For recipients enrolled with the CSoC contractor, reimbursement for services shall be based upon the established Medicaid fee schedule for specialized behavioral health services.

B. For recipients enrolled in one of the MCOs, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs. The capitation rates paid to the MCOs shall be actuarially sound rates and the MCOs will determine the rates paid to its contracted providers. No payment shall be less than the minimum Medicaid rate.

C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:363 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:317 (February 2013), LR 41:

§503. Reimbursement Methodology (Reserved)

Chapter 7. Grievance and Appeals Process

§701. General Provisions

A. The MCOs and the CSoC contractor shall be required to have an internal grievance system and internal appeal process. The appeal process allows a Medicaid recipient/enrollee to challenge a decision made, a denial of coverage, or a denial of payment for services.

B. - C. ...

D. An enrollee must exhaust the MCO or the CSoC contractor grievance and appeal process before requesting a state fair hearing.

E. The MCO and CSoC contractor shall provide Medicaid enrollees with information about the state fair hearing process within the timeframes established by the department and in accordance with the state fair hearing policies.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:363 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 9. Monitoring Activities

§901. General Provisions

A. The contracted MCOs and the CSoC contractor shall be accredited by an accrediting body that is designated in the contract, or agrees to submit an application for accreditation at the earliest possible date as allowed by the accrediting body. Once accreditation is achieved, it shall be maintained through the life of this agreement.

B. The MCOs and CSoC contractor shall be required to track grievances and appeals, network adequacy, access to services, service utilization, quality measure and other monitoring and reporting requirements in accordance with the contract with the department.

C. - 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, Bureau of Health Services Financing, LR 38:363 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, September 24, 2015 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: Behavioral Health Services Louisiana Bayou Health and Coordinated System of Care Waiver

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 15-16. It is anticipated that \$2,052(\$1,026 SGF and \$1,026 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase revenue collections by an indeterminable amount beginning in FY 16-17 for the state premium taxes payable by managed care organizations (MCOs) equal to 2.25 percent of the capitation payments for specialized behavioral health services for children previously reimbursed on a non-risk basis to the statewide management organization and for capitation payments for physical and behavioral health services for approximately 5,000 people currently excluded from MCO participation who will be mandatorily enrolled in MCOs. It is anticipated that \$1,026 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing behavioral health services coordinated by a statewide management organization (SMO) in order to narrow the SMO's scope of service administration to coordinated system of care (CSoC) services only, revise the enrollment provisions, and revise the reimbursement methodology to reflect the integration of specialized behavioral health services into Bayou Health by establishing capitation payments for recipients enrolled in MCOs. For recipients enrolled with the CSoC contractor, reimbursement shall continue to be based upon the established Medicaid fee schedule for behavioral health services. It is anticipated that implementation of this proposed rule will not have economic cost or benefits to behavioral health services providers for FY 15-16, FY 16-17 and FY 17-18, and no fiscal impact to the Medicaid Program since the proposed rule merely changes the federal authority under which services are delivered and it does not change the covered services, provider reimbursement, or overall managed care participation, except for two populations. Spend-Down Medically Needy Program (SD/MNP) recipients will return to legacy Medicaid and approximately 5,000 recipients excluded from managed care participation will be mandatorily enrolled in MCOs. It is

anticipated that the change for these two populations will have no discernible programmatic fiscal impact to the Medicaid program due to their small numbers, the limited and retrospective nature of SD/MNP eligibility, and the managed care savings to be realized in the transition from the fee-for-service delivery model for the previously excluded groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1508#070

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

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

Behavioral Health Services
Substance Use Disorders Services
(LAC 50:XXXIII.Chapters 141-147)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 141-147 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health currently provide substance use disorders (SUD) services for children and adults through a coordinated behavioral health services system under the Medicaid Program.

The department now proposes to amend the provisions governing substance abuse services to: 1) update the terminology and service criteria; 2) revise the provisions governing provider certification; and 3) revise the reimbursement methodology for children's services to reflect the integration of specialized behavioral health services into Bayou Health by establishing a capitated rate for recipients enrolled in one of the managed care organizations (MCOs). The non-risk reimbursement methodology will continue to be utilized for children/youth enrolled in the coordinated system of care (CSoC) through a CSoC contractor.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 15. Substance Use Disorders Services

Chapter 141. General Provisions

§14101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid state plan for substance use disorders (SUD) services rendered to children and adults. These services shall be administered under the authority of the Department of Health and Hospitals, in collaboration with managed care organizations (MCOs) and the coordinated system of care (CSoC) contractor, which

shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery. The CSoC contractor shall only manage specialized behavioral health services for children/youth enrolled in the CSoC program.

B. The SUD services rendered shall be those services which are medically necessary to reduce the disability resulting from the illness and to restore the individual to his/her best possible functioning level in the community.

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 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§14103. Recipient Qualifications

A. Children and adults who meet Medicaid eligibility and clinical criteria shall qualify to receive medically necessary SUD services.

B. Qualifying children and adults with an identified SUD diagnosis shall be eligible to receive SUD services covered under the Medicaid state plan.

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 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 143. Services

§14301. General Provisions

A. ...

B. SUD services are subject to prior approval by the MCO or the CSoC contractor.

C. - D. ...

1. The agency or individual who has the decision making authority for a child or adolescent in state custody must approve the provision of services to the recipient.

E. Children who are in need of SUD services shall be served within the context of the family and not as an isolated unit.

1. Services shall be:

a. delivered in a culturally and linguistically competent manner; and

b. respectful of the individual receiving services.

2. Services shall be appropriate to individuals of diverse racial, ethnic, religious, sexual, and gender identities, and other cultural and linguistic groups.

3. Services shall also be appropriate for:

a. age;

b. development; and

c. education.

4. Repealed.

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, Bureau of Health Services Financing, LR 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§14303. Covered Services

A. The following SUD services shall be reimbursed under the Medicaid Program:

A.1. - B.2. ...

3. any services or components in which the basic nature of which are to supplant housekeeping, homemaking, or basic services for the convenience of an individual receiving services;

4. - 5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 145. Provider Participation

§14501. Provider Responsibilities

A. Each provider of SUD services shall enter into a contract with one or more of the MCOs or the CSoC contractor in order to receive reimbursement for Medicaid covered services.

B. All services shall be delivered in accordance with federal and state laws and regulations, the provisions of this Rule, the provider manual, and other notices or directives issued by the department. Providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes.

C. Providers of SUD services shall ensure that all services are authorized and any services that exceed established limitations beyond the initial authorization are approved for re-authorization prior to service delivery.

D. Anyone providing SUD services must be certified by the department, or its designee, in addition to operating within their scope of practice license. To be certified or recertified, providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes.

E. Residential addiction treatment facilities shall be accredited by an approved accrediting body and maintain such accreditation. Denial, loss of or any negative change in accreditation status must be reported to the MCO or CSoC contractor in writing within the time limit established by the department.

F. - F.6. ...

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 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 147. Reimbursement

§14701. General Provisions

A. For recipients enrolled with the CSoC contractor, reimbursement for services shall be based upon the established Medicaid fee schedule for SUD services.

B. For recipients enrolled in one of the MCOs, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs. The capitation rates paid to the MCOs shall be actuarially sound rates and the MCOs

will determine the rates paid to its contracted providers. No payment shall be less than the minimum Medicaid rate.

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 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:3301 (December 2013), LR 41:

§14703. Reimbursement Methodology

A. Effective for dates of service on or after July 1, 2012, the reimbursement rates for outpatient SUD services provided to children/adolescents shall be reduced by 1.44 percent of the rates in effect on June 30, 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, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, September 24, 2015 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: Behavioral Health Services Substance Use Disorders Services

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 15-16. It is anticipated that \$1,080 (\$540 SGF and \$540 FED) will be expended in FY 15-16 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 15-16. It is anticipated that \$540 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing substance abuse services in order to update the terminology and service criteria, revise the provisions governing provider certification, and revise the reimbursement methodology for children's services to reflect the integration of specialized behavioral health services into Bayou Health by establishing a capitated rate for recipients enrolled in one of the managed care organizations (MCOs). The non-risk reimbursement methodology will continue to be utilized for children/youth in the coordinated system of care (CSoc) through a CSoc contractor. It is anticipated that implementation of this proposed rule will not have economic cost or benefits to behavioral health services providers for FY 15-16, FY 16-17 and FY 17-18, and no fiscal impact to the Medicaid Program because it does not change eligible individuals, covered services, or provider reimbursement rates.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1508#071

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

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

Children's Behavioral Health Services
(LAC 50:XXXIII.Chapters 21-27)

The Department of Health and Hospitals, Bureau of Health Services Financing and Office of Behavioral Health propose to amend LAC 50:XXXIII Chapters 21-27 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to implement a coordinated behavioral health services system under the Louisiana Medicaid Program to provide behavioral health services to children and youth (*Louisiana Register*, Volume 38, Number 2).

The department proposes to amend the provisions governing children's behavioral health services in order to: 1) narrow the statewide management organization's scope of service administration to coordinated system of care (CSoC) services only; 2) delegate provider certification functions to managed care organizations (MCOs) if the department so chooses; 3) establish coverage for crisis stabilization services; 4) remove the service limitations for psychosocial rehabilitation and crisis intervention services; and 5) revise the reimbursement methodology to reflect the integration of specialized behavioral health services into Bayou Health by establishing capitation payments to managed care organizations rather than a statewide management organization. For recipients enrolled with the CSoC contractor, reimbursement shall be based upon the established Medicaid fee schedule for behavioral health services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 3. Children's Mental Health Services

Chapter 21. General Provisions

§2101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for mental health services rendered to children and youth with behavioral health disorders. These services shall be administered under the authority of the Department of Health and Hospitals, in collaboration with a managed care organizations (MCOs) and the coordinated system of care (CSoC) contractor, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery. The CSoC contractor shall only manage specialized behavioral health services for children/youth enrolled in the coordinated system of care.

B. The specialized behavioral health services rendered to children with emotional or behavioral disorders are those services necessary to reduce the disability resulting from the

illness and to restore the individual to his/her best possible functioning level in the community.

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 38:364 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 23. Services

§2301. General Provisions

A. All specialized behavioral health services must be medically necessary. The medical necessity for services shall be determined by a licensed mental health practitioner (LMHP) or physician who is acting within the scope of his/her professional license and applicable state law.

B. All services shall be authorized. Services which exceed the initial authorization must be approved for re-authorization prior to service delivery.

C. - C.1. ...

D. Children who are in need of specialized behavioral health services shall be served within the context of the family and not as an isolated unit.

1. Services shall be:

a. delivered in a culturally and linguistically competent manner; and

b. respectful of the individual receiving services.

2. Services shall be appropriate to children and youth of diverse racial, ethnic, religious, sexual, and gender identities and other cultural and linguistic groups.

3. Services shall also be appropriate for:

a. age;

b. development; and

c. education.

4. Repealed.

E. - 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, Bureau of Health Services Financing, LR 38:364 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§2303. Covered Services

A. The following behavioral health services shall be reimbursed under the Medicaid Program:

1. therapeutic services delivered by licensed mental health professionals (LMHP), including diagnosis and treatment;

2. rehabilitation services, including community psychiatric support and treatment (CPST) and psychosocial rehabilitation;

3. crisis intervention services; and

4. crisis stabilization services.

B. Service Exclusions. The following services shall be excluded from Medicaid reimbursement:

1. components that are not provided to, or directed exclusively toward the treatment of, the Medicaid eligible individual;

2. services provided at a work site which are job tasks oriented and not directly related to the treatment of the recipient's needs;

3. any services or components in which the basic nature of which are to supplant housekeeping, homemaking,

or basic services for the convenience of an individual receiving services;

4. services rendered in an institute for mental disease; and

5. the cost of room and board associated with crisis stabilization.

C. - C.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:364 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 25. Provider Participation

§2501. Provider Responsibilities

A. Each provider of specialized behavioral health services shall enter into a contract with one or more of the MCOs and with the CSoc contractor for youth enrolled in the Coordinated System of Care program in order to receive reimbursement for Medicaid covered services.

B. ...

C. Providers of specialized behavioral health services shall ensure that all services are authorized and any services that exceed established limitations beyond the initial authorization are approved for re-authorization prior to service delivery.

D. Anyone providing specialized behavioral health services must be certified by the department, or its designee, in addition to operating within their scope of practice license. To be certified or recertified, providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes. The provider shall create and maintain documents to substantiate that all requirements are met.

E. Providers shall maintain case records that include, at a minimum:

1. a copy of the plan of care or treatment plan,;

2. - 5. ...

6. the goals of the plan of care or treatment plan.

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 38:364 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 27. Reimbursement

§2701. General Provisions

A. For recipients enrolled with the CSoc contractor, reimbursement for services shall be based upon the established Medicaid fee schedule for specialized behavioral health services.

B. For recipients enrolled in one of the MCOs, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs. The capitation rates paid to MCOs shall be actuarially sound rates and the MCOs will determine the rates paid to its contracted providers. No payment shall be less than the minimum Medicaid rate.

1. - 3. 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 38:365 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:317 (February 2013), LR 41:

§2703. Reimbursement Methodology

A. Effective for dates of service on or after July 1, 2012, the reimbursement rates for the following behavioral health services provided to children/adolescents shall be reduced by 1.44 percent of the rates in effect on June 30, 2012:

1. therapeutic services;

2. rehabilitation services; and

3. crisis intervention services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, September 24, 2015 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: Children's Behavioral Health Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule may increase programmatic costs to the state by an indeterminable amount in FY 15-16, FY 16-17 and FY 17-18. It is anticipated that \$1,080 (\$540 SGF and \$540 FED) will be expended in FY 15-16 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 may increase revenue collections by an indeterminable amount in FY 15-16, FY 16-17 and FY 17-18. It is anticipated that \$594 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing children's behavioral health services in order to narrow the statewide management organization's scope of service administration to coordinated system of care (CSoC) services only, delegate provider certification functions to managed care organizations (MCOs) if the department so chooses, establish coverage for crisis stabilization services, remove the service limitations on psychosocial rehabilitation and crisis intervention services, and revise the reimbursement methodology to reflect the integration of specialized behavioral health services into Bayou Health by establishing capitation payments to MCOs rather than a statewide management organization. For recipients enrolled with the CSoC contractor, reimbursement shall be based upon the established Medicaid fee schedule for behavioral health services. It is anticipated that implementation of this proposed rule may have economic benefits to behavioral health services providers in FY 15-16, FY 16-17 and FY 17-18, and may increase the programmatic costs to the Medicaid Program by an indeterminable amount if the addition of crisis stabilization as a covered service and the removal of service limitations on psychosocial rehabilitation and crisis intervention services increases utilization of these services and the anticipated offsetting savings from decreased inpatient hospital services utilization is not realized.

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
Medicaid Director
1508#072

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

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

Home and Community-Based Behavioral Health Services
Waiver (LAC 50:XXXIII.Chapters 81-85)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 81-85 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health currently provide behavioral health services to Medicaid eligible children diagnosed with mental illness or a serious emotional disturbance through the Home and Community-Based Services (HCBS) Waiver as part of the coordinated behavioral health services system under the Medicaid Program.

The department now proposes to amend the provisions governing home and community-based behavioral health services to: 1) narrow the statewide management organization's scope of service administration to coordinated system of care (CSoC) services only; 2) delegate provider certification functions to managed care organizations if the department so chooses; and 3) revise the provisions governing the recipient qualifications and the services covered under the waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 9. Home and Community-Based Services Waiver

Chapter 81. General Provisions

§8101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for behavioral health services rendered to children with mental illness and severe emotional disturbances (SED) by establishing a home and community-based services (HCBS) waiver. This HCBS waiver shall be administered under the authority of the Department of Health and Hospitals, in collaboration with the coordinated system of care (CSoC) contractor, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. - C. ...

D. Local wraparound agencies will be the locus of treatment planning for the provision of all services. Wraparound agencies are the care management agencies for the day-to-day operations of the waiver in the parishes they serve. The wraparound agencies shall enter into a contract with the CSoC contractor and are responsible for the

treatment planning for the HCBS waiver in their areas, in accordance with 42 CFR 438.208(c).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:366 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§8103. Recipient Qualifications

A. The target population for the Home and Community-Based Behavioral Health Services Waiver program shall be Medicaid recipients who:

1. ...
2. have a qualifying mental health diagnosis;
3. are identified as seriously emotionally disturbed (SED), which applies to youth under the age of 18 or seriously mentally ill (SMI) which applies to youth ages 18-21;

A.4. - B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:366 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 83. Services

§8301. General Provisions

A. - C. ...

1. The agency or individual who has the decision making authority for a child or adolescent in state custody must approve the provision of services to the recipient.

D. Children who are in need of behavioral health services shall be served within the context of the family and not as an isolated unit.

1. Services shall be:

- a. delivered in a culturally and linguistically competent manner; and
 - b. respectful of the individual receiving services.
2. Services shall be appropriate to children and youth of diverse racial, ethnic, religious, sexual, and gender identities and other cultural and linguistic groups.
3. Services shall also be appropriate for:
- a. age;
 - b. development; and
 - c. education.

4. Repealed.

E. - G.1.f. ...

2. The family member must become an employee of the provider agency or contract with the CSoC contractor and must meet the same standards as direct support staff that are not related to 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, Bureau of Health Services Financing, LR 38:367 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§8303. Service Plan Development

A. The wraparound facilitator is responsible for convening the child and family team to develop the initial waiver specific plan of care within 30 days of receipt of referral from the managed care organization.

B. If new to the system, the recipient will be receiving services based upon the preliminary plan of care (POC) while the wraparound process is being completed.

C. ...

D. The wraparound agency will facilitate development and implementation of a transition plan for each recipient beginning at the age of 15 years old, as he/she approaches adulthood.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:367 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§8305. Covered Services

A. The following behavioral health services shall be provided in the HCBS waiver program:

1. short-term respite care;
 2. independent living/skills building;
 3. youth support and training; and
 4. parent support and training.
5. - 7. ...

B. Service Limitations

1. ...
3. Repealed.

