

I. EXECUTIVE ORDERS	
KBB 06-22 Emergency Procedures for Conducting State Business.....	935
KBB 06-23 Urban Search and Rescue Commission—Amends Executive Order No. KBB 05-5.....	936
KBB 06-24 Statewide Interoperable Communication System Executive Committee—Amends Executive Order No. KBB 06-17.....	936
II. POLICY AND PROCEDURE MEMORANDA	
Governor	
Division of Administration, Office of State Travel—General Travel—PPM 49 (LAC 4:V.Chapter 15)	938
III. EMERGENCY RULES	
Agriculture and Forestry	
Office of Agriculture and Environmental Sciences—Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications (LAC 7:XXIII.145).....	942
Office of the Commissioner—Sale of Fluid Milk Products (LAC 7:XXXI.331)	944
Economic Development	
Office of the Secretary—Angel Investor Tax Credit Program (LAC 13:I.Chapter 33).....	945
Education	
Student Financial Assistance Commission, Office of Student Financial Assistance—Scholarship/Grant Programs (LAC 28:IV.505, 507, 703, and 1301).....	946
Scholarship/Grant Programs—LEAP (LAC 28:IV.1301).....	949
Tuition Trust Authority, Office of Student Financial Assistance—START Savings Program (LAC 28:VI.107, 305, 311 and 315)	949
Environmental Quality	
Office of the Secretary, Legal Affairs Division—8-Hour Ambient Ozone Standard and Nonattainment New Source Review (LAC 33:III.111, 504, 509, 607, 709, and 711)(AQ253E3).....	950
Sewage Sludge Regulatory Management (LAC 33:VII.301 and IX.107, 6901, 6903, 6905, 6907, 6909, 6911, 6913, and 7135)(OS066E3).....	955
Governor	
Division of Administration, Office of Facility Planning and Control—Demolition or Disposing of State Owned Buildings (LAC 34:III.701).....	978
Office of Homeland Security and Emergency Preparedness—Mandatory Evacuation of Designated Persons by Local Government in Advance of Hurricanes (LAC 55:XXI.Chapters 1 and 3).....	978
Health and Hospitals	
Board of Medical Examiners—Temporary Permit For Acupuncturists' Assistants (LAC 46:XLV.2131).....	980
Board of Veterinary Medicine—Veterinary Practice (LAC 46:LXXXV.309).....	982
Office of the Secretary, Bureau of Health Services Financing—Family Planning Waiver (LAC 50:XXII.Chapters 21-27).....	983
Hospital Services—Inpatient Hospitals—Disproportionate Share Hospital Payment Methodologies (LAC 50:V.Chapter 3)	984
Louisiana Hurricane Relief Waiver—Uncompensated Care Costs Pool (LAC 50:XXII.Chapters 41-53).....	989
Medicaid Eligibility—Treatment of Loans, Mortgages, Promissory Notes and Other Property Agreements.....	992
Nursing Facility Minimum Licensing Standards—Emergency Preparedness (LAC 48:I.9729).....	992
Pharmacy Benefits Management Program—Erectile Dysfunction Drug Coverage	994
Office of the Secretary, Division of Long Term Supports and Services—Home and Community Based Services Waivers—Elderly and Disabled Adults Waiver (LAC 50:XXI.Chapters 81-89).....	995
Office of the Secretary, Office for Citizens with Developmental Disabilities—Home and Community-Based Services Waivers—Supports Waiver (LAC 50:XXI.Chapters 53-61).....	997
Targeted Case Management—Individuals with Developmental Disabilities (LAC 50:XV.10101, 10501, 10505, and 11701).....	1001

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Social Services

Office of Family Support—CCAP—Job Search and Repair and Improvement Grants (LAC 67:III.Chapter 51) .. 1002
FITAP/KCSP/STEP—Parenting Skills—Education and Eligibility Factors (LAC 67:III.1209, 1223,
1225, 1229, 1245, 1291, 5307, 5321, 5323, 5329, 5339, 5341, 5391, and 5711)..... 1004
Food Stamp/FITAP/KCSP—Interest Income Exclusion and Student Status Changes
(LAC 67:III.1229, 1935, 1937, 1979, 1980, and 5329)..... 1006
TANF—Alternative to Abortion and Freedom Schools (LAC 67:III.5549, 5569 and 5583) 1008