C. Service Exclusions. The following services shall be excluded from Medicaid reimbursement:

1. - 2. ...
3. any services or components in which the basic nature of which are to supplant housekeeping, homemaking, or basic services for the convenience of an individual receiving services; and
4. services rendered in an institution for mental disease.
5. 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 38:367 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 85. Provider Participation

§8501. Provider Responsibilities

A. Each provider of home and community-based behavioral health waiver services shall enter into a contract with the CSoC contractor in order to receive reimbursement for Medicaid covered services.

B. - C. ...

D. Anyone providing behavioral health services must be certified by the department, or its designee, in addition to operating within their scope of practice license. To be

certified or recertified, providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes. The provider shall create and maintain documents to substantiate that all requirements are met.

E. Providers shall maintain case records that include, at a minimum:

1. a copy of the plan of care;
2. - 5. ...
6. the goals of the plan of care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:368 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, September 24, 2015 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: Home and Community-Based Behavioral Health Services Waiver

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule may increase programmatic costs to the state by an indeterminable amount in FY 15-16, FY 16-17 and FY 17-18. It is anticipated that \$1,080 (\$540 SGF and \$540 FED) will be expended in FY 15-16 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 may increase revenue collections for the federal share of programmatic costs by an indeterminable amount in FY 15-16, FY 16-17, and FY 17-18. It is anticipated that \$540 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing home and community-based behavioral health services to narrow the statewide management organization's (SMO) scope of service administration to coordinated system of care (CSoC) services only, delegate provider certification functions to managed care organizations, and revise the provisions governing the recipient qualifications and the services covered under the waiver. It is anticipated that the implementation of this proposed rule may have economic benefits to the CSoC contractor in FY 15-16, FY 16-17 and FY 17-18, and may increase the programmatic costs to the Medicaid Program by an indeterminable amount if the administrative costs of the future CSoC contractor exceed the administrative costs of the current statewide management organization for the CSoC population. The relative cost cannot be determined at this time because a CSoC contract has not yet been awarded. The elimination of service limitations for crisis stabilization services is expected to have no costs or benefits to either the behavioral health service providers or the CSoC contractor since the services have been virtually unused by recipients.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1508#073

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Managed Care for Physical and Behavioral Health
Behavioral Health Integration
(LAC 50:I.Chapters 31-37)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:I.Chapters 31-40 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 coordinated care network in order to change the name in this Subpart to *Managed Care for Physical and Basic Behavioral Health* and to incorporate other necessary programmatic changes (*Louisiana Register*; Volume 41, Number 5). This Notice of Intent also incorporated provisions to permit Medicaid eligible children identified in the *Melanie Chisholm, et al vs. Kathy Kliebert* class action litigation (hereafter referred to as *Chisholm* class members) to have the option of voluntarily enrolling into a participating health plan under the Bayou Health program.

Currently, specialized behavioral health services, including state plan §1915(c) services for children and §1915(i) state plan services, are provided under the Louisiana Behavioral Health Partnership through a statewide management organization and carved out of the Bayou Health program.

The department now proposes to amend the provisions governing managed care for physical and basic behavioral health in order to reflect the integration of specialized behavioral health services into Bayou Health as a result of the narrowing of the statewide management organization's scope of service administration for certain behavioral health services. This proposed Rule will also amend the provisions governing recipient participation in order to enroll additional populations into Bayou Health that had been exempt/excluded from participation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 31. General Provisions

§3101. Introduction

A. - A.5. ...

B. Effective for dates of service on or after December 1, 2015, the department will operate a managed care delivery system for an expanded array of services to include comprehensive, integrated physical and behavioral health (basic and specialized) services, named the Bayou Health program, utilizing one model, a risk bearing managed care organization (MCO), hereafter referred to as a "MCO".

C. It is the department's intent to procure the provisions of healthcare services statewide to Medicaid enrollees participating in the Bayou Health program from risk bearing MCOs through the competitive bid process.

1. The number of MCOs shall be no more than required to meet the Medicaid enrollee capacity requirements and ensure choice for Medicaid recipients as required by federal statute.

D. - D.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 37:1573 (June 2011), amended LR 41:928 (May 2015), LR 41:

§3103. Recipient Participation

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

1. mandatory enrollees:

a. children up to 19 years of age who are eligible under §1902 and §1931 of the Social Security Act (hereafter referred to as the Act) as poverty-level related groups and optional groups of older children;

b. parents and caretaker relatives who are eligible under §1902 and §1931 of the Act;

c. Children's Health Insurance Program (CHIP) (title XXI) children enrolled in Medicaid expansion program (LaCHIP Phase I, II, III);

d. CHIP (title XXI) prenatal care option (LaCHIP Phase IV) and children enrolled in the separate, stand-alone CHIP program (LaCHIP Phase V);

e. pregnant women whose basis for eligibility is pregnancy, who are only eligible for pregnancy-related services, and whose eligibility extends until 60 days after the pregnancy ends;

f. non-dually eligible aged, blind, and disabled adults over the age of 19;

g. 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;

h. individuals eligible through the Tuberculosis Infected Individual Program;

i. former foster care children eligible under §1902(a)(10)(A)(i)(IX) and (XVII) of the Act; or

i. - v. Repealed.

j. individuals and families who have more income than is allowed for Medicaid eligibility, but who meet the standards for the Regular Medically Needy Program.

2. - 3. Repealed.

B. Mandatory, Voluntary Opt-In Participants

1. Participation in an MCO for the following participants is mandatory for specialized behavioral health and non-emergency medical transportation (NEMT) services only, and is voluntary for physical health services:

a. individuals who receive services under the authority of the following 1915(c) home and community-based services waivers; and

i. Adult Day Health Care (ADHC) waiver;

ii. Community Choices Waiver (CCW);

iii. New Opportunities Waiver (NOW);

iv. Children's Choice (CC) waiver;

v. Residential Options Waiver (ROW); and

vi. Supports Waiver (SW);

b. individuals under the age of 21 who are otherwise eligible for Medicaid, and who are listed on the DHH Office for Citizens with Developmental Disabilities' request for services registry. These children are identified as *Chisholm* class members:

i. ...

ii. Repealed.

C. Mandatory, voluntary opt-in populations may initially elect to receive physical health services through Bayou Health at any time.

D. Mandatory, voluntary opt-in populations who elected to receive physical health services through Bayou Health, but returned to legacy Medicaid for physical health services, may return to Bayou Health for physical health services only during the annual open enrollment period.

1. - 1.f. Repealed.

E. Mandatory MCO Populations—Specialized Behavioral Health Services Only

1. The following populations are mandatory enrollees in Bayou Health for specialized behavioral health services only:

- a. individuals residing in nursing facilities; and
- b. individuals under the age of 21 residing in intermediate care facilities for persons with intellectual disabilities (ICF/ID).

F. Mandatory MCO Populations—Specialized Behavioral Health and NEMT Services Only

1. Individuals who receive both Medicare and Medicaid (e.g. Medicaid dual eligibles) are mandatory enrollees in Bayou Health for specialized behavioral health and non-emergency medical transportation services only.

G. The enrollment broker will ensure that all participants are notified at the time of enrollment that they may request dis-enrollment from the MCO at any time for cause.

H. Participation Exclusion

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

- a. reside in an ICF/ID (adults);
- b. are partial dual eligibles;
- c. receive services through the Program for All-Inclusive Care for the Elderly (PACE);
- d. have a limited period of eligibility and participate in either the Spend-Down Medically Needy Program or the Emergency Services Only program;
- e. receive services through the Take Charge Plus program; or
- f. are participants in the Greater New Orleans Community Health Connection (GNOCHC) Waiver program.

1. The department reserves the right to institute a medical exemption process for certain medically high risk recipients that may warrant the direct care and supervision of a non-primary care specialist on a case by case 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, LR 36:2465 (November 2010), LR 37:680 (February 2011), LR 37:1573 (June 2011), amended LR 40:310 (February 2014), LR 40:1096 (June 2014), LR 40:2258 (November 2014), LR 41:929 (May 2015), LR 41:

§3105. Enrollment Process

A. - C.3. ...

D. Special Open Enrollment Period for Specialized Behavioral Health Integration

1. The department, through its enrollment broker, will provide an opportunity for all populations to be mandatorily enrolled into Bayou Health for specialized behavioral health

services. These populations will be given a 60-day choice period to proactively choose an MCO.

2. Each potential MCO member shall receive information and the offer of assistance with making informed choices about the participating MCOs and the availability of choice counseling.

a. - b. Repealed.

3. During the special enrollment period, current members who do not proactively request reassignment will remain with their existing MCO.

4. These new members will be encouraged to make a choice among the participating MCOs. When no choice is made, auto-assignment will be used as outlined in §3105.G2.a.

E. Special Enrollment Provisions for Mandatory, Opt-In Population Only

1. Mandatory, opt-in populations may request participation in Bayou Health for physical health services at any time. The effective date of enrollment shall be no later than the first day of the second month following the calendar month the request for enrollment is received. Retroactive begin dates are not allowed.

2. The enrollment broker will ensure that all mandatory, opt-in populations are notified at the time of enrollment of their ability to disenroll for physical health at any time. The effective date will be the first day of a month, and no later than the first day of the second month following the calendar month the request for disenrollment is received.

a. - a.i. Repealed.

3. Following an opt-in for physical health and selection of an MCO and subsequent 90-day choice period, these members will be locked into the MCO for 12 months from the effective date of enrollment or until the next annual enrollment period unless they elect to disenroll from physical health.

4. - 5.b. Repealed.

F. Enrollment of Newborns. Newborns of Medicaid eligible mothers, who are enrolled at the time of the newborn's birth, will be automatically enrolled with the mother's MCO, retroactive to the month of the newborn's birth.

1. If there is an administrative delay in enrolling the newborn and costs are incurred during that period, the member shall be held harmless for those costs and the MCO shall pay for these services.

a. - c. Repealed.

2. The MCO and its providers shall be required to:

a. report the birth of a newborn within 48 hours by requesting a Medicaid identification (ID) number through the department's online system for requesting Medicaid ID numbers; and

b. complete and submit any other Medicaid enrollment form required by the department.

2.c. - 3. Repealed.

G. Selection of an MCO

1. As part of the eligibility determination process, Medicaid and LaCHIP applicants, for whom the department determines eligibility, shall receive information and assistance with making informed choices about participating MCOs from the enrollment broker. These individuals will be afforded the opportunity to indicate the plan of their choice on their Medicaid financial application form or in a

subsequent contract with the department prior to determination of Medicaid eligibility.

a. - c. Repealed.

2. All new recipients who have made a proactive selection of an MCO shall have that MCO choice transmitted to the enrollment broker immediately upon determination of Medicaid or LaCHIP eligibility. The member will be assigned to the MCO of their choosing unless the plan is otherwise restricted by the department.

a. Recipients who fail to choose an MCO shall be automatically assigned to an MCO by the enrollment broker, and the MCO shall be responsible to assign the member to a primary care provider (PCP) if a PCP is not selected at the time of enrollment into the MCO.

b. For mandatory populations for all covered services as well as mandatory, specialized behavioral health populations, the auto-assignment will automatically enroll members using a hierarchy that takes into account family/household member enrollment, or a round robin method that maximizes preservation of existing specialized behavioral health provider-recipient relationships.

3. All new recipients shall be immediately, automatically assigned to an MCO by the enrollment broker if they did not select an MCO during the financial eligibility determination process.

4. All new recipients will be given 90 days to change plans if they so choose.

5. The following provisions will be applicable for recipients who are mandatory participants.

a. If there are two or more MCOs in a department designated service area in which the recipient resides, they shall select one.

b. Recipients may request to transfer out of the MCO for cause and the effective date of enrollment into the new plan shall be no later than the first day of the second month following the calendar month that the request for disenrollment is filed.

H. Automatic Assignment Process

1. The following participants shall be automatically assigned to an MCO by the enrollment broker in accordance with the department's algorithm/formula and the provisions of §3105.E:

a. mandatory MCO participants, with the exceptions noted in §3105.G.2.a.i;

b. pregnant women with Medicaid eligibility limited to prenatal care, delivery and post-partum services; and

c. other recipients as determined by the department.

2. MCO automatic assignments shall take into consideration factors including, but not limited to:

a. assigning members of family units to the same MCO;

b. existing provider-enrollee relationships;

c. previous MCO-enrollee relationship;

d. MCO capacity; and

e. MCO performance outcome indicators.

3. MCO assignment methodology shall be available to recipients upon request to the enrollment broker.

I. Selection or Automatic Assignment of a Primary Care Provider for Mandatory Populations for All Covered Services

1. The MCO is responsible to develop a PCP automatic assignment methodology in accordance with the department's requirements for the assignment of a PCP to an enrollee who:

a. does not make a PCP selection after being offered a reasonable opportunity by the MCO to select a PCP;

b. selects a PCP within the MCO that has reached their maximum physician/patient ratio; or

c. selects a PCP within the MCO that has restrictions/limitations (e.g. pediatric only practice).

2. The PCP automatically assigned to the member shall be located within geographic access standards, as specified in the contract, of the member's home and/or who best meets the needs of the member. Members for whom an MCO is the secondary payor will not be assigned to a PCP by the MCO, unless the member requests that the MCO do so.

3. If the enrollee does not select an MCO and is automatically assigned to a PCP by the MCO, the MCO shall allow the enrollee to change PCP, at least once, during the first 90 days from the date of assignment to the PCP. Effective the ninety-first day, a member may be locked into the PCP assignment for a period of up to nine months beginning from the original date that he/she was assigned to the MCO.

4. If a member requests to change his/her PCP for cause at any time during the enrollment period, the MCO must agree to grant the request.

J. Lock-In Period

1. Members have 90 days from the initial date of enrollment into an MCO in which they may change the MCO for any reason. Medicaid enrollees may only change MCOs without cause within the initial 90 days of enrollment in an MCO. After the initial 90-day period, Medicaid enrollees/members shall be locked into an MCO until the annual open enrollment period, unless disenrolled under one of the conditions described in this Section, with the exception of the mandatory, opt-in populations, who may disenroll from Bayou Health for physical health and return to legacy Medicaid at any time.

K. Annual Open Enrollment

1. The department will provide an opportunity for all MCO members to retain or select a new MCO during an annual open enrollment period. Notification will be sent to each MCO member and voluntary members who have opted out of participation in Bayou Health at least 60 days prior to the effective date of the annual open enrollment. Each MCO member shall receive information and the offer of assistance with making informed choices about MCOs in their area and the availability of choice counseling.

2. Members shall have the opportunity to talk with an enrollment broker representative who shall provide additional information to assist in choosing the appropriate MCO. The enrollment broker shall provide the individual with information on each MCO from which they may select.

3. During the open enrollment period, each Medicaid enrollee shall be given the option to either remain in their existing MCO or select a new MCO.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1574 (June 2011), amended LR 40:310 (February 2014), LR 40:1097 (June 2014), LR 41:929 (May 2015), LR 41:

§3107. Disenrollment and Change of Managed Care Organization

A. - D.1.e.ii. ...

iii. the member's active specialized behavioral health provider ceases to contract with the MCO; or

iv. documented lack of access to providers experienced in dealing with the enrollee's health care needs.

E. Involuntary Disenrollment

1. The MCO may submit an involuntary disenrollment request to the enrollment broker, with proper documentation for fraudulent use of the MCO identification card. In such cases, the MCO shall report the incident to the Bureau of Health Services Financing.

a. - b. Repealed.

2. - 4.f. ...

g. uncooperative or disruptive behavior resulting from his or her special needs;

h - i. ...

F. Department Initiated Disenrollment

1. The department will notify the MCO of the member's disenrollment or change in eligibility status due to the following reasons:

F.1.a. - G.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1575 (June 2011), amended LR 40:311 (February 2014), LR 41:931 (May 2015), LR 41:

§3109. Member Rights and Responsibilities

A. - A.10. ...

11. be furnished health care services in accordance with all other applicable federal regulations.

B. - C.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 37:1576 (June 2011), amended LR 40:311 (February 2014), LR 41:930 (May 2015), LR 41:

Chapter 35. Managed Care Organization Participation Criteria

§3501. Participation Requirements

A. - B.5. ...

6. have a network capacity to enroll a minimum of 250,000 Medicaid and LaCHIP eligibles; and

7. - 9. ...

C. An MCO shall ensure the provision of core benefits and services to Medicaid enrollees as specified in the terms of the contract.

D. - I.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1583 (June 2011), amended LR 41:933 (May 2015), LR 41:

§3503. Managed Care Organization Responsibilities

A. - P.1. ...

a. The MCO must submit all proposed changes to the member handbooks and/or provider handbooks to the department for review and approval in accordance with the terms of the contract and the department issued guides.

b. ...

Q. The member handbook shall include, but not be limited to:

1. - 3. ...

a. a member's right to disenroll from the MCO, including disenrollment for cause;

3.b. - 4.c. ...

5. the amount, duration, and scope of benefits available under the MCO's contract with the department in sufficient detail to ensure that members have information needed to aid in understanding the benefits to which they are entitled including, but not limited to:

a. specialized behavioral health;

b. information about health education and promotion programs, including chronic care management;

c. the procedures for obtaining benefits, including prior authorization requirements and benefit limits;

d. how members may obtain benefits, including family planning services, from out-of-network providers;

e. how and where to access any benefits that are available under the Louisiana Medicaid state plan, but are not covered under the MCO's contract with the department;

f. information about early and periodic screening, diagnosis and treatment (EPSDT) services;

g. how transportation is provided, including how to obtain emergency and non-emergency medical transportation;

h. the post-stabilization care services rules set forth in 42 CFR 422.113(c);

i. the policy on referrals for specialty care, including specialized behavioral health services and other benefits not furnished by the member's primary care provider;

j. for counseling or referral services that the MCO does not cover because of moral or religious objections, the MCO is required to furnish information on how or where to obtain the service;

k. how to make, change, and cancel medical appointments and the importance of canceling and/or rescheduling rather than being a "no show";

l. the extent to which and how after-hour crisis and emergency services are provided; and

m. information about the MCO's formulary and/or preferred drug list (PDL), including where the member can access the most current information regarding pharmacy benefits;

6. - 7. ...

8. instructions on how to request multi-lingual interpretation and translation services when needed at no cost to the member. This information shall be included in all versions of the handbook in English and Spanish;

9. grievance, appeal, and state fair hearing procedures and time frames as described in 42 CFR §438.400 through §438.424 and the MCO's contract with the department; and

10. information regarding specialized behavioral health services, including but not limited to:

a. a description of covered behavioral health services;

b. where and how to access behavioral health services and behavioral health providers, including emergency or crisis services;

c. general information on the treatment of behavioral health conditions and the principles of:

i. adult, family, child, youth and young adult engagement;

ii. resilience;

iii. strength-based and evidence-based practices; and

iv. best/proven practices;

d. description of the family/caregiver or legal guardian role in the assessment, treatment, and support for individuals with an emphasis on promoting engagement, resilience, and the strengths of individuals and families; and

e. any limitations involving the provision of information for adult persons who do not want information shared with family members, including age(s) of consent for behavioral health treatment, as per 42 CFR part 2.

R. The provider handbook shall include, but not be limited to:

1. - 4. ...

5. grievance and appeals procedures and process;

6. other policies, procedures, guidelines, or manuals containing pertinent information related to operations and pre-processing claims;

7. description of the MCO;

8. core benefits and services the MCO must provide, including a description of all behavioral health services;

9. information on how to report fraud, waste and abuse; and

10. information on obtaining transportation for members.

S. The provider directory for members shall be developed in four formats:

1. ...

2. an accurate electronic file refreshed weekly of the directory in a format to be specified by the department and used to populate a web-based online directory for members and the public;

3. an accurate electronic file refreshed weekly of the directory for use by the enrollment broker; and

4. a hard copy abbreviated version, upon request by the enrollment broker.

T. - T.1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1583 (June 2011), amended LR 39:92 (January 2013), LR 40:66 (January 2014), LR 41:933 (May 2015), LR 41:

§3507. Benefits and Services

A. - C.4. ...

D. The following is a summary listing of the core benefits and services that an MCO is required to provide:

1. - 5. ...

6. EPSDT/well child visits, excluding applied behavior analysis (ABA) therapy services and dental services;

7. - 12. ...

13. basic and specialized behavioral health services, excluding Coordinated System of Care services;

14. - 18. ...

19. pharmacy services (outpatient prescription medicines dispensed, with the exception of those who are enrolled in Bayou Health for behavioral health services only, or the contractual responsibility of another Medicaid managed care entity):

a. specialized behavioral health only members will receive pharmacy services through legacy Medicaid;

20. ...

21. personal care services (age 0-20);

22. pediatric day healthcare services;

23. audiology services;

24. ambulatory surgical services;

25. laboratory and radiology services;

26. emergency and surgical dental services;

27. clinic services;

28. pregnancy-related services;

29. pediatric and family nurse practitioner services;

30. licensed mental health professional services, including advanced practice registered nurse (APRN) services;

31. federally qualified health center (FQHC)/rural health clinic (RHC) services;

32. early stage renal disease (ESRD) services;

33. optometry services;

34. podiatry services;

35. rehabilitative services, including crisis stabilization;

36. respiratory services; and

37. section 1915(i) services.

NOTE: ...

E. Transition Provisions

1. In the event a member transitions from an MCO included status to an MCO excluded status or MCO specialized behavioral health only status before being discharged from a hospital and/or rehabilitation facility, the cost of the entire admission will be the responsibility of the MCO. This is only one example and does not represent all situations in which the MCO is responsible for cost of services during a transition.

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

G. Excluded Services

1. The following services will continue to be reimbursed by the Medicaid Program on a fee-for-service basis, with the exception of dental services which will be reimbursed through a dental benefits prepaid ambulatory health plan under the authority of a 1915(b) waiver. The MCO shall provide any appropriate referral that is medically necessary. The department shall have the right to incorporate these services at a later date if the member capitation rates have been adjusted to incorporate the cost of such service. Excluded services include:

a. ...

b. intermediate care facility services for persons with intellectual disabilities;

c. personal care services (age 21 and over);

- d. nursing facility services;
- e. individualized education plan services provided by a school district and billed through the intermediate school district, or school-based services funded with certified public expenditures;
- f. ABA therapy services;
- g. targeted case management services; and
- h. all OAAS/OCDD home and community-based §1915(c) waiver services.

i. Repealed.

H. Utilization Management

1. ...

a. The MCO shall submit UM policies and procedures to the department for written approval annually and subsequent to any revisions.

2. - 5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:185 (June 2011), amended LR 39:92 (January 2013), repromulgated LR 39:318 (February 2013), LR 41:936 (May 2015), LR 41:

§3509. Reimbursement Methodology

A. ...

1. The department will establish monthly capitation rates within an actuarially sound rate range certified by its actuaries. Consistent with all applicable federal rules and regulations, the rate range will initially be developed using fee-for-service claims data, Bayou Health shared savings claims data, Bayou Health managed care organization encounter data, Louisiana Behavioral Health Partnership (LBHP) encounter data, financial data reported by Bayou Health plans and the LBHP statewide management organization, supplemental ad hoc data, and actuarial analyses with appropriate adjustments.

2. ...

3. Capitation rates will be set for all MCOs at the beginning of each contract period and will be periodically reviewed and adjusted as deemed necessary by the department.

a. - d. Repealed.

4. Capitation rates for physical and basic behavioral health will be risk-adjusted for the health of Medicaid enrollees enrolled in the MCO. Capitation rates for specialized behavioral health will not be risk-adjusted.

a. The health risk of the Medicaid enrollees enrolled in the MCO will be measured using a national-recognized risk-assessment model.

b. Utilizing this information, the capitation rates will be adjusted to account for the health risk of the enrollees in each MCO relative to the overall population being measured.

c. The health risk of the members and associated MCO risk scores will be updated periodically to reflect changes in risk over time.

d. The department will provide the MCO with advance notice of any major revision to the risk-adjustment methodology.

5. An MCO shall be reimbursed a one-time supplemental lump sum payment, hereafter referred to as a “maternity kick payment”, for each obstetrical delivery in the amount determined by the department’s actuary.

a. The maternity kick payment is intended to cover the cost of prenatal care, the delivery event, and postpartum care. Payment will be paid to the MCO upon submission of satisfactory evidence of the occurrence of a delivery.

b. Only one maternity kick payment will be made per delivery event. Therefore, multiple births during the same delivery will still result in one maternity kick payment being made.

c. The maternity kick payment will be paid for both live and still births. A maternity kick payment will not be reimbursed for spontaneous or induced abortions.

6. Capitation rates related to pharmacy services will be adjusted to account for pharmacy rebates.

B. - E. ...

F. An MCO shall have a medical loss ratio (MLR) for each MLR reporting year, which shall be a calendar year.

1. Following the end of the MLR reporting year, an MCO shall provide an annual MLR report, in accordance with the financial reporting guide issued by the department.

2. The annual MLR report shall be limited to the MCO’s medical loss ratio for services provided to Medicaid enrollees and payment received under the contract with the department, separate from any other products the MCO may offer in the state of Louisiana.

3. An MLR shall be reported in the aggregate, including all services provided under the contract.

a. The aggregate MLR shall not be less than 85 percent using definitions for health care services, quality initiatives and administrative cost as specified in 45 CFR Part 158. If the aggregate MLR is less than 85 percent, the MCO will be subject to refund the difference, within the timeframe specified, to the department. The portion of any refund due the department that has not been paid, within the timeframe specified, will be subject to interest at the current Federal Reserve Board lending rate or in the amount of 10 percent per annum, whichever is higher.

b. The department may request MLR reporting that distinguishes physical and basic behavioral health from specialized behavioral health. Neither the 85 percent minimum nor the refund applicable to the aggregate shall apply to distinct MLRs reported.

4. The department shall provide for an audit of the MCO’s annual MLR report and make public the results within 60 calendar days of finalization of the audit.

G. - N.2.a. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1587 (June 2011), amended LR 39:92 (January 2013), repromulgated LR 39:318 (February 2013), LR 41:937 (May 2015), LR 41:

Chapter 37. Grievance and Appeal Process
Subchapter A. Member Grievances and Appeals

§3705. General Provisions

A. ...

B. Filing Requirements

1. Authority to File. A member, or a representative of his/her choice, including a network provider acting on behalf of the member and with the member’s consent, may file a grievance and an MCO level appeal. Once the MCO’s appeals process has been exhausted, a member or his/her

representative, with the member's written consent, may request a state fair hearing.

B.1.a. - J. ...

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 37:1590 (June 2011), amended LR 41:939 (May 2015), LR 41:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by providing families with better coordination of their total health care services and increasing the quality and continuity of care for the individual and the entire family.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden on families through better coordinated health care services and increased continuity of care.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, September 24, 2015 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: Managed Care for Physical and Behavioral Health—Behavioral Health Integration

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 15-16. It is anticipated that \$3,456(\$1,728 SGF and \$1,728 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase revenue collections by an indeterminate amount beginning in FY 16-17 for the state premium taxes payable by managed care organizations (MCOs) equal to 2.25 percent of the capitation payments for specialized behavioral health services for children previously reimbursed on a non-risk basis to the statewide management organization and for capitation payments for physical and behavioral health services for approximately 5,000 people currently excluded from MCO participation who will be mandatorily enrolled in MCOs. It is anticipated that \$1,728 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing managed care for physical and basic behavioral health in order to reflect the integration of specialized behavioral health services into Bayou Health as a result of the narrowing of the statewide management organization's scope of service administration for certain behavioral health services. This proposed Rule will also amend the provisions governing recipient participation in order to enroll additional populations into Bayou Health that had been excluded from participation. It is anticipated that implementation of this proposed rule will not have economic cost or benefits to behavioral health services providers for FY 15-16, FY 16-17 and FY 17-18, and no fiscal impact to the Medicaid Program since the proposed rule merely changes the federal authority under which services are delivered and it does not change overall managed care participation, except for two populations. Spend-Down Medically Needy Program (SD/MNP) recipients will return to legacy Medicaid and approximately 5,000 recipients excluded from managed care participation will be mandatorily enrolled in MCOs. It is anticipated that the change for these two populations will have no discernible programmatic fiscal impact to the Medicaid program due to their small numbers, the limited and retrospective nature of SD/MNP eligibility, and the managed care savings to be realized in the transition from the fee-for-service delivery model for the previously excluded groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1508#074

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility
Louisiana Health Insurance Premium Payment Program
Termination (LAC 50:III.2311)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal LAC 50:III.2311 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 repromulgated and clarified the provisions governing the Group Health Insurance Premium Payment Program for inclusion in the *Louisiana Administrative Code*, and changed the name of the program to the Louisiana Health Insurance Premium Payment Program (LaHIPP) (*Louisiana Register*, Volume 35, Number 6).

Due to a budgetary shortfall resulting from the funding for LaHIPP being removed from the executive budget in state fiscal year 2016, the department has now determined that it is necessary to terminate this program. The department proposes to repeal the provisions of the June 20, 2009 Rule governing LaHIPP in order to facilitate the program termination.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2311. Louisiana Health Insurance Premium Payment Program

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 35:1111 (June 2009), repealed LR 41:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or

family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may increase direct or indirect cost to the provider to provide the same level of service due to the termination of Medicaid payment of the patient responsibility amounts for services rendered to recipients covered under group health insurance. The proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the reduction in payments adversely impacts the provider's financial standing.

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 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, September 24, 2015 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: Medicaid Eligibility Louisiana Health Insurance Premium Payment Program Termination

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$1,066,750 for FY 15-16, \$1,888,937 for FY 16-17, and \$1,945,605 for FY 17-18. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16 and 62.07 percent in FY 16-17 and FY 17-18. The enhanced rate of 62.11 percent for the first three months of FY 16 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 revenue collections by approximately \$1,753,241 for FY 15-16, \$3,091,124 for FY 16-17, and \$3,183,858 for FY 17-18. It is anticipated that \$216 will be expended in FY 15-16 for the federal administrative expenses

for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16 and 62.07 in FY 16-17 and FY 17-18. The enhanced rate of 62.11 percent for the first three months of FY 16 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 repeals the provisions governing the Louisiana Health Insurance Premium Payment (LaHIPP) program in order to terminate the program as a result of a budgetary shortfall due to the funding for LaHIPP being removed from the executive budget in state fiscal year 2016. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures in the Medicaid Program by approximately \$2,820,423 for FY 15-16, \$4,980,061 for FY 16-17, and \$5,129,463 for FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1508#075

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

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

Psychiatric Residential Treatment Facilities
(LAC 50:XXXIII.Chapters 101-107)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 101-107 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 provides inpatient behavioral health services to children with emotional/behavioral disorders in psychiatric residential treatment facilities (PRTFs) under the coordinated behavioral health services system.

The department now proposes to amend the provisions governing PRTFs to: 1) allow an Office of Behavioral Health appointed designee to certify providers; 2) revise the terminology to be consistent with current program operations; and 3) revise the reimbursement methodology to remove the provisions governing interim payments, and to establish capitation payments to managed care organizations for children's services other than CSoc. For children/youth enrolled in CSoc, the non-risk payments shall be continued and payments made to a CSoc contractor.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 11. Psychiatric Residential Treatment Facility Services

Chapter 101. General Provisions

§10101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for behavioral health services rendered to children and youth in an inpatient psychiatric residential treatment facility (PRTF). These services shall be administered under the authority of the Department of Health and Hospitals, in collaboration with managed care organizations and the coordinated system of care (CSoc) contractor, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. ...

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 38:369 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§10103. Recipient Qualifications

A. Individuals under the age of 21 with an identified mental health or substance use diagnosis, who meet Medicaid eligibility and clinical criteria, shall qualify to receive inpatient psychiatric residential treatment facility services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:369 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 103. Services

§10301. General Provisions

A. - C.1. ...

D. Children who are in need of behavioral health services shall be served within the context of the family and not as an isolated unit.

1. Services shall be:

a. delivered in a culturally and linguistically competent manner; and

b. respectful of the individual receiving services.

2. Services shall be appropriate to children and youth of diverse racial, ethnic, religious, sexual, and gender identities and other cultural and linguistic groups.

3. Services shall also be appropriate for:

a. age;

b. development; and

c. education.

4. 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

38:369 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§10303. Covered Services

A. - B.1. ...

2. group education, including elementary and secondary education; and

3. activities not on the inpatient psychiatric active treatment plan.

4. 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 38:369 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 105. Provider Participation

§10501. Provider Responsibilities

A. Each provider of PRTF services shall enter into a contract with one or more of the MCOs and the CSoc contractor in order to receive reimbursement for Medicaid covered services.

B. - C. ...

D. Anyone providing PRTF services must be certified by the department, or its designee, in addition to operating within their scope of practice license. To be certified or recertified, providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes. The provider shall create and maintain documents to substantiate that all requirements are met.

E. PRTF facilities shall be accredited by an approved accrediting body and maintain such accreditation. Denial, loss of or any negative change in accreditation status must be reported to its contracted MCOs and the CSoc contractor in writing within the time limit established by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:369 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 107. Reimbursement

§10701. General Provisions

A. For recipients enrolled with the CSoc contractor, reimbursement for services shall be based upon the established Medicaid fee schedule for behavioral health services. For recipients enrolled in one of the MCOs, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs. The capitation rates paid to the MCOs shall be actuarially sound rates and the MCOs will determine the rates paid to its contracted providers. No payment shall be less than the minimum Medicaid rate. Covered inpatient, physician-directed PRTF services rendered to children and youth shall be reimbursed according to the following criteria:

1. Free-Standing PRTF Facilities. The per diem rate shall include reimbursement for the following services when included on the active treatment plan:

a. - e. ...

2. A free-standing PRTF shall arrange through contract(s) with outside providers to furnish dental, vision,

and diagnostic/radiology treatment activities as listed on the treatment plan. The treating provider will be directly reimbursed by the MCO or the CSoc contractor.

3. Hospital-Based PRTF Facilities. A hospital-based PRTF facility shall be reimbursed a per diem rate for covered services. The per diem rate shall also include reimbursement for the following services when included on the active treatment plan:

a. - d. ...

4. Pharmacy and physician services shall be reimbursed when included on the recipient's active plan of care and are components of the Medicaid covered PRTF services. The MCO or the CSoc contractor shall make payments directly to the treating physician. The MCO shall also make payments directly to the pharmacy. These payments shall be excluded from the PRTF's contracted per diem rate for the facility.

B. All in-state Medicaid participating PRTF providers are required to file an annual Medicaid cost report in accordance with Medicare/Medicaid allowable and non-allowable costs.

C. Cost reports must be submitted annually. The due date for filing annual cost reports is the last day of the fifth month following the facility's fiscal year end. Separate cost reports must be filed for the facility's central/home office when costs of that entity are reported on the facility's cost report. If the facility experiences unavoidable difficulties in preparing the cost report by the prescribed due date, a filing extension may be requested. A filing extension must be submitted to Medicaid prior to the cost report due date.

1. Facilities filing a reasonable extension request will be granted an additional 30 days to file their cost report.

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 38:370 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§10703. In-State Publicly Owned and Operated Psychiatric Residential Treatment Facilities

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 38:370 (February 2012), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§10703. Reimbursement Methodology (Reserved)

§10705. In-State Psychiatric Residential Treatment Facilities

A. In-state publicly and privately owned and operated PRTFs shall be reimbursed for covered PRTF services according to the following provisions. The rate paid by the MCO or the CSoc contractor shall take into consideration the following ownership and service criteria:

1. free-standing PRTFs specializing in sexually-based treatment programs;

2. free-standing PRTFs specializing in substance use treatment programs;

3. free-standing PRTFs specializing in behavioral health treatment programs;

4. hospital-based PRTFs specializing in sexually-based treatment programs;
5. hospital-based PRTFs specializing in substance use treatment programs; and
6. hospital-based PRTFs specializing in behavioral health treatment programs.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:370 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§10707. Out-of-State Psychiatric Residential Treatment Facilities

A. Out-of-state PRTFs shall be reimbursed in accordance with the MCO or CSOC contractor’s established rate.

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 38:370 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health LR 41:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider’s ability to provide the same level of service as described in HCR 170.