IV. RULES

Agriculture and Forestry

Horticulture Commission—Licenses (LAC 7:XXIX.117)..... 1010
Office of Agriculture and Environmental Sciences, Advisory Commission on Pesticides— Commercial
Applicators Certification (LAC 7:XXIII.125) 1011
Office of the Commissioner—Meat and Poultry Inspections (LAC 7:XXXIII.Chapter 1)..... 1011
Structural Pest Control Commission—Termite Control Licensing (LAC 7:XXV.101, 107, 113, 115 and 121) 1015

Education

Board of Elementary and Secondary Education—Bulletin 111—The Louisiana School, District, and
State Accountability System (LAC 28:LXXXIII.Chapters 3, 4, 5, 6, 7, 14, 15, 17, 21, 24, 35,
41, 43, and 45) 1017
Bulletin 741—Louisiana Handbook for School Administrators (LAC 28:CV.1103) 1029
Bulletin 1794—State Textbook Adoption Policy and Procedure Manual
(LAC 28:XXXIII.101, 301, 305, 315, 505, 507, 701, 707, 717, and 901)..... 1030

Environmental Quality

Office of the Secretary, Legal Affairs Division—Pretreatment Streamlining (LAC 33:IX.2903, 6105, 6109,
6111, 6113, 6115, 6123, 6129, and 7127)(WQ067ft) 1032

Governor

Commission on Law Enforcement and Administration of Criminal Justice—Peace Officer Training
(LAC 22:III.4715 and 4723) 1043
Division of Administration, Office of the Commissioner—Small Entrepreneurship (Hudson Initiative)
Procurement (LAC 19:VIII.Chapters 11 and 13) 1044

Health and Hospitals

Board for Hearing Aid Dealers—Conduct and Licensing (LAC 46:XXXIX.301, 501, 503, 901, and 903)..... 1048
Board of Pharmacy—Pharmacy Technicians—Scope of Practice (LAC 46:LIII.907)..... 1049
Office of Public Health—Infectious Disease Epidemiology Program (LAC 51:II.Chapter 1)..... 1049
Office of the Secretary, Bureau of Health Services Financing—Medical Assistance—Pharmacy
(LAC 50:XXIX.Chapters 1-9) 1052
Nursing Facilities—Minimum Licensing Standards (LAC 48:I.9717, 9820, 9911)..... 1067
Professional Services—Physician Supplemental Payment..... 1068

Public Safety and Corrections

Corrections Services—Louisiana Risk Review Panel (LAC 22:I.107)..... 1069

Treasury

State Employees' Retirement System—DROP Program—Interest (LAC 58:I.2715 and 4135)..... 1070
DROP Program—Time for Disbursement (LAC 58:I.2713) 1070
Self-Directed Plan—Time to Transfer Funds (LAC 58:I.4111)..... 1070

Wildlife and Fisheries

Wildlife and Fisheries Commission—Spotted Seatrout Management Measures (LAC 76:VII.341)..... 1071

V. NOTICES OF INTENT

Economic Development

Office of the Secretary— Angel Investor Tax Credit Program (LAC 13:I.Chapter 33) 1072

Education

Board of Elementary and Secondary Education—Bulletin 746—Louisiana Standards for State
Certification of School Personnel (LAC 28:CXXXI.Chapters 1-10) 1074
Bulletin 746—Louisiana Standards for State Certification of School Personnel—ACT/SAT
Scores in Lieu of PRAXIS I Scores (LAC 28:CXXXI.243)..... 1125
Bulletin 746—Louisiana Standards for State Certification of School Personnel—PRAXIS I Scores
(LAC 28:CXXXI.241)1128
Bulletin 746—Louisiana Standards for State Certification of School Personnel—Special Education
(LAC 28:CXXXI.231)..... 1131
Bulletin 1922—Compliance Monitoring Procedures (LAC 28:XCI.107, 109, and 309)..... 1133