Public Comments

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

deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, September 24, 2015 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: Psychiatric Residential
Treatment Facilities**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that \$1,296 (\$648 SGF and \$648 FED) will be expended in FY 15-16 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 15-16. It is anticipated that \$648 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule proposes to amend the provisions governing psychiatric residential treatment facilities (PRTFs) to allow an Office of Behavioral Health appointed designee to certify providers, revise the terminology to be consistent with current program operations, and revise the reimbursement methodology to remove the provisions governing interim payments, and to establish capitation payments to managed care organizations for children’s services other than coordinated system of care (CSoC) services. For children/youth enrolled in CSoC, the non-risk payments shall be continued and payments will be made to a CSoC contractor. It is anticipated that the implementation of this proposed rule will not have economic cost or benefits to PRTFs in FY 15-16, FY 16-17, and FY 17-18, and no fiscal impact to the Medicaid Program since the proposed rule does not change the reimbursement rates for provider payments and the risk sharing payments it eliminates applied only to the first year of the statewide management organization’s contract.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1508#076

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

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

Therapeutic Group Homes
Behavioral Health Integration
(LAC 50:XXXIII.Chapters 121-127)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 121-127 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health adopted provisions to implement a coordinated behavioral health services system under the Medicaid Program to provide behavioral health services to children with emotional/behavioral disorders in therapeutic group homes (TGHs) (*Louisiana Register*, Volume 38, Number 2).

The department now proposes to amend the provisions governing TGHs in order to: 1) allow an Office of Behavioral Health appointed designee to certify providers; 2) revise the terminology to be consistent with current program operations; and 3) revise the reimbursement methodology to establish capitation payments to managed care organizations for children's services other than the coordinated system of care (CSoC) services. For children/youth enrolled in CSoC, the non-risk payments shall be continued and payments made to a CSoC contractor.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 13. Therapeutic Group Homes

Chapter 121. General Provisions

§12101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid state plan for behavioral health services rendered to children and youth in a therapeutic group home (TGH). These services shall be administered under the authority of the Department of Health and Hospitals, in collaboration with managed care organizations (MCOs) and the coordinated system of care (CSoC) contractor, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery. The CSoC contractor shall only manage specialized behavioral health services for children/youth enrolled in the CSoC program.

B. The specialized behavioral health services rendered shall be those services medically necessary to reduce the disability resulting from the illness and to restore the individual to his/her best possible functioning level in the community.

C. A therapeutic group home provides a community-based residential service in a home-like setting of no greater than 10 beds under the supervision and program oversight of a psychiatrist or psychologist.

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 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§12103. Recipient Qualifications

A. ...

B. Qualifying children and adolescents with an identified mental health or substance use diagnosis shall be eligible to receive behavioral health services rendered by a TGH.

C. - C.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 123. Services

§12301. General Provisions

A. - C.1. ...

D. Children who are in need of behavioral health services shall be served within the context of the family and not as an isolated unit.

1. Services shall be:

a. delivered in a culturally and linguistically competent manner; and

b. respectful of the individual receiving services.

2. Services shall be appropriate to children and youth of diverse racial, ethnic, religious, sexual, and gender identities and other cultural and linguistic groups.

3. Services shall also be appropriate for:

a. age;

b. development; and

c. education.

4. 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 38:428 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§12303. Covered Services

A. - B.2. ...

3. any services or components in which the basic nature of which are to supplant housekeeping, homemaking, or basic services for the convenience of an individual receiving services;

4. - 6. ...

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 38:428 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 125. Provider Participation

§12501. Provider Responsibilities

A. Each provider of TGH services shall enter into a contract with one or more of the MCOs and the CSoC contractor for youth enrolled in the CSoC program in order to receive reimbursement for Medicaid covered services.

Providers shall meet the provisions of this Rule, the provider manual, and the appropriate statutes.

B. All services shall be delivered in accordance with federal and state laws and regulations, the provisions of this Rule, the provider manual, and other notices or directives issued by the department. The provider shall create and maintain documents to substantiate that all requirements are met.

C. Any services that exceed established limitations beyond the initial authorization must be approved for re-authorization prior to service delivery.

D. Anyone providing TGH services must be certified by the department, or its designee, in addition to operating within their scope of practice license.

E. TGH facilities shall be accredited by an approved accrediting body and maintain such accreditation. Denial, loss of or any negative change in accreditation status must be reported to their contracted MCOs and the CSoc contractor for youth enrolled in the CSoc program in writing within the time limit established by the department.

F. Providers of TGH services shall be required to perform screening and assessment services upon admission and within the timeframe established by the department thereafter to track progress and revise the treatment plan to address any lack of progress and to monitor for current medical problems and concomitant substance use issues.

G. A TGH must ensure that youth are receiving appropriate therapeutic care to address assessed needs on the child's treatment plan.

1. Therapeutic care may include treatment by TGH staff, as well as community providers.

2. Treatment provided in the TGH or in the community should incorporate research-based approaches appropriate to the child's needs, whenever possible.

H. For TGH facilities that provide care for sexually deviant behaviors, substance abuse, or dually diagnosed individuals, the facility shall submit documentation to their contracted MCOs and the CSoc contractor for youth enrolled in the CSoc program regarding the appropriateness of the research-based, trauma-informed programming and training, as well as compliance with ASAM level of care being provided.

I. A TGH must incorporate at least one research-based approach pertinent to the sub-populations of TGH clients to be served by the specific program. The specific research-based model to be used should be incorporated into the program description. The research-based models must be approved by OBH.

J. A TGH must provide the minimum amount of active treatment hours established by the department, and performed by qualified staff per week for each child, consistent with each child's plan of care and meeting assessed needs.

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 38:428 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 127. Reimbursement

§12701. General Provisions

A. For recipients enrolled with the CSoc contractor, reimbursement for services shall be based upon the established Medicaid fee schedule for specialized behavioral health services. For recipients enrolled in one of the MCOs, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs. The capitation rates paid to the MCOs shall be actuarially sound rates and the MCOs will determine the rates paid to its contracted providers. No payment shall be less than the minimum Medicaid rate.

1. Reimbursement for covered TGH services shall be inclusive of, but not limited to:

a. - d. ...

2. Allowable and non-allowable costs components, as defined by the department.

B. All in-state Medicaid participating TGH providers are required to file an annual Medicaid cost report according to the department's specifications and departmental guides and manuals.

C. Costs reports must be submitted annually. The due date for filing annual cost reports is the last day of the fifth month following the facility's fiscal year end. Separate cost reports must be filed for the facilities central/home office when costs of that entity are reported on the facilities cost report. If the facility experiences unavoidable difficulties in preparing the cost report by the prescribed due date, a filing extension may be requested. A filing extension must be submitted to Medicaid prior to the cost report due date.

1. Facilities filing a reasonable extension request will be granted an additional 30 days to file their cost report.

D. Services provided by psychologists and licensed mental health practitioners shall be billed to the MCO or CSoc contractor separately.

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 38:429 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§12703. In-State Privately Owned and Operated Therapeutic Group Homes

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 38:429 (February 2012), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR:41

§12703. Reimbursement Methodology (Reserved)

§12705. In-State Therapeutic Group Homes

A. In-state publicly and privately owned and operated therapeutic group homes shall be reimbursed according to the MCO or CSoc contractor established rate within their contract.

B. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:429 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR:41

§12707. Out-of-State Therapeutic Group Homes

A. Out-of-state therapeutic group homes shall be reimbursed for their services according to the rate established by the MCO or CSoc contractor.

B. Payments to out-of-state TGH facilities that provide covered services shall not be subject to TGH cost reporting requirements.

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 38:429 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, September 24, 2015 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: Therapeutic Group Homes
Behavioral Health Integration**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule may increase programmatic cost to the state by an indeterminable amount in FY 15-16, FY 16-17, and FY 17-18. It is anticipated that \$1,404 (\$702 SGF and \$702 FED) will be expended in FY 15-16 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 may increase revenue collections for the federal share of programmatic costs by an indeterminable amount in FY 15-16, FY 16-17 and FY 17-18. It is anticipated that \$702 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing therapeutic group homes (TGHs) in order to allow an Office of Behavioral health appointed designee to certify providers, revise the terminology to be consistent with current program operations, and revise the reimbursement methodology to establish capitation payments to managed care organizations for children's services other than the coordinated system of care (CSoc) services. For children/youth enrolled in CSoc, the non-risk payments shall be continued and payments made to a CSoc contractor. It is anticipated that the implementation of this proposed rule may have economic benefits to TGHs in FY 15-16, FY 16-17 and FY 17-18, and may increase the programmatic cost to the Medicaid Program by an indeterminable amount in FY 15-16, FY 16-17 and FY 17-18 if by increasing the maximum number of beds in a TGH, the service utilization for TGH services increases and the anticipated offsetting savings from decreased inpatient hospital services utilization are not realized.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1508#077

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources Office of Coastal Management

Fisherman's Gear Compensation Fund
Assessment of Fees (LAC 43:I.1515)

Under the authority of R.S. 49:214.21-49:214.42 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:450 et seq., the Department of Natural Resources, Office of Coastal Management proposes to amend LAC 43:I.1515 relative to the administration of the Fisherman's Gear Compensation Fund.

The Rule change adjusts the rules for the assessment of fees to reflect the amount specified in the statute. This action is not required by federal regulation.

Title 43

NATURAL RESOURCES

Part I. Office of the Secretary

Subpart 1. General

Chapter 15. Administration of the Fisherman's Gear Compensation Fund

§1515. Assessment of Fees

A. - A.1.b. ...

B. The balance in the Fishermen's Gear Compensation Fund is less than \$250,000 and, pursuant to R.S. 56:700.2, (as amended, Act 337 of 1991) an additional fee of \$1,000 will be assessed on each lessee of a state mineral lease and each grantee of a state pipeline right-of-way located in the coastal zone of Louisiana, effective April 20, 1993.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:700.2.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 5:328 (October 1979), amended LR 9:15 (January 1983), LR 10:546 (July 1984), LR 11:1178 (December 1985), LR 12:602 (September 1986), LR 13:360 (June 1987), LR 15:497 (June 1989), LR 16:320 (April 1990), LR 17:605 (June 1991), LR 18:391 (April 1992), LR 19:501 (April 1993), amended by the Department of Natural Resources, Office of Coastal Management, LR 41:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Statement

In accordance with R.S. 49:965.6, the Department of Natural Resources, Office of Coastal Management has conducted a Regulatory Flexibility Analysis and found that the proposed amendment of this Rule will have negligible impact on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed Rule has no effect on the staffing level

requirements or qualifications required to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed Rule has no total direct and no total indirect effect on the cost to the provider to provide the same level of service.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed Rule has no overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation amendment. Persons commenting should reference this proposed regulation by Administration of the Fisherman's Gear Compensation Fund. Such comments must be received no later than September 10, 2015, at 4:30 p.m., and should be sent to Jessica Diez, Coastal Resource Scientist, Office of Coastal Management P.O. Box 44487, Baton Rouge, LA 70804-4487 or by email to jessica.diez@la.gov. Copies of this proposed regulation can be purchased by contacting OCM at (225) 342-7360, and are available for viewing and copying on the internet at: <http://dnr.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&pid=85&ngid=5>.

Public Hearing

Requests for a public hearing must be received by 4:30 p.m. September 10, 2015. If determined a public hearing is warranted, the public hearing will be held on September 25, 2015 from 10 a.m. to 12 p.m. in the Griffon Room of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802, so that interested persons may submit oral comments on the proposed amendments.

Keith Lovell
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Fisherman's Gear Compensation Fund—Assessment of Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will result in no changes to state governmental expenditures. There is no anticipated direct material effect on local governmental expenditures as a result of the proposed rule change. The proposed rule change adjusts the rules for the assessment of fees to reflect the amount specified in the statute. The proposed rule amendment will not increase workload or paperwork as the assessments will still be processed in the same manner as before.

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)

The proposed rule will have no measurable cost or benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There is no estimated effect on competition and employment as a result of this proposed rule change.

Keith Lovell
Assistant Secretary
1508#051

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Carbon Dioxide Enhanced Oil Recovery
(LAC 43:XIX.405 and 423)

The Department of Natural Resources, Office of Conservation proposes to amend LAC 43:XIX, Subpart 1 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The proposed amendment is made to implement application requirements for carbon dioxide enhanced oil recovery.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

**Chapter 4. Pollution Control (Class II
Injection/Disposal Well Regulations)**

**§405. Application Requirements for New Enhanced
Recovery Injection and New Saltwater Disposal
Wells**

A. - B.5.f. ...

C. Area of Review For Enhanced Oil Recovery Wells
Injecting Carbon Dioxide

1. The area of review (AOR) will be the approved enhanced oil recovery (EOR) project area plus the surrounding region where USDWs may be endangered by the carbon dioxide (CO₂) injection activities, at a minimum, no less than 1/4 mile beyond the project area. The AOR shall extend no closer than 1/2 mile, at a minimum, to any EOR well injecting or permitted to inject CO₂. For EOR projects injecting CO₂ that are permitted as of the effective date of these regulations, the owner or operator of the project has thirty days from the effective date of these regulations to submit a plan to the commissioner to come into compliance with §405.C, D, and E.

2. If it is determined at any time that the injected CO₂ stream and associated pressure front have migrated beyond the boundary of the approved EOR project area, the AOR shall be redefined to extend, at a minimum, no less than 1/4 mile beyond the injected CO₂ stream and associated pressure front.

3. The owner or operator of a class II EOR CO₂ Injection Well must submit a plan acceptable to the commissioner to periodically reevaluate the AOR for the proposed CO₂ EOR project and perform corrective action for any identified deficient wells. The AOR must be reevaluated on a frequency not to exceed five years.

4. The owner or operator of the class II EOR CO₂ Injection well must identify all penetrations within the defined AOR including active and abandoned wells, underground mines, and any other man-made penetrations that penetrate the confining zone above the permitted EOR injection zone.

5. The owner or operator must determine which wells within the AOR have been constructed and/or plugged in a manner that prevents movement of CO₂ or other fluids that may endanger USDWs, and any wells which may require corrective action to ensure protection of USDWs.

6. For phased implementation of an EOR project injecting CO₂, the commissioner may allow injection operations to commence prior to a complete evaluation of all wellbores within the AOR if the operator presents a plan acceptable to the commissioner to complete the evaluation and perform any required corrective action in advance of the injected carbon dioxide stream and associated pressure front. The plan must include a method to monitor the injected carbon dioxide stream and associated pressure front and ensure that the AOR review and any corrective action is performed at least 1/2 mile ahead of the boundary of the injected CO₂ stream and associated pressure front.

D. Corrective Action for Enhanced Oil Recovery
Projects Injecting Carbon Dioxide

1. Owners or operators of class II EOR CO₂ injection wells must perform corrective action on all wells in the area of review that the commissioner has determined to require corrective action.

2. Owners or operators of class II EOR CO₂ injection wells shall submit a corrective action plan acceptable to the commissioner addressing all identified deficiencies within a time specified by the commissioner.

E. Emergency and Remedial Response for Enhanced Oil
Recovery Projects Injecting Carbon Dioxide

1. As part of the permit application for a class II EOR CO₂ well, the owner or operator must provide the commissioner with an emergency and remedial response plan that outlines the actions the owner or operator must take to address movement of the injection or formation fluids that may cause an endangerment to a USDW during construction, operation, and post-injection site care periods.

2. If the owner or operator obtains evidence that the injected carbon dioxide stream and/or associated pressure front is no longer confined to the permitted EOR injection zone or may cause an endangerment to a USDW, the owner or operator must:

a. take all steps reasonably necessary to identify, characterize, and control any release;

b. notify the commissioner within 24 hours; and

c. Implement the emergency and remedial response plan approved by the commissioner.

3. The owner or operator shall review the emergency and remedial response plan developed under §405.E.1 periodically, but at least once every five years. Based on this review, the owner or operator shall submit an amended emergency and remedial response plan or demonstrate to the commissioner that no amendment to the emergency and remedial response plan is needed. Any amendments to the

emergency and remedial response plan must be approved by the commissioner and are subject to the permit modification requirements at §411, as appropriate. Amended plans or demonstrations shall be submitted to the commissioner as follows:

- a. within one year of an AOR reevaluation;
- b. following any significant changes to the EOR project, such as the addition of injection wells or the reclassification of wells; or
- c. when required by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2807 (December 2000), amended LR 41:

§423. Plugging Requirements

A. ...

B. At the conclusion of any enhanced oil recovery project injecting carbon dioxide, the operator shall depressurize, extract, and remove the carbon dioxide from the permitted EOR injection zone and any other formations impacted by the EOR project to the maximum extent practicable to ensure protection of the USDW.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2810 (December 2000), amended LR 41:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Statement

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All 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. Written comments will be accepted by hand delivery or USPS only, until 4:30 p.m., October 5, 2015, at Office of Conservation, Executive Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Executive Division, 617 North Third Street, Room 931, Baton Rouge, LA 70802. Reference Docket No. CON RULE AMD 2015-08 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

The commissioner of conservation will conduct a public hearing at on Monday, September 28, 2015 at 9 a.m., in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

James H. Welsh
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Carbon Dioxide Enhanced Oil Recovery

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs to State or local governmental units as a result of the proposed rule change. Application requirements already exist for Enhanced Oil Recovery methods, although none specifically address the use of Carbon Dioxide. The proposed rule seeks to implement application requirements for Carbon Dioxide Enhanced Oil Recovery. Carbon Dioxide Enhanced Oil Recovery is a process in which carbon dioxide is injected into an oil reservoir to push any remaining oil to the top of the reservoir for extraction. It is typically used as a tertiary method of extraction after primary and secondary techniques have extracted the bulk of the oil from a reservoir. As such, the new requirements specific to Carbon Dioxide Enhanced Oil Recovery will be evaluated using existing documents and staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The group directly affected by these rules changes will be Exploration and Production (E&P) companies. There are currently, two companies in the state using carbon dioxide techniques for extraction. The standards listed in the proposed rule change are the standards currently in place, except for the new provision requiring extraction of CO₂ at the end of the project. There may be an indeterminable increase in costs to E&P companies, but due to the unique nature of each project and reservoir, the costs associated with this provision cannot be accurately assessed until the oil recovery project is complete.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

James H. Welsh
Commissioner
1508#060

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources Office of Conservation

Expedited Permit Processing Program
(LAC 43:XIX.Chapter 47)

The Department of Natural Resources, Office of Conservation proposes to adopt LAC 43:XIX, Subpart 20, consisting of Sections 4701, 4703, 4705, 4707 and 4709, 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 proposed Rule is made to implement an expedited permit processing program as authorized by Act 362 of the 2015 Legislative Session.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 20. Expedited Permit Processing Program

Chapter 47. Expedited Permit Processing Program

§4701. Scope

A. This Chapter establishes a program to expedite the processing of permits, modifications, orders, licenses, registrations, or variances for Office of Conservation applicants who request such services. Expedited processing of an application for a permit, modification, order, license, registration, or variance is an exercise of the discretion of the commissioner and is subject to the availability of resources needed in order to process the permit, modification, order, license, registration, or variance. Applications approved for expedited processing must meet all regulatory requirements, including required public comment periods and any required review by other agencies.

B. Eligibility

1. An application for a permit, modification, order, license, registration, or variance necessary for new construction or continued operations as required by La R.S. 30:4. et seq. or regulation for any matter under the jurisdiction of the commissioner of conservation is eligible for expedited processing.

2. Applications for permits, modifications, orders, licenses, registrations, or variances will be considered for expedited processing pursuant to the provisions of this Chapter on a case-by-case basis.

3. A request for expedited processing submitted prior to submittal of the associated application for a permit, modification, order, license, registration, or variance will not be considered.

4. Expedited processing will not be considered for partial review of an application for a permit, modification, order, license, registration, or variance except in accordance with LAC 43.XIX.4703.D.

5. Requests for waivers, exceptions, regulatory interpretations, letters of no further action, review of data and/or work plans, and other miscellaneous letters of response are not eligible for expedited processing.

C. All applications for permits, modifications, orders, licenses, registrations, or variances reviewed under the expedited process are required to meet all applicable standards and technical requirements of permits, orders, modifications, licenses, registrations, or variances reviewed under the standard application review process.

D. Approval of a request for expedited processing in no way guarantees issuance of a decision on the application/permit by the date requested.

E. The commissioner may deny a request for expedited processing for any reason, including but not limited to the following:

1. the applicant's failure to pay outstanding fees or penalties;
2. compliance history concerns regarding the applicant;
3. an infeasible date requested for application action;
4. an insufficient maximum amount the applicant is willing to pay;
5. insufficient workforce resources available to assign to the task; or,

6. a request not in line with office priorities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(P).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 41:

§4703. Procedures

A. Requests for expedited processing shall be submitted using the approved form. The approved form is available on the official website of the Office of Conservation.

B. As soon as practicable after receipt of a request for expedited processing of any permit, modification, order, license, registration, or variance, the commissioner shall issue a decision to grant or deny the expedited processing request.

C. For applications reviewed under expedited processing prior to commencement of the standard review process, the expedited review by Office of Conservation employees will be performed outside of the normal business hours of the applicable Office of Conservation employee(s) performing the expedited review.

D. An applicant may request expedited processing of an application for a permit, modification, order, license, registration, or variance at any time in the application process.

1. For applications for which the expedited process has been requested after the standard review has commenced, the commissioner will make a decision whether to grant the request in accordance with §4701.

2. If the applicant is granted expedited processing for a permit, modification, order, license, registration, or variance after the standard review has commenced, the standard review will continue and expedited processing will proceed in accordance with §4705 and all other requirements of this Chapter for any work performed outside of normal business hours of the applicable Office of Conservation employee performing the expedited review.

E. Requests for Additional Information

1. If at any time during the review process of an application the commissioner determines that additional information or revisions to previously submitted information is necessary, the commissioner shall notify the applicant and require a response from the applicant within a specified time.

2. The applicant shall respond to the request for additional information or revisions within the time specified by the commissioner. Such a response shall contain all information and revisions required by the commissioner.

3. The Office of Conservation may cease expedited processing of an application for a permit, modification, order, license, registration, or variance in accordance with the provisions of this Chapter if the applicant fails to supply the requested additional information or revisions by the specified time or any extension thereof granted by the commissioner at the request of the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(P).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 41:

§4705. Fees

A. In addition to the fees charged pursuant to LAC 43.XIX.703 or successor regulations, a fee shall be charged for each application for a permit, modification, order,

license, registration, or variance that is processed on an expedited basis in accordance with this Chapter.

1. A total estimated cost for the expedited processing shall be computed by the commissioner based upon the estimated number of expedited processing hours required to complete the administrative review and/or permitting process multiplied times the hourly overtime salary of the applicable Office of Conservation employees or the hourly rate of applicable contractors, including associated related benefits, plus an administrative fee of twenty percent of the total costs. The overtime salary of the Office of Conservation employees shall be the normal hourly wage times one and one-half.

a. Prior to commencement of the expedited application process, the applicant shall deposit with the Office of Conservation no less than 50 percent of the estimated cost provided to the applicant computed in Paragraph A.1 of this Section. All costs associated with the expedited review, including overtime wages, hourly contractor wages, associated related benefits paid, and the administrative fee, will be deducted from the credited amount as incurred.

b. The required amount to be deposited with the Office of Conservation in order to initiate the expedited application process will be determined on a case-by-case basis considering the type of application, estimated length of review, available resources, compliance history of the applicant, and any other factors considered pertinent by the commissioner.

c. When the applicant's credited deposit reaches less than 10 percent of the total cost estimated in accordance with Paragraph A.1 of this Section, or when otherwise required by the commissioner, the applicant will be notified, invoiced, and shall deposit with the Office of Conservation the remaining estimated required sum to complete the expedited application process.

d. If the applicant's credited deposits are exhausted before the expedited application process is completed, additional funds will be required to continue the review on an expedited basis.

e. If it is determined after an application decision is rendered that the applicant owes funds in addition to that previously deposited in accordance with this Section, an invoice will be issued, and the applicant will pay the balance due to the Office of Conservation within 20 days.

f. Any funds remaining to the credit of the applicant upon completion of the expedited application process will be refunded within 30 days.

2. In the event that the Office of Conservation ceases processing an application for a permit, modification, order, license, registration, or variance at the request of the applicant or in accordance with LAC 47.XIX.4703.C.3 of this Section, any unused funds on deposit credited to the applicant for expedited processing of the subject application for a permit, modification, order, license, registration, or variance shall be refunded to the applicant within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(P).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 41:

§4707. Invoicing and Failure to Pay

A. An invoice for no less than 50 percent of the estimated expedited processing fee shall be transmitted to the applicant after the Office of Conservation has made a decision to grant expedited application processing.

1. An invoice for continued expedited application processing shall be transmitted to the applicant when it is determined by the commissioner that additional funds are needed to complete the review and application process.

2. If it is determined that the applicant owes additional funds after a decision on the application has been rendered, an invoice shall be transmitted to the applicant for the outstanding balance owed.

3. Each invoice shall be accompanied by the Office of Conservation's detailed calculation of the amount owed and, if the invoice is for additional funds, by the Office of Conservation's detailed calculation of the expedited processing funds previously spent.

B. If the Office of Conservation has ceased processing the application in accordance with LAC 43:XIX.4703.C.3 or 4705.A.2, and it is found that the applicant owes additional funds in accordance with this Chapter, an invoice for the appropriate expedited processing fee shall be transmitted to the applicant.

C. Failure to pay the expedited processing fee by the due date specified on the invoice constitutes a violation of these regulations and shall subject the applicant to relevant enforcement action under R.S. 30:18. including, but not limited to civil penalty, denial, revocation, or suspension of the permit, modification, order, license, registration, or variance.

D. A permit appeal, whether by the applicant or a third party, shall not stay the requirement to timely pay any fees owed to the Office of Conservation for the expedited application processing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(P).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 41:

§4709. Public Notice and Availability of Records

A. Requirement to Provide Public Notice. The Office of Conservation shall provide notice of each request for expedited processing of an application for a permit, modification, order, license, registration, or variance that is processed pursuant to the provisions of this Chapter.

1. Separate notice of expedited processing shall be provided in the same form and manner of public notice as required by other statute or rule for each application type, or if no public notice is required, on the official website of the Office of Conservation.

2. For draft or proposed application actions subject to public notice requirements under other regulations or program requirements, such public notice shall indicate that the draft or proposed permit, modification, order, license, registration, or variance was processed under the expedited processing provisions of this Chapter.

3. The expedited review process shall not shorten any existing time delays for public notice, comment period, hearing, or in any way shorten or impinge upon the public

participation process required by statute, regulation, or rule for any application for a permit, modification, order, license, registration, or variance.

B. Content of the Notice

1. For draft or proposed application actions subject to public notice requirements under other regulations or program requirements, in addition to such requirements, the public notice shall contain a statement that the draft or proposed permit, modification, order, license, registration, or variance was processed under the expedited processing provisions of this Chapter.

2. Any notice placed on the official website of the Office of Conservation shall contain the name of the applicant/permittee, the application number, or when applicable, the well serial number, the parish in which the facility is physically located, the application/permit type, the date the request for expedited processing was received, and the date of the decision to approve or deny the request for expedited processing.

C. Availability of Records. All recorded information concerning a request for expedited processing (completed permit application form, attachments, draft and proposed permits, or any other public document) not classified as confidential by statute or designated confidential in accordance with applicable regulations shall be made available to the public for inspection and copying in accordance with the Public Records Act, R.S. 44:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(P).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 41:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Statement

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All 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. Written comments will be accepted by hand delivery or USPS only, until 4:30 p.m., October 5, 2015, at Office of Conservation, Executive Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Executive Division, 617 North Third Street, Room 931, Baton Rouge, LA 70802. Reference Docket No. CON RULE AMD 2015-09 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

The commissioner of conservation will conduct a public hearing at on Monday, September 28, 2015 at 9 a.m., in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

James H. Welsh
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Expedited Permit Processing Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will likely be an increase in salary expenditures and administrative costs as a result of the proposed rule change. The expedited permit process may increase costs up to \$488,000 according to projections by the Department of Natural Resources. The increased expenditures required by the rule change will be paid by the companies applying for the permits. There are 6 companies that have expressed interest in the expedited permit program. These companies focus on salt cavern injection wells which require an average of approximately 1,000 work hours to be approved. Should a company elect to apply for an expedited permit pursuant to the proposed rule, the company will be required to pay for the overtime hours DNR employees work to process the permit, and administrative costs not exceeding 20% of overtime salary expenditures. Currently, DNR approves approximately 3 to 4 of these permits per year and the overtime hours would allow for 4 additional salt cavern permits to be approved per year, effectively doubling current output.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will likely be an increase in revenue collection as a result of the proposed rule change. Should a company elect to apply for an expedited permit pursuant to the proposed rule, the company will be required to pay for the overtime hours DNR employees work to process the permit, and administrative costs not exceeding 20% of overtime salary expenditures. With each permit requiring approximately 1,000 hours to complete, the proposed rule change will likely result in an additional \$488,000 in revenue generated for DNR annually. The revenue from the proposed rule change will be placed into the Oil and Gas Regulatory Fund.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The group directly affected by these rules changes will be Exploration and Production (E&P) companies. For those who desire to voluntarily apply for the expedited permit process, applicants would only pay the actual overtime or contracted costs incurred by DNR to process applications for an expedited permit plus administrative costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

James H. Welsh
Commissioner
1508#059

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources Office of Conservation

Fees (LAC 43:XIX.Chapter 7)

Pursuant to power delegated under the laws of the state of Louisiana, and particularly title 30 of the *Louisiana Revised Statutes* of 1950, as amended, the Office of Conservation proposes to amend LAC 43:XIX.701, 703, and 707 (Statewide Order No. 29-R) in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The proposed action will adopt Statewide Order No. 29-R-15/16 (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-14/15.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 2. Statewide Order No. 29-R

Chapter 7. Fees

§701. Definitions

* * *

Application for Alternate Unit Well—an administrative application for authority to drill one or more wells within a commissioner's unit to efficiently and economically drain a portion of the oil and gas within the pool underlying the unit which cannot be efficiently and economically drained by any existing well as authorized by the commissioner, R.S. 30:9 and 10 and LAC 43:XIX.103.

* * *

Application for Commercial Facility Exclusive of an Associated Well—a permit application to construct and operate a commercial treatment or disposal facility exclusive of utilizing a UIC permitted well as defined by LAC 43 XIX.523 and 525.

Application for Critical Date Order—an application to request an expedited commissioner's order due to specific circumstances, such as lease expirations or rig standby rates that present a significant financial burden on the operator or other interested parties, if a commissioner's order is not issued by the requested date.

Application for Downhole Combinations—an application for authority to complete a well so as to permit simultaneous production from two or more pools through a single wellbore or tubing string R.S. 30:4, LAC 43.XIX.1301 et seq.

Application for Exception to 29-B (Engineering Divisions)—any application or request to waive or suspend the provisions of Statewide Order 29-B.

Application for Exception to 29-B (Injection and Mining Division)—any application or request for an exception to the rules and regulations for disposal of E and P waste or enhanced oil recovery by class II injection as authorized by Statewide Order 29-B (LAC 43.XIX.319.A et seq.), or successor regulations.

Application for Exception to 29-E—any application or request to waive or suspend the provisions of Statewide Order 29-E.

* * *

Application for Pilot Projects—an application for authority to conduct a six month enhanced recovery project for the purpose of testing the method. R.S. 30:4, 5, and 6 and LAC 43.XIX.407

* * *

Application for Selective Completion—an application for authority to allow the completion of any well utilizing downhole equipment so as to permit production to be changed from one separate pool to another without the necessity of a workover or additional perforating as authorized by Statewide Order No. 29-C-4 (LAC 43:XIX.1301)

Application for Severance Tax Relief—an application to allow the suspension of all severance taxes due on production from a qualifying well as authorized by R.S. 47:633 et seq., and/or successor regulations.

* * *

Application for Waiver of Production Test—an application to request a waiver of the Office of Conservation policy of requiring a production test on a well in the subject field prior to approving a pre-drilled unit in that field.

Application for Well Product Reclassification—an application for authority to change the primary product of a unit based on administrative authority granted by commissioner's order and evidence of change in producing characteristics of said unit, R.S. 30:4.

Application for Work Permit (Injection or Other)—an application to perform work activities as outlined on injection well work permit Form UIC-17 on a well under the jurisdiction of the Underground Injection Control program of the Injection and Mining Division/Office of Conservation as authorized by Statewide Order 29-N-1 (LAC 43:XVII.109 et seq.), 29-N-2 (LAC 43:XVII.209 et seq.), 29-M (LAC 43:XVII.309 and 319 et seq.), 29-M-2 (LAC 43:XVII.3121 et seq.), 29-M-3 (LAC 43:XVII.3309 et seq.), 29-B (LAC 43:XIX.Chapter 4) or successor regulations.

Application for Work Permit (Minerals)—an application to perform certain operations on an existing well, as required in LAC 43:XIX.105.

* * *

Application to Amend Permit to Drill (Minerals) (\$126 amount)—an application to alter, amend, or change a permit to drill for minerals after its initial issuance as authorized by R.S. 30:28, excluding the amendments described in application to amend permit to drill (minerals) (lease to unit, unit to lease, unit to unit, stripper, incapable, other). Additionally, application to amend operator (transfer of ownership, including any other amendment action requested at that time) for any orphaned well or any multiply-completed well which has reverted to a single completion shall not be subject to the application fees provided herein.

Application to Amend Permit to Drill (Minerals) (lease to unit, unit to lease, unit to unit, stripper, incapable, other) (\$50 amount)—an application to alter, amend, or change a permit to drill for minerals after its initial issuance as authorized by R.S. 30:28 for any lease to unit, unit to unit, and unit to lease changes; and, application to amend operator (transfer of ownership, including any other amendment action requested at that time) for any stripper crude oil well or incapable gas well so certified by the Department of Revenue.

* * *

Application/Request for Commercial Facility Reuse—application/request to determine if E and P material which has been treated physically, chemically, or biologically so that the material is physically, chemically or biologically distinct from the original material and meets the criteria in LAC 43:XIX.565.F.

Applications/Requests for Reuse Not Associated with Commercial Facility—application/request to determine if E and P material has been treated physically, chemically, or biologically so that the material is physically, chemically or biologically distinct from the original material and meets the criteria in LAC 43:XIX.565.F.

Authorization for After Hours Disposal of E and P Waste—a permit granting approval for after-hours receipt of E and P waste by a commercial facility or transfer station when an emergency condition exists which may endanger public health or safety or the environment and to minimize the potential for the same as granted under LAC 43:XIX.537.B.

BOE—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 28.0.

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, 2014.

Capable Oil—crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue, as of December 31, 2014.

Class I Well Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on class I wells in an amount not to exceed \$1,000,000 for fiscal year 2015-2016 and thereafter.

Class II CO₂ EOR Project (AOR Review and Updates)—an enhanced recovery project permitted by the Office of Conservation injecting carbon dioxide (CO₂) down the wellbore of permitted class II injection wells under the authority of the Office of Conservation/Injection and Mining Division in conformance with Statewide Order 29-B (LAC 43.XIX.411.C et seq.) or successor regulations.

Class II Hydrocarbon Storage and E and P Waste Cavern Compliance Review Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on each class II hydrocarbon storage and E and P waste cavern in the amount of \$2,000 for fiscal year 2015-2016 and thereafter for the compliance review required by Statewide Order 29-M (LAC 43.XIX.309.K et seq.) or successor regulations.

Class III Solution Mining Cavern Compliance Review Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on each class III solution mining cavern in the amount of \$2,000 for fiscal year 2015-2016 and thereafter for the compliance review required by Statewide Order 29-M-3 (LAC 43.XVII.3309.K et seq.) or successor regulations.