Environmental Quality

Office of the Secretary, Legal Affairs Division—Control of Emissions from the Chemical Woodpulp
Industry (LAC 33:III.2301)(AQ264) 1134
Correction of Term Used for Version of Permit (LAC 33:III.531)(AQ268) 1135
Crude Oil and Natural Gas Production Facilities (LAC 33:III.501 and 503)(AQ265) 1136
Emissions Units Exemptions (LAC 33:III.2117)(AQ263) 1137

Environmental Quality	
Incorporation by Reference of the Acid Rain Program (LAC 33:III.505)(AQ259ft)	1138
Incorporation by Reference of the CAIR SO ₂ Trading Program (LAC 33:III.506)(AQ260ft)	1140
Public Notice Requirements for General Permits (LAC 33:III.513)(AQ267)	1142
Governor	
Board of Tax Appeals—Filing Fee Schedule	1143
Division of Administration, Office of Facility Planning and Control—Demolition or Disposing of State Owned Buildings (LAC 34:III.701)	1143
Health and Hospitals	
Office of the Secretary, Office for Citizens with Developmental Disabilities—Home and Community-Based Services Waivers—Supports Waiver (LAC 50:XXI.Chapters 53-61)	1144
Targeted Case Management—Individuals with Developmental Disabilities (LAC 50:XV.10101, 10501, 10505, and 11701)	1148
Revenue	
Office of Charitable Gaming—Electronic Video Bingo (LAC 42:I.1911)	1150
Policy Services Division—Natural Resources—Severance Tax (LAC 61:I.2903)	1151
Social Services	
Office of Family Support—Interest and Dividend Income Exclusion; Student Eligibility Requirements; Workforce Investment Act (LAC 76:III.1229, 1935, 1937, 1979, 1980, and 5329)	1152
Transportation and Development	
Professional Engineering and Land Surveying Board—Practice, Certification, Exams, Experience, and Services (LAC 46:LXI.105, 901, 903, 907, 909, 1303, 1315, 1505, 2505)	1154
VI. POTPOURRI	
Environmental Quality	
Office of the Secretary, Legal Affairs Division—Grant Parish Ozone Maintenance Plan	1158
Proposed Rulemaking and Solicitation of Comments on Toxic Air Pollutant Program Revisions	1158
St. Mary Parish Ozone Maintenance Plan	1164
Health and Hospitals	
Office of Public Health—2005 Louisiana Annual Beach Report	1165
Maternal and Child Health Section	1165
Natural Resources	
Office of Conservation—Orphaned Oilfield Sites	1166
VII. INDEX	1167

Executive Orders

EXECUTIVE ORDER KBB 06-22

Emergency Procedures for Conducting State Business

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency/disaster was declared through Proclamation No. 48 KBB 2005 and Proclamation No. 53 KBB 2005, and most recently extended by Proclamation No. 23 KBB 2006 and Proclamation No. 22 KBB 2006;

WHEREAS, Hurricane Katrina and its aftermath, and Hurricane Rita caused unprecedented and extensive damage in the state of Louisiana and these tragic events have significant consequences on the financial conditions of the state;

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

WHEREAS, Executive Order No. KBB 2005-66, issued on October 18, 2005, established certain procedures for conducting state business during such emergencies and/or disasters; and

WHEREAS, the conditions originally necessitating relaxation of the statutory requirements concerning procurement and contracting have to some extent abated and the state is now in the process of recovery from Hurricane Katrina and Hurricane Rita and preparation for the upcoming hurricane season;

NOW THEREFORE I, KATHLEEN BABINEAUX BLANCO, 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: For procurement and contracting, strict compliance with R.S. 39:1481, et seq., and R.S. 39:1551, et seq., shall be required except under those circumstances where the agency demonstrates in writing to the commissioner of administration (hereafter "commissioner") that strict compliance would have a detrimental effect on lives, property, or the efficient operation of the agency in its recovery or preparation efforts. The commissioner may direct that the agency comply with a modified plan for contracting or procurement.