Class V Permit Waiver/Exemption Request—a request for a waiver or exemption from the permitting requirements of class V injection wells for certain remediation wells/projects

of short duration where remediation is accomplished by one time injection into shallow wells where casing is not installed as authorized by Statewide Order 29-N-1 (LAC 43:XVII.111 et seq.) or successor regulations.

Commercial Facility Annual Closure Plan and Cost Estimate Review—closure bond or letter of credit amounts for permitted E and P waste commercial facilities and transfer stations will be reviewed each year as required by LAC 43:XIX.513.C and 567.B.

Community Saltwater Disposal System Initial Notification—an application to designate a class II SWD for injection of produced saltwater from multiple operators by the submittal of the community saltwater disposal system application Form UIC-13 and submittal of an acceptable operating agreement specifying cost sharing of operating expenses as authorized by Statewide Order 29-B (LAC 43:XIX.317 et seq.) or successor regulations.

E and P Waste Determination—a determination as to whether a material meets the definition of exploration and production waste as defined in LAC 43:XIX.501

Operator Annual Registration—annual application form filed by entity with whom the Office of Conservation has jurisdiction to obtain/maintain organizational ID.

Production Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by oil and gas operators on capable oil wells and capable gas wells based on a tiered system to establish parity on a dollar amount between the wells. The tiered system shall be established annually by rule on capable oil and capable gas production, including nonexempt wells reporting zero production during the annual base period, in an amount not to exceed \$3,675,000 for fiscal year 2015-2016 and thereafter.

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, 2014.

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 \$2,187,500 for fiscal year 2015-2016 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, 2014, 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.

Request to Transport E and P Waste to Commercial Facilities or Transfer Stations—other oil and gas industry companies (i.e. companies that do not possess a current Office of Conservation producer/operator code or a current offshore/out-of-state waste generator code) must obtain authorization by submitting a completed (acceptable) Form UIC-23 to transport E and P waste to commercial facilities or transfer stations as required by LAC XIX.545.B.

Requests to Modify Well Permit (Injection)—requests made by operators of record to change the operating conditions of their injection wells as authorized by Statewide Order 29-N-1 (LAC 43:XVII.113 et seq.), 29-N-2(LAC 43:XVII.213 et seq.), 29-M (LAC 43:XVII.311 et seq.), 29-M-2 (LAC 43:XVII.3111 et seq.), 29-M-3 (LAC 43:XVII.3311 et seq.) , 29-B (LAC 43:XIX.Chapter 4) or successor regulations.

Transfer Stations Regulatory Fee (E and P Waste)—a regulatory fee established for all permitted E and P waste transfer stations as defined by LAC 43:XIX.501.

Witnessed Verification of Mechanical Integrity Tests (MIT)—a mechanical integrity test (MIT) performed on a permitted injection well that is witnessed by a conservation enforcement agent or other designated employee of the Office of Conservation as authorized by Statewide Order 29-N-1 (LAC 43:XVII.109 et seq.), 29-N-2 (LAC 43:XVII.209 et seq.), 29-M (LAC 43:XVII.327 et seq.), 29-M-2 (LAC 43:XVII.3129 et seq.), 29-M-3 (LAC 43:XVII.3327 et seq.), 29-B (LAC 43:XIX.Chapter 4 et seq.) or successor regulations.

Work Permit to Plug and Abandon a Well Utilized for NORM Disposal—an application to plug and abandon a well which is utilized for downhole disposal of NORM solids and/or NORM contaminated tubing/equipment by the submittal of Form UIC-30, work permit to perform a NORM plug and abandonment in conformance with Statewide Order 29-B (LAC 43:XIX.137 et seq.) or successor regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:458 (March 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:2302 (October 2000), LR 27:1919 (November 2001), LR 28:2366 (November 2002), LR 29:2499 (November 2003), LR 31:2950 (November 2005), LR 32:2087 (November 2006), LR 33:2461 (November 2007), LR 34:2404 (November 2008), LR 35:2463 (November 2009), LR 36:2567 (November 2010), LR 37:3271 (November 2011), LR 38:2930 (November 2012), LR 39:3099 (November 2013), 40:2266 (November 2014), LR 41:

§703. Fee Schedule for Fiscal Year 2015-2016

A. Application Fees

Application Fees	Amount
Application for Alternate Unit Well	\$504

Application to Amend Permit to Drill - Minerals (LUW, Stripper, Incapable, Other)	\$50

Application for Commercial Facility Exclusive of an Associated Well	\$3,000

Application Fees	Amount
Application for Commercial Facility Reuse Material	\$300
Application for Commercial Facility Transfer Station	\$1,500

Application for Critical Date Order	\$504
Application for Downhole Combinations	\$504
Application for Exception to 29-E	\$504
Application for Exception to 29-B	\$504

Application for Pilot Projects	\$504

Application for Reuse Material not Associated with a Commercial Facility	\$400
Application for Selective Completion	\$504
Application for Severance Tax Relief	\$504

Application for Waiver of Production Test	\$504
Application for Well Product Reclassification	\$504
Application for Work Permit - Injection or Other	\$125
Application for Work Permit - Minerals	\$75

Authorization for After Hours Disposal of E and P Waste	\$150
Class II Hydrocarbon Storage and E and P Waste Cavern Annual Compliance Review Fee	\$2,000
Class II CO2 EOR Project (AOR Review and Updates)	\$5,000
Class III Solution Mining Cavern Annual Compliance Review Fee	\$2,000
Class V Permit Waiver/Exemption Request	\$250
Commercial Facility Annual Closure Plan and Cost Estimate Review	\$300
Community Saltwater Disposal System Initial Notification	\$125
E and P Waste Determination	\$300
Operator Registration	\$105
Requests to Modify Well Permit - change MASIP, work prognosis, etc.	\$300
Request to Transport E and P Waste to Commercial Facilities or Transfer Stations	\$150
Transfer Stations Regulatory Fee (E and P Waste) - Annual	\$2,500
Witnessed Verification of MIT Tests	\$250
Work permit to Plug and Abandon a Well utilized for NORM disposal	\$500

B. Regulatory Fees

1. Operators of each permitted type A facility are required to pay an annual regulatory fee of \$15,742 per facility.

2. Operators of each permitted type B Facility are required to pay an annual regulatory fee of \$7,873 per facility.

3. Operators of record of permitted non-commercial class II injection/disposal wells are required to pay \$1,571 per well.

4. Operators of record of permitted class III and storage wells are required to pay \$1,571 per well.

C. Class I Well Fees. Operators of permitted class I wells are required to pay \$29,850 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	26
Tier 2	1 - 5,000	151
Tier 3	5,001 - 15,000	432
Tier 4	15,001 - 30,000	718
Tier 5	30,001 - 60,000	1,131
Tier 6	60,001 - 110,000	1,575
Tier 7	110,001 - 9,999,999	1,965

E. Exceptions

1. Operators of record of each class I injection/disposal well and each type A and B commercial facility and transfer station that is permitted, but has not yet been constructed, are required to pay an annual fee of 50 percent of the applicable fee for each well or facility.

2. - 3. ...

4. Operators of record of each inactive transfer station which have voluntarily ceased the receipt and transfer of E and P waste and are actively implementing an Office of Conservation approved closure plan are required to pay an annual Regulatory Fee of 50 percent of the annual fee for each applicable facility.

5. Operators of record of each inactive transfer station which have voluntarily ceased the receipt and transfer of E and P waste and are actively implementing an Office of Conservation approved closure plan are required to pay an annual regulatory fee of 50 percent of the annual fee for each applicable facility.

F. - 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 39:3099 (November 2013), LR 40:2267 (November 2014), LR 41:

§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 39:3100 (November 2013), LR 40:2267 (November 2014), LR 41:

§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-15/16 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-15/16) supersedes Statewide Order No. 29-R-15/16 and any amendments thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October 2000), LR 27:1921 (November 2001), LR 28:2368 (November 2002), LR 29:2502 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2462 (November 2007), LR 34:2406 (November 2008), LR 35:2464 (November 2009), LR 36:2570 (November 2010), LR 37:3274 (November 2011), LR 38:2931 (November 2012), LR 39:3100 (November 2013), LR 40:2267 (November 2014), LR 41:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Statement

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Comments and views regarding the proposed fees will be accepted until 4:30 p.m., Friday, October 2, 2015. 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. 15-455 Proposed Statewide Order No. 29-R-15/16).

Public Hearing

A public hearing will be held at 9 a.m., Tuesday, September 29, 2015, 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 GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to the state or local governmental units as a result of the proposed rule changes. The proposed rule changes the Office of Conservation's General Operations Statewide Order No. 29-R. Consistent with Act 362 of 2015, the proposed rule will add new application fees and regulatory fees, and increases the fee caps on Type A & B Commercial Facilities, Class I, II, & III wells, and storage wells by 150%. The caps on capable oil & gas production will also be increased by 50%. The increased revenue will flow into the Oil and Gas Regulatory Fund. The proposal provides for additions and changes in the definitions, the fee schedule and the severability and effective date of the

Office of Conservation General Operations Statewide Order No. 29-R. The severability and effective date of the proposed rule is November 20, 2015.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will likely result in an increase of approximately \$5.1 M of anticipated revenue collections of state governmental units. Consistent with Act 362 of 2015, the proposed rule will add new application fees and regulatory fees, and increases the fee caps on Type A & B Commercial Facilities, Class I, II, & III wells, and storage wells by 150%. The caps on capable oil & gas production will also be increased by 50%. However, the acreage fee increase included in Act 362 is not a part of Conservation Order No. 29-R. 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)

The primary groups affected by these rules are oil and gas operators, and storage cavern operators. New application fees and regulatory fees ranging from \$50 to \$3,000 could potentially increase fees by approximately \$2M depending upon market participation, while existing fees and caps will increase by approximately \$3.1M. In total, operators could pay an aggregate of \$5.1M more in annual regulatory fees and well production fees.

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
1508#057

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Thirty Day Work History Report (LAC 43:XIX.118)

The Department of Natural Resources, Office of Conservation proposes to amend LAC 43:XIX.Subpart 1 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The proposed amendment is made to extend the time frame for submitting the work history report following a hydraulic fracture stimulation operation from 20 days to 30 days.

Title 43

NATURAL RESOURCES

**Part XIX. Office of Conservation—General Operations
Subpart 1. Statewide Order No. 29-B**

Chapter 1. General Provisions

§118. Hydraulic Fracture Stimulation Operations

A. - B. ...

C.1. No later than 30 days following completion of the hydraulic fracture stimulation operation, the operator shall, for purposes of disclosure, report the following information on or with the well history and work resume report (Form WH) in accordance with the requirements of LAC 43:XIX.105:

1.a. - 5. ...

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 37:3064 (October 2011), amended LR 37:3064, LR 39:1824 (July 2013), LR 41:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Statement

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All 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. Written comments will be accepted by hand delivery or USPS only, until 4:30 p.m., October 5, 2015, at Office of Conservation, Executive Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Executive Division, 617 North Third Street, Room 931, Baton Rouge, LA 70802. Reference Docket No. CON RULE AMD 2015-07 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

The commissioner of conservation will conduct a public hearing at on Monday, September 28, 2015 at 9 a.m., in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

James H. Welsh
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Thirty Day Work History Report**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs or savings to state or local governmental expenditures as a result of the proposed rule change. The current rule provides for a 20 day period following completion of a hydraulic fracture stimulation operation, within which an operator must submit the Well History Report. This proposed rule change will extend that period by 10 days to 30 days.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated cost increases associated with the proposed amendment and all required documentation will be provided with existing paperwork.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The proposed rule change will have no effect on competition and employment.

James H. Welsh
Commissioner
1508#058

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

Driving School Surety Bonds (LAC 55:III.146 and 147)

Under the authority of R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Motor Vehicles hereby proposes to amend the referenced Sections requiring driving schools to execute a good and sufficient surety bond in the sum of \$20,000.

This proposed change is in accordance with Act 99 of the 2015 Legislative Session and by the Emergency Rule Declaration in this issue of the *Louisiana Register*, effective August 1, 2015.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 1. Driver's License

Subchapter A. General Requirements

§146. Application Process and Fees for Private Driving Schools and Instructors

A. - A.2.j. ...

k. a surety bond in the amount of \$20,000;

A.2.l. - E.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1), R.S. 40:1461 and R.S. 40:1462.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1977 (August 2012), amended LR 40:2603 (December 2014), LR 41:

§147. General Regulations for Private Driving Schools

A. - B. ...

1. School owners shall be required to maintain a \$20,000 surety bond while maintaining a license to operate a driving school.

2. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1), R.S. 40:1461 and R.S. 40:1462.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1977 (August 2012), amended LR 40:2603 (December 2014), LR 41:

Family Impact Statement

The proposed Rules 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 impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in R.S. 49:973. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

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 any 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.

Provider Impact Statement

The proposed Rules do not impact or affect a "provider." "Provider" means an organization that provides services for individuals with developmental disabilities as defined in HCR 170 of the 2014 Regular Session of the Legislature. In particular, the proposed rules have no effect or impact on a "provider" in regards to:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the provider to provide the same level of service;
3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments or requests for public hearing on these proposed rule changes to Laura Hopes, Department of Public Safety and Corrections, Public Safety Services, Office of Legal Affairs, at 7979 Independence Blvd., Suite 307, P.O. Box 66614, Baton Rouge, LA 70896, (225) 925-6103 (phone); (225) 925-3974 (facsimile); laura.hopes@la.gov (email). Comments will be accepted through close of business September 10, 2015.

Public Hearing

A public hearing will be held on Friday, September 25, 2015 at 10 a.m. at 7979 Independence Boulevard, Suite 301, Baton Rouge, LA 70806. If the requisite number of comments are not received, the hearing will be cancelled. Please call and confirm the hearing will be conducted before attending.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Driving School Surety Bonds

- 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 expenditures. Pursuant to Act 99 of 2015, private driving schools are required to execute a good and sufficient surety bond in the sum of \$20,000. Act 99 lowered the surety amount from \$40,000 to \$20,000.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated direct material effect on revenue collections of state or local governmental units as a result of the proposed rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The private training and driving instructor schools will be affected by the proposed rule change. Act 99 of 2015 lowers the surety bond amount, which may result in a lower bond cost to driving schools. However, the estimated cost of the bond is dependent on the applicant's personal credit, business and personal financial information and experience in the industry.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule change is not anticipated to have an effect on competition and employment.

Jill P. Boudreaux
Undersecretary
1508#046

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of the State Fire Marshal**

Uniform Construction Code
(LAC 55:VI.Chapter 3)

In accordance with the provisions of R.S. 40:1730.26 and R.S. 40:1730.28, relative to the authority of the Louisiana State Uniform Construction Code Council (LSUCCC) to promulgate and enforce rules and in accordance with R.S. 49:953(B), the Administrative Procedure Act, the Department of Public Safety and Corrections, Office of the State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) hereby gives notice that it proposes to adopt and amend the adopted construction codes by adding and amending the current solar provisions in the *International Building Code*, *International Residential Code* and the *National Electrical Code*. This provides a greater level of safety for the first responders using proven methods for firefighting and new technology in the electric codes.

There are additional changes to reformat the codification of LAC 55:VI.Chapter 3. The formatting changes do not alter the substance of the rules. The changes are intended to make the rules easier to read.

**Title 55
PUBLIC SAFETY**

Part VI. Uniform Construction Code

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

A. In accordance with the requirements set forth in R.S. 40:1730.28, effective January 1, 2015 the following is hereby adopted as an amendment to the Louisiana State Uniform Construction Code. (The "Louisiana State Plumbing Code" shall replace all references to the "International Plumbing Code" in the following codes.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), LR 41:

§303. International Building Code

[Formerly §301.A.1]

A. *International Building Code* (IBC), 2012 Edition, not including Chapter 1, Administration, Chapter 11, Accessibility, Chapter 27, Electrical and Chapter 29, Plumbing Systems. The applicable standards referenced in that code are included for regulation of construction within this state. Furthermore, IBC shall be amended as follows and shall only apply to the *International Building Code*.

1. Delete Chapter 4, Section 403.5.5, Luminous Egress Path Markings.

2. Amend Chapter 9 to adopt and amend 2012 *International Building Code*, Section 903.2.1.2, Group A-2 (2.). The fire area has an occupant load of 300 or more.

3. Amend chapter 10, Section 1018.5, Air Movement in corridors. Corridors that require protection under Table 1018.1—Corridor Fire-Resistance Rating, shall not serve as supply, return, exhaust, relief or ventilation air ducts.

4. Amend Chapter 10 Section 1026.5.

a. Exception: exterior stairs or ramps which serve no more than one story above the level of exit discharge and constructed with non-combustible materials or constructed with fire retardant treated lumber, shall be allowed when the fire separation distance is between 5 and 10 feet measured from the exterior edge of the stairway or ramp.

5. Amend Section 1505.1, General. Roof assemblies shall be divided into the classes defined below. Class A, B and C roof assemblies and roof coverings required to be listed by this section shall be tested in accordance with ASTM E 108 or UL 790. In addition, fire-retardant-treated wood roof coverings shall be tested in accordance with ASTM D 2898. The minimum roof coverings installed on

buildings shall comply with Table 1505.1 based on the type of construction of the building.

a. Exception: skylights and sloped glazing that comply with Chapter 24 or Section 2610.

6. Table 1505.1a, b

Minimum Roof Covering Classification for Types of Construction								
IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
B	B	B	C ^c	B	C ^c	B	B	C ^c

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m².

a. Unless otherwise required in accordance with the *International Wildland—Urban Interface Code* or due to the location of the building within a fire district in accordance with Appendix D.

b. Nonclassified roof coverings shall be permitted on buildings of Group R-3 and Group U occupancies, where there is a minimum fire-separation distance of 6 feet measured from the leading edge of the roof.

c. Buildings that are not more than two stories above grade plane and having not more than 6,000 square feet of projected roof area and where there is a minimum 10-foot fire-separation distance from the leading edge of the roof to a lot line on all sides of the building, except for street fronts or public ways, shall be permitted to have roofs of No. 1 cedar or redwood shakes and No. 1 shingles constructed in accordance with Section 1505.7.

7. Amend Section 1509.7, Photovoltaic panels and modules. Rooftop mounted photovoltaic panels and modules shall be designed in accordance with this section.

8. Amend Section 1509.7.1, Wind resistance. Rooftop-mounted photovoltaic panels and modules shall be designed for component and cladding wind loads in accordance with Chapter 16 using an effective wind area based on the dimensions of a single unit frame.

a. Amend Section 1509.7.2, Fire classification. Rooftop-mounted photovoltaic panels and modules shall have the fire classification in accordance with Section 1505.9.

9. Amend Section 1509.7.3, Installation. Rooftop-mounted photovoltaic panels and modules shall be installed in accordance with the manufacturer’s instructions.

10. Amend Section 1509.7.4, Photovoltaic panels and modules. Rooftop-mounted photovoltaic panels and modules shall be listed and labeled in accordance with UL 1703 and shall be installed in accordance with the manufacturer’s instructions.

11. Add 1509.7.4.1, Building-integrated photovoltaic products. Building-integrated photovoltaic products installed as the roof covering shall be tested, listed and labeled for fire classification in accordance with Section 1505.1.

12. Add Section 1505.9.7.4.2, Photovoltaic panels and modules. Rooftop mounted photovoltaic panel systems shall be tested, listed and identified with a fire classification in accordance with UL 1703. The fire classification shall comply with Table 1505.1 based on the type of construction of the building.

13. Amend Section 1511.1, Photovoltaic panels and modules. Photovoltaic panels and modules installed upon a roof or as an integral part of a roof assembly shall comply with the requirements of this code and the *International Fire Code*.

14. Add Section 1511.2, Solar photovoltaic power systems. Solar photovoltaic power systems shall be installed in accordance with Sections 1511.2 through 1511.1.1., the *International Building Code* or *International Residential Code*, and NFPA 70.

15. Add Section 1511.2.1, Access and pathways. Roof access, pathways, and spacing requirements shall be provided in accordance with Sections 1511.2.1 through 1511.2.1.1

1. Exceptions:

i. detached, nonhabitable Group U structures including, but not limited to, parking shade structures, carports, solar trellises and similar structures;

ii. roof access, pathways and spacing requirements need not be provided where the fire chief has determined that rooftop operations will not be employed.

16. Add Section 1511.2.1.1, Roof access points. Roof access points shall be located in areas that do not require the placement of ground ladders over openings such as windows or doors, and located at strong points of building construction in locations where the access point does not conflict with overhead obstructions such as tree limbs, wires or signs.

17. Add Section 1511.3, Solar photovoltaic systems for Group R-3 buildings. Solar photovoltaic systems for Group R-3 buildings shall comply with Sections 1511.3 through 1511.3.5.

a. Exception:

i. these requirements shall not apply to structures designed and constructed in accordance with the *International Residential Code*.

18. Add Section 1511.3.1, Size of solar photovoltaic array. Each photovoltaic array shall be limited to 150 feet (45 720 mm) by 150 feet (45 720 mm). Multiple arrays shall be separated by a 3-foot-wide (914 mm) clear access pathway.

19. Add Section 1511.3.2, Hip roof layouts. Panels and modules installed on Group R-3 buildings with hip roof layouts shall be located in a manner that provides a 3-foot-wide (914 mm) clear access pathway from the eave to the ridge on each roof slope where panels and modules are located. The access pathway shall be at a location on the building capable of supporting the fire fighters accessing the roof.

a. Exception:

i. these requirements shall not apply to roofs with slopes of two units vertical in 12 units horizontal (2:12) or less.

20. Add Section 1511.3.3, Single-ridge roofs. Panels and modules installed on Group R-3 buildings with a single ridge shall be located in a manner that provides two, 3-foot-wide (914 mm) access pathways from the eave to the ridge on each roof slope where panels and modules are located.

a. Exception:

i. this requirement shall not apply to roofs with slopes of two units vertical in 12 units horizontal (2:12) or less.

21. Add Section 1511.3.4, Roofs with hips and valleys. Panels and modules installed on Group R-3 buildings with roof hips and valleys shall not be located closer than 18 inches (457 mm) to a hip or a valley where panels/ modules are to be placed on both sides of a hip or valley. Where

panels are to be located on only one side of a hip or valley that is of equal length, the panels shall be permitted to be placed directly adjacent to the hip or valley.

a. Exception:

i. these requirements shall not apply to roofs with slopes of two units vertical in 12 units horizontal (2:12) or less.

22. Add Section 1511.3.5, Allowance for smoke ventilation operations. Panels and modules installed on Group R-3 buildings shall be located not less than 3 feet (914 mm) from the ridge in order to allow for fire department smoke ventilation operations.

a. Exception:

i. panels and modules shall be permitted to be located up to the roof ridge where an alternative ventilation method *approved* by the fire chief has been provided or where the fire chief has determined vertical ventilation techniques will not be employed.

23. Add Section 1511.4, Other than Group R-3 buildings. Access to systems for buildings, other than those containing Group R-3 occupancies, shall be provided in accordance with Sections 1511.4.1 through 1511.4.2.1

a. Exception:

i. where it is determined by the fire code official that the roof configuration is similar to that of a Group R-3 occupancy, the residential access and ventilation requirements in Sections 1511.3.1 through 1511.3.5 shall be permitted to be used.

24. Add Section 1511.4.1, Access. There shall be a minimum 6-foot-wide (1829 mm) clear perimeter around the edges of the roof.

a. Exception:

i. where either axis of the building is 250 feet (76 200 mm) or less, the clear perimeter around the edges of the roof shall be permitted to be reduced to a minimum 4 foot wide (1290 mm).

25. Add Section 1511.4.2, Pathways. The solar installation shall be designed to provide designated pathways. The pathways shall meet the following requirements:

a. The pathway shall be over areas capable of supporting fire fighters accessing the roof.

b. The centerline axis pathways shall be provided in both axes of the roof. Centerline axis pathways shall run where the roof structure is capable of supporting fire fighters accessing the roof.

c. Pathways shall be a straight line not less than 4 feet (1290 mm) clear to roof standpipes or ventilation hatches.

d. Pathways shall provide not less than 4 feet (1290 mm) clear around roof access hatch with not less than one singular pathway not less than 4 feet (1290 mm) clear to a parapet or roof edge.

26. Add Section 1511.4.2.1, Smoke ventilation. The solar installation shall be designed to meet the following requirements:

a. Arrays shall be not greater than 150 feet (45 720 mm) by 150 feet (45 720 mm) in distance in either axis in order to create opportunities for fire department smoke ventilation operations.

b. Smoke ventilation options between array sections shall be one of the following:

i. a pathway 8 feet (2438 mm) or greater in width;

ii. a 4-foot (1290 mm) or greater in width pathway and bordering roof skylights or gravity-operated dropout smoke and heat vents on not less than one side;

iii. a 4-foot (1290 mm) or greater in width pathway and bordering all sides of nongravity-operated dropout smoke and heat vents;

iv. a 4-foot (1290 mm) or greater in width pathway and bordering 4-foot by 8-foot (1290 mm by 2438 mm) "venting cutouts" every 20 feet (6096 mm) on alternating sides of the pathway.

27. Amend Chapter 16 Section 1603.1, General. Construction documents shall show the size, section and relative locations of structural members with floor levels, column centers and offsets dimensioned. The design loads and other information pertinent to the structural design required by Sections 1603.1.1 through 1603.1.9 shall be indicated on the construction documents.

a. Exception: Construction documents for buildings constructed in accordance with the conventional light-frame construction provisions of Section 2308 shall indicate the following structural design information:

i. floor and roof live loads;

ii. ground snow load, *P_g*;

iii. basic wind speed (3-second gust), miles per hour (mph) (km/hr) and wind exposure;

iv. seismic design category and site class., unless excepted by Sections 1603.1.5 or 1613.1;

v. flood design data, if located in flood hazard areas established in Section 1612.3;

vi. design load-bearing values of soils.

28. Amend Chapter 16 Section 1603.1.5, Earthquake design data. The following information related to seismic loads shall be shown, regardless of whether seismic loads govern the design of the lateral-force-resisting system of the building:

a. seismic importance factor, *I*, and occupancy category;

b. mapped spectral response accelerations, *SS* and *S1*;

c. site class;

d. spectral response coefficients, *SDS* and *SD1*;

e. seismic design category;

f. basic seismic-force-resisting system(s);

g. design base shear;

h. seismic response coefficient(s), *CS*;

i. response modification factor(s), *R*;

g. analysis procedure used;

h. exceptions:

i. construction documents that are not required to be prepared by a registered design professional;

ii. construction documents for structures that are assigned to Seismic Design Category A.

29. Amend Chapter 16, Section 1609.1.2, Protection of Openings. In wind-borne debris regions, glazing in buildings shall be impact resistant or protected with an impact-resistant covering meeting the requirements of an approved impact-resistant standard or ASTM E 1996 and ASTM E 1886 referenced herein as follows.

a. Glazed openings located within 30 feet (9144 mm) of grade shall meet the requirements of the large missile test of ASTM E 1996.

b. Glazed openings located more than 30 feet (9144 mm) above grade shall meet the provisions of the small missile test of ASTM E 1996.

c. Exceptions:

i. wood structural panels with a minimum thickness of 7/16 inch (11.1 mm) and maximum panel span of 8 feet (2438 mm) shall be permitted for opening protection in one- and two-story buildings classified as Risk Category 2. Panels shall be precut so that they shall be attached to the framing surrounding the opening containing the product with the glazed opening. Panels shall be predrilled as required for the anchorage method and shall be secured with the attachment hardware provided. Attachments shall be designed to resist the components and cladding loads determined in accordance with the provisions of ASCE 7, with corrosion-resistant attachment hardware provided and anchors permanently installed on the building. Attachment in accordance with Table 1609.1.2 with corrosion-resistant attachment hardware provided and anchors permanently installed on the building is permitted for buildings with a mean roof height of 45 feet (13 716 mm) or less where V_{asd} determined in accordance with Section 1609.3.1 does not exceed 140 mph (63 m/s). =

ii. glazing in Risk Category I buildings as defined in Section 1604.5, including greenhouses that are occupied for growing plants on a production or research basis, without public access shall be permitted to be unprotected;

iii. glazing in Risk Category II, III or IV buildings located over 60 feet (18 288 mm) above the ground and over 30 feet (9144 mm) above aggregate surface roofs located within 1,500 feet (458 m) of the building shall be permitted to be unprotected.

30. Chapter 16 Section 1613.1, Scope. Every structure, and portion thereof, including nonstructural components that are permanently attached to structures and their supports and attachments, shall be designed and constructed to resist the effects of earthquake motions in accordance with ASCE 7, excluding Chapter 14 and Appendix 11A. The seismic design category for a structure is permitted to be determined in accordance with Section 1613 or ASCE 7.

a. Exceptions:

i. detached one- and two-family dwellings, assigned to Seismic Design Category A, B or C, or located where the mapped short-period spectral response acceleration, S_S , is less than 0.4 g;

ii. the seismic-force-resisting system of wood-frame buildings that conform to the provisions of Section 2308 are not required to be analyzed as specified in this Section;

iii. agricultural storage structures intended only for incidental human occupancy;

iv. structures that require special consideration of their response characteristics and environment that are not addressed by this code or ASCE 7 and for which other regulations provide seismic criteria, such as vehicular bridges, electrical transmission towers, hydraulic structures, buried utility lines and their appurtenances and nuclear reactors;

v. structures that are not required to have a registered design professional in responsible charge;

vi. structures that are assigned to Seismic Design Category A.

b. Amend Chapter 16, Section 1613.1, Scope. Every structure, and portion thereof, including nonstructural components that are permanently attached to structures and their supports and attachments, shall be designed and constructed to resist the effects of earthquake motions in accordance with ASCE 7, excluding Chapter 14 and Appendix 11A. The seismic design category for a structure is permitted to be determined in accordance with Section 1613 or ASCE 7-10. Figure 1613.5(1) shall be replaced with ASCE 7-10 Figure 22-1. Figure 1613.5(2) shall be replaced with ASCE 7-10 Figure 22-2.

31. Amend chapter 23, section 2308.2, exceptions 4. Wind speeds shall not exceed 110 miles per hour (mph)(48.4m/s)(3 second gust) for buildings in exposure category B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), LR 41:

§305. International Existing Building Code **[Formerly §301.A.2]**

A. *International Existing Building Code* (IEBC), 2012 Edition, not including Chapter 1, Administration, and the standards referenced in that code for regulation of construction within this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), LR 41:

§307. International Residential Code **[Formerly §301.A.3.a]**

A.1. *International Residential Code*, 2012 Edition, not including Parts I-Administrative, VII-Plumbing and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The enforcement of such standards shall be mandatory only with respect to new construction, reconstruction, additions to homes previously built to the *International Residential Code*, and extensive alterations. Appendix G, Swimming

Pools, Spas and Hot Tubs is adopted and at the option of a parish, municipality, or regional planning commission, Section AG105, Barrier Requirements may be altered. Appendix J, Existing Buildings and Structures, may be adopted and enforced only at the option of a parish, municipality, or regional planning commission.

a. Adopt and amend 2012 IRC Section R301.2.1., Part IV-Energy Conservation of the latest edition of the *International Residential Code* is hereby amended to require that supply and return ducts be insulated to a minimum of R-6. Furthermore, 2012 IRC R301.2.1.1 (Design Criteria) shall be amended as follows and shall only apply to the *International Residential Code*:

i. Delete Figure R301.2(4)B and replace all references to this figure with Figure R301.2(4)A.

b. Amend 2012 IRC Section R301.2.1.1 (Design Criteria); R301.2.1.1, Wind limitations and wind design required. The wind provisions of this code shall not apply to the design of buildings where the basic wind speed from Figure R301.2(4)A equals or exceeds 110 miles per hour (49 m/s).

i. Exceptions:

(a). for concrete construction, the wind provisions of this code shall apply in accordance with the limitations of Sections R404 and R611;

(b). for structural insulated panels, the wind provisions of this code shall apply in accordance with the limitations of Section R613.

ii. In regions where the basic wind speed shown on Figure R301.2(4)A equals or exceeds 110 miles per hour (49 m/s), the design of buildings for wind loads shall be in accordance with one or more of the following methods:

(a). AF&PA Wood Frame Construction Manual (WFCM);

(b). ICC Standard for Residential Construction in High-Wind Regions (ICC 600);

(c). ASCE Minimum Design Loads for Buildings and Other Structures (ASCE 7);

(d). AISI Standard for Cold-Formed Steel Framing—Prescriptive Method for One- and Two-Family Dwellings (AISI S230);

(e). International Building Code; or

(f). SSTD 10-99 Hurricane Resistant Construction Standard.

iii. The elements of design not addressed by the methods in Clauses (i) through (vi) shall be in accordance with the provisions of this code. When ASCE 7 or the *International Building Code* is used for the design of the building, the wind speed map and exposure category requirements as specified in ASCE 7 and the *International Building Code* shall be used.

c. Adopt and amend 2012 IRC Section R301.2.1.2, Protection of Openings. Exterior glazing in buildings located in windborne debris regions shall be protected from windborne debris. Glazed opening protection for windborne debris shall meet the requirements of the Large Missile Test of ASTM E 1996 and ASTM E 1886 referenced therein. The applicable wind zones for establishing missile types in ASTM E 1996 are shown on Figure R301.2(4)F. Garage door glazed opening protection for windborne debris shall meet the requirements of an approved impact-resisting standard or ANSI/DASMA115.

i. Exceptions:

(a). wood structural panels with a minimum thickness of 7/16 inch (11 mm) and a maximum span of 8 feet (2438 mm) shall be permitted for opening protection in one- and two-story buildings.;

(b). panels shall be precut and attached to the framing surrounding the opening containing the product with the glazed opening;

(c). panels shall be predrilled as required for the anchorage method and shall be secured with the attachment hardware provided;

(d). attachments shall be designed to resist the component and cladding loads determined in accordance with either Table R301.2(2) or ASCE 7, with the permanent corrosion-resistant attachment hardware provided and anchors permanently installed on the building;

(e). attachment in accordance with Table R301.2.1.2 is permitted for buildings with a mean roof height of 33 feet (10 058 mm) or less where wind speeds do not exceed 130 miles per hour (58 m/s).

d. Adopt 2012 IRC Figure R301.2(4)A and delete Figure R301.2(4)B and Figure R301.2(4)C.

e. Adopt 2012 IRC Section R301.2.1.4, Exposure Category.

2. Additionally, Section 302, R302.1, Exterior Walls shall be amended to add the following exception:

a. On lots that are 50 feet or less in width and that contain a one or two family dwelling or townhouse that was in existence prior to October 1, 2005, the following are permitted for rebuilding:

i. a projection 2 feet from the property line with a 1 hour minimum fire-resistance rating on the underside;

ii. a wall 3 feet or more from the property with a 0 hour minimum fire-resistance rating.

3. Amend Section R302.5.1 Opening Protection.

a. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 13/8 inches (35 mm) in thickness, solid or honeycomb-core steel doors not less than 13/8 inches (35 mm) thick, or 20-minute fire-rated doors.

4. Amend Section R303.4 Mechanical Ventilation. When a blower door test is performed, and the air infiltration rate of a dwelling unit is less than 5 air changes per hour when tested in accordance with the 2009 IRC Section N1102.4.2.1, the dwelling unit shall be provided with whole-house mechanical ventilation in accordance with Section M1507.3.

5. Additionally, IRC shall be amended as follows and shall only apply to the *International Residential Code*.

a. Adopt and amend 2012 IRC Section 313.1 Townhouse Automatic Sprinkler System. Per Act No. 685 of the 2010 Regular Session of the Louisiana Legislature, the council shall not adopt or enforce any part of the *International Residential Code* or any other code or regulation that requires a fire protection sprinkler system in one- or two-family dwellings. Further, no municipality or parish shall adopt or enforce an ordinance or other regulation requiring a fire protection sprinkler system in one- or two-family dwellings. Where no sprinkler system is installed a common 2-hour fire-resistance-rated wall is permitted for

townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. Electrical installations shall be installed in accordance with the 2011 NEC. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

i. Exception: If an owner voluntarily chooses to install an automatic residential fire sprinkler system it shall be installed per Section R313.1.1 Design and installation. Automatic residential fire sprinkler systems for *townhouses* shall be designed and installed in accordance with NFPA 13D and Table 302.1 (2) Exterior Walls-Dwellings with Fire sprinklers may be used for separation requirements.

b. Adopt and amend 2012 IRC Section 313.2 One- and Two-Family Dwellings Automatic Fire Systems. Per Act No. 685 of the 2010 Regular Session of the Louisiana Legislature, the Council shall not adopt or enforce any part of the *International Residential Code* or any other code or regulation that requires a fire protection sprinkler system in one- or two-family dwellings. Further, no municipality or parish shall adopt or enforce an ordinance or other regulation requiring a fire protection sprinkler system in one- or two-family dwellings.

i. Exception: if an owner voluntarily chooses to install an automatic residential fire sprinkler system it shall be installed per Section R313.2.1 Design and installation. Automatic residential fire sprinkler systems shall be designed and installed in accordance with NFPA 13D and Table 302.1(2) Exterior Walls-Dwellings with Fire sprinklers may be used for separation requirements.

c. Amend Chapter 3, Section R315.2, Where Required in Existing Dwellings. When alterations, repairs or additions occur or where one or more sleeping rooms are added or created in existing dwellings that have attached garages or in existing dwellings within which fuel fired appliances exist, carbon monoxide alarms shall be provided in accordance with Section R315.1.

d. Substitute Chapter 3, Section R317, Dwelling Unit Separation of the 2006 IRC, in lieu of the Section 313, Automatic Fire Sprinkler Systems of the 2009 IRC. In addition, Chapter 3, Section R 302.2, Townhouses of the 2009 IRC, is amended as follows.

i. Exceptions:

(a) a common 2-hour fire-resistance-rated wall is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall;

(b) electrical installations shall be installed in accordance with Chapters 34 through 43. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4;

(c) Chapter 3, Section R302.2.4, Structural Independence of the 2009 IRC, is amended as follows: Exception: Number 5, Townhouses, separated by a common 2-hour fire-resistance-rated wall as provided in Section R302.2.

e. Add 2015 IRC Section 324 to the 2012 IRC.

i. Amend Section R324.7.2 Solar photovoltaic systems. Solar photovoltaic systems shall comply with Sections R324.7.2.1 through R324.7.2.5. Installer shall provide structural analysis, from a design professional, of solar panels, components and their loading on existing and new roofs.

f. Adopt 2012 IRC Table 602.3 (1), Fastening Requirements.

g. Amend 2012 IRC Section R703.8, Flashing. Approved corrosion-resistant flashing shall be applied shingle-fashion in a manner to prevent entry of water into the wall cavity or penetration of water to the building structural framing components. Self-adhered membranes used as flashing shall comply with AAMA 711. The flashing shall extend to the surface of the exterior wall finish. Approved corrosion-resistant flashings shall be installed at all of the following locations:

i. exterior window and door openings. Flashing at exterior window and door openings shall extend to the surface of the exterior wall finish or to the water-resistive barrier for subsequent drainage;

ii. at the intersection of chimneys or other masonry construction with frame or stucco walls, with projecting lips on both sides under stucco copings;

iii. under and at the ends of masonry, wood or metal copings and sills;

iv. continuously above all projecting wood trim;

v. where exterior porches, decks or stairs attach to a wall or floor assembly of wood-frame construction;

vi. at wall and roof intersections;

vii. at built-in gutters.

h. Adopt 2012 IRC Section R802.11, Roof tie-down.

i. Adopt 2012 IRC Table R802.11, Rafters.

j. Amend Section R806.1, Ventilation Required.

i. Enclosed attics and enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters shall have cross ventilation for each separate space by ventilating openings protected against the entrance of rain or snow. Ventilation openings shall have a least dimension of 1/16 inch (1.6 mm) minimum and 1/4 inch (6.4 mm) maximum. Ventilation openings having a least dimension larger than 1/4 inch (6.4 mm) shall be provided with corrosion-resistant wire cloth screening, hardware cloth, or similar material with openings having a least dimension of 1/16 inch (1.6 mm) minimum and 1/4 inch (6.4 mm) maximum. Openings in roof framing members shall conform to the requirements of Section R802.7. Required ventilation openings shall open directly to the outside air.

k. Amend Section R 1006.1, Exterior Air. Factory-built or masonry fireplaces covered in this chapter shall be equipped with an exterior air supply to assure proper fuel combustion.

6. Substitute Chapter 11, Energy Efficiency of the 2009 IRC, in lieu of Chapter 11 Energy Efficiency of the 2012 IRC.

a. Amend Section N1102.3, Access Hatches and Doors. Access doors from *conditioned spaces* to unconditioned spaces shall be weather-stripped and have a minimum insulation value of an R-4.

b. Amend Section N1102.4.2, Air Sealing and Insulation. The air tightness demonstration method of compliance is to be determined by the contractor, design professional or homeowner.

c. Amend Section N1102.4.2.1, Testing Option. Tested air leakage is less than 7 ACH when tested with a blower door at a pressure of 50 pascals (0.007 psi). Testing shall occur after rough in and after installation of

penetrations of the building envelope, including penetrations for utilities, plumbing, electrical, ventilation and combustion appliances. When the contractor, design professional or homeowner chooses the blower door testing option, blower door testing shall be performed by individuals certified to perform blower door tests by a nationally recognized organization that trains and provides certification exams for the proper procedures to perform such tests. The responsible BCEO shall accept written blower door test reports from these certified individuals to verify the minimum requirements of Section N1102.4.2.1 Testing Option are attained.

- i. During testing:
 - (a). exterior windows and doors, fireplace and stove doors shall be closed, but not sealed;
 - (b). dampers shall be closed, but not sealed; including exhaust, intake, makeup air, back draft, and flue dampers;
 - (c). interior doors shall be open;
 - (d). exterior openings for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;
 - (e). heating and cooling system(s) shall be turned off;
 - (f). HVAC ducts shall not be sealed; and
 - (g). supply and return registers shall not be sealed.

d. Amend Section N1102.4.3, Fireplaces, New wood-burning fireplaces shall have outdoor combustion air.

e. Amend Section N1103.2.2, Sealing, Ducts, air handlers, filter boxes and building cavities used as ducts shall be sealed. Joints and seams shall comply with section M1601.4. Duct leakage testing shall be performed by individuals certified to perform duct leakage tests by a nationally recognized organization that trains and provides certification exams for the proper procedures to perform such tests. The responsible BCEO shall accept written duct leakage test reports from these certified individuals to verify the minimum requirements of Section N1103.2.2 Sealing are attained.

i. Exception: HVAC Contractors. HVAC contractors, who are not certified to perform duct leakage tests, may perform the test with the responsible BCEO visually verifying test procedures and results on site.

ii. Joints and seams shall comply with section M1601.4. Duct tightness shall be verified by either for the following:

(a). Post-Construction Test. Leakage to outdoors shall be less than or equal to 8 cfm (3.78 L/s) per 100 ft² (9.29 m²) of conditioned floor area or a total leakage less than or equal to 12 cfm (5.66 L/s) per 100 ft² (9.29 m²) of conditioned floor area when tested at a pressure differential of 0.1 inch w.g. (25 Pa) across the entire system, including the manufacturer's air handler end closure. All register boots shall be taped or otherwise sealed during the test.

(b). Rough-In Test. Total leakage shall be less than or equal to 6 cfm (2.83 L/s) per 100 ft² (9.29 m²) of conditioned floor area when tested at a pressure differential of 0.1 inch w.g. (25 Pa) across the roughed in system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test,

total leakage shall be less than or equal to 4 cfm (1.89 L/s) per 100 ft² (9.29 m²) of conditioned floor area.

iii. Exception: duct tightness test is not required if the air handler and all ducts are located within *conditioned space*.

f. Amend Section N1103.8.3, Pool Covers. Pool covers shall not be required to meet the energy efficiency requirements of this Section.

g. Amend Section M1307.3.1, Protection from Impact. Appliances shall not be installed in a location subject to automobile or truck damage except where protected by approved barriers

h. Amend Section M1507.3.1, System Design. The whole-house ventilation system shall consist of a combination of supply and exhaust fans, and associated ducts and controls. Local exhaust and supply fans are permitted to serve as such a system. Outdoor air ducts connected to the return side of an air handler shall be considered to provide supply ventilation.

i. Amend Section M1507.3.2, System Controls. The whole-house mechanical ventilation system shall be provided with controls that enable manual override and a method of air-flow adjustment.

j. Amend Section M1507.3.3, Mechanical Ventilation Rate. The whole-house mechanical ventilation system shall be able to provide outdoor air at a continuous rate of at least that determined in accordance with Table M1507.3.3(1).

k. Amend Section M1507.4, Minimum Required Local Exhaust. Local exhaust systems shall be designed to have the capacity to exhaust the minimum air flow rate as follows.

i. Kitchen: 100 cfm intermittent or 25 cfm continuous, a balanced ventilation system is required for continuous exhaust.

ii. Bathrooms: exhaust capacity of 50 cfm intermittent or 20 cfm continuous, a balanced ventilation system is required for continuous exhaust.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), LR 41:

§309. International Mechanical Code

[Formerly §301.A.4]

A.1. *International Mechanical Code* (IMC), 2012 Edition, and the standards referenced in that code for regulation of construction within this state.

2. Amend Chapter 6 Section 603.4, Metallic ducts. All metallic ducts shall be constructed as specified in the SMACNA HVAC Duct Construction Standards-Metal and Flexible.

a. Exception: ducts installed within single dwelling units shall have a minimum thickness as specified in the 2006 International Mechanical Code Table 603.4.

b. Amend Chapter 6, Section 606.4.1, Supervision. The duct smoke detectors shall be connected to a fire alarm system where a fire alarm system is required by Section 907.2 of the *International Fire Code* or locally adopted fire code. The actuation of a duct smoke detector shall activate a visible and audible supervisory signal at a constantly attended location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), LR 41:

§311. The Louisiana State Plumbing Code

[Formerly §301.A.5]

A. *The Louisiana State Plumbing Code* [Part XIV (Plumbing) of the State Sanitary Code] as amended by the state health officer acting through the Office of Public Health of the Department of Health and Hospitals. Nothing in this Part shall be construed so as to prevent the state health officer from enforcing Part XIV (Plumbing) of the State Sanitary Code, the enforcement of which is his statutory and regulatory responsibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), LR 41:

§313. International Fuel Gas Code

[Formerly §301.A.6]

A. *International Fuel Gas Code* (IFCG), 2012 Edition, and the standards referenced in that code for regulation of construction within this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the

Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), LR 41:

§315. National Electric Code

[Formerly §301.A.7]

A. *National Electric Code* (NEC), 2011 Edition, and the standards referenced in that code for regulation of construction in this state. This Code is to become effective on January 1, 2013.

1. Amend and replace 2011 NEC Article 690 with 2014 NEC Article 690.

a. Exception:

i. amend 690.12 to become effective September 1, 2015;

ii. until September 1, 2015, all solar installations shall have an approved manual disconnect located within 5 feet of the array structure to disconnect all DC conductors from the power source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), LR 41:

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.

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.

Poverty Impact Statement

The proposed Rule amends LAC 55:IX.181. 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.

Provider Impact Statement

This proposed Rules does not impact or affect a provider. "Provider" means an organization that provides services for individuals with developmental disabilities as defined in HCR 170 of the 2014 Regular Session of the Legislature. In particular, the proposed Rule has no effect or impact on a provider in regards to:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the provider to provide the same level of service;
3. the ability of the provider to provide the same level of service.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than September 09, 2015, at 4:30 p.m. to Mark Joiner, 8181 Independence Boulevard, Baton Rouge, LA 70806, (225) 922-0817 Fax: (225) 925-3699, or mark.joiner@la.gov. A public hearing will be scheduled pursuant to R.S. 49:953(A)(1)(a).

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Uniform Construction Code

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rule change will not result in additional state or local government costs or savings. The rule change amends the current solar provisions in the International Building Code (IBC), International Residential Code (IRC) and the National Electrical Code (NEC). It provides a greater level of safety for the first responders using proven methods for firefighting and new technology in the electrical codes. There are additional changes to the current rule to reformat the rule, with the intent to make the rule easier to read. These changes do not change the substance of the rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule change will have no impact 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 construction industry and prospective owners of residential buildings will be affected by the proposed changes. The proposed changes will limit the initial costs as a result of installing more efficient solar photovoltaic systems that will provide greater savings on energy costs for the future. However, due to the variety of size and scope of these residential and commercial projects the exact potential and savings cannot be quantified.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule change will have no effect on competition or employment

Jill P. Boudreaux
Undersecretary
1508#061

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Health and Hospitals Board of Veterinary Medicine

Fall/Winter Examination Dates

The Louisiana Board of Veterinary Medicine will administer the state board examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

The board will accept applications to take the North American veterinary licensing examination (NAVLE) which will be administered through the National Board of Veterinary Medical Examiners (NBVME), formerly the National Board Examination Committee (NBEC), as follows.

Test Window Date	Deadline To Apply
November 16 through December 12, 2015	August 1, 2015
April 11 through April 23, 2016	January 3, 2016

The board will also accept applications to take the veterinary technician national examination (VTNE) which will be administered through American Association of Veterinary State Boards (AAVSB), for state registration of veterinary technicians as follows.

Test Date	Deadline To Apply
November 15 - December 15, 2015	October 15, 2015
March 15 - April 15, 2016	February 15, 2016
July 15 - August 15, 2016	June 15, 2016

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 301 Main Street, Suite 1050, Baton Rouge, LA 70801 and by request via telephone at (225) 342-2176 or by e-mail at admin@lsbvm.org; application forms and information are also available on the website at www.lsbvm.org.

Wendy D. Parrish
Executive Director

1508#031

POTPOURRI

Department of Health and Hospitals Bureau of Health Services Financing

Substantive Changes and Public Hearing Notification Free-Standing Birthing Centers (LAC 50:XV.Chapters 265-271)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Bureau of Health Services Financing published a Notice of Intent in the April 20, 2015 edition of the *Louisiana Register* (LR 41:806-808) to adopt LAC 50:XV.Chapters 265-271. This Notice of Intent proposed to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives.

The department conducted a public hearing on this Notice of Intent on May 28, 2015 to solicit comments and testimony on the proposed Rule. As a result of the comments received, the department proposes to amend the provisions in §26501 and §26903 of the proposed Rule.

Taken together, all of these revisions will closely align the proposed Rule with the Department's original intent and the concerns brought forth during the comment period for the Notice of Intent as originally published. No fiscal or economic impact will result from the amendments proposed in this notice.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 18. Free-Standing Birthing Centers

Chapter 265. General Provisions

§26501. Purpose

A. The Medicaid Program shall provide coverage and reimbursement for labor and delivery services rendered by free-standing birthing centers (FSBCs). Stays for delivery at the FSBC are typically less than 24 hours and the services rendered for labor and delivery are very limited in comparison to delivery services rendered during inpatient hospital stays.

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 41:

Chapter 269. Provider Participation
§26903. Staffing Requirements

A. The FSBC shall have on staff:

1. a licensed obstetrician, family practitioner, certified nurse midwife, or licensed midwife who shall attend each woman in labor from the time of admission through birth and the immediate postpartum period.

a. A licensed midwife providing birthing services within the FSBC must:

i. have passed the national certification exam through the North American Registry of Midwives; and

ii. hold a current, unrestricted state license with the Louisiana State Board of Medical Examiners.

2. 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 41:

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 41:

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.

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 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding these substantive amendments to the 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 these substantive changes to the proposed Rule is scheduled for Thursday, September 24, 2015 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

1508#081

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
3 and 1 Operating Inc	Church Point	L	NS 2 Sub; Shirley Carrier	001	214037
3 and 1 Operating Inc	Church Point	L	Thibodeaux SWD	001	973074
3 and 1 Operating Inc	Phoenix Lake	L	Donner Properties	001	231110
Sneed Brothers	Red River-Bull Bayou	S	Porter	001	72361
Caddo Oil Co., Inc.	Caddo Pine Island	S	Raines KA	014	143344
C D McKinnie	Monroe	M	McKinnie C	001	37667

James H. Welsh
 Commissioner

1508#044

POTPOURRI

Department of Natural Resources
Office of Conservation
Environmental Division

Legal Notice—Docket No. Env 2015-03

Notice is hereby given that the commissioner of conservation will conduct a hearing at 6 p.m., Thursday, September 24, 2015, at the DeSoto Parish Police Jury building, located at 101 Franklin Street, Police Jury Meeting Room, Mansfield, LA.

At such hearing, the commissioner, or his designated representative, will hear testimony relative to the application of Southern Water Disposal, LLC, 430 Timbers East Drive, Haughton, LA 71037. The applicant requests approval from the Office of Conservation to construct and operate a commercial deep well injection waste disposal facility for disposal of exploration and production waste (E and P Waste) fluids located in Section 25, Township 13 North, Range 16 West in DeSoto Parish.

The application is available for inspection by contacting Stephen Olivier, Office of Conservation, Environmental Division, Eighth Floor of the LaSalle Office Building, 617 North Third Street, Baton Rouge, LA. Copies of the application will be available for review at the DeSoto Parish Police Jury building or the DeSoto Parish Public Library in Mansfield, LA no later than 30 days prior to the hearing

date. Verbal information may be received by calling Mr. Olivier at (225) 342-7394.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., Thursday, October 1, 2015, at the Baton Rouge office. Comments should be directed to:

Office of Conservation
Environmental Division
P.O. Box 94275
Baton Rouge, LA 70804.
Re: Docket No. ENV 2015-03
Commercial Facility Well Application
DeSoto Parish

James H. Welsh
Commissioner

1508#022

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