Requests for authority to avoid strict compliance with statutory requirements should be addressed to the director of the Office of State Purchasing or the director of the Office of Contractual Review, as appropriate.

SECTION 2: In those circumstances where the commissioner determines that strict compliance is not required, agencies should comply with the following conditions:

A. An appointed official within the agency, or the equivalent for elected officials or higher education, must identify the emergency condition present and determine that the lack of strict compliance with the statutory restrictions is necessary due to the emergency;

B. A centralized point of contact for each agency must monitor all transactions conducted without strict statutory compliance, maintaining copies of all documentation. Documentation should specify whether the purchase falls into the "emergency" or "permanent" category and whether the purchase relates to Hurricane Katrina or Hurricane Rita;

C. Competitive quotes and/or offers must be obtained whenever possible and agencies must take the necessary steps to assess that fair and equitable pricing is being offered;

D. Performance-based contracting should be used where practical;

E. Statewide contracts should be used where practical;

F. Copies of contracts which would otherwise require approval by the Office of Contractual Review or the Office of State Purchasing must be provided to those agencies. Additionally, ISIS agencies should enter small purchases into the AGPS/CFMS database. (Note: For CFMS contracts, agencies should use the document type "MISC"); and

G. Payments to contractors should be made only after verification that all goods and services meet contract requirements.

SECTION 3: The inspector general is directed and authorized to monitor those transactions conducted outside the scope of regulatory statutes, orders, rules and regulations to insure that those transactions are directly related to the emergency situation and are prudently handled and, if any inappropriate transactions are noted, those situations shall be reported directly to the governor.

SECTION 4: All cabinet members, statewide elected officials, and department heads are authorized to transfer the directions, job assignments, personnel, and functions of their departments for the purpose of performing or facilitating emergency services as necessary.

SECTION 5: All available resources of state government should be utilized as reasonably necessary to cope with this emergency.

SECTION 6: Executive Order No. KBB 2005-66, issued on October 18, 2005, is hereby rescinded and terminated.

SECTION 7: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 2nd day of June, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0606#052

EXECUTIVE ORDER KBB 06-23

Urban Search and Rescue Commission
Amends Executive Order No. KBB 05-5

WHEREAS, Executive Order No. KBB 05-5, issued on February 23, 2005, created the Urban Search and Rescue Commission (hereafter "Commission") designed to organize an urban search and rescue team, coordinate the team's training, and authorize the team's acquisition of necessary equipment;

WHEREAS, Executive Order No. KBB 2006-7, issued on February 15, 2006, increased the membership of the Commission to include representation by the Department of Wildlife and Fisheries due to their designation as the primary state agency responsible for search and rescue in accordance with the state's emergency operation plan; and

WHEREAS, it is necessary to expand the membership of the Commission to serve the best interests of the citizens of the state of Louisiana;

NOW THEREFORE I, KATHLEEN BABINEAUX BLANCO, 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: Section 3 of Executive Order No. KBB 2005-5, issued on February 23, 2005, as amended by Executive Order No. 2006-7, issued on February 15, 2006, is amended as follows:

A. The Commission shall be composed of fifteen (15) members as follows:

B. The superintendent of the Louisiana State Police, or the superintendent's designee;

C. The adjutant general of the state of Louisiana, or the adjutant general's designee;

D. The director of the Governor's Office of Homeland Security and Emergency Preparedness, or the director's designee;

E. The secretary of the Department of Wildlife and Fisheries, or the secretary's designee;

F. One (1) representative of each of the ten (10) fire districts appointed by the president of the Louisiana Fire Chiefs Association; and

F. The president of the Louisiana Emergency Preparedness Association, or the president's designee.

SECTION 2: All other sections, subsections, and paragraphs of Executive Order No. KBB 2005-5, issued on

February 23, 2005, as amended by Executive Order No. KBB 2006-7, issued on February 15, 2006, shall remain in full force and effect.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 2nd day of June, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0606#053

EXECUTIVE ORDER KBB 06-24

Statewide Interoperable Communication
System Executive Committee
Amends Executive Order No. KBB 06-17

WHEREAS, Executive Order No. KBB 2006-17, issued on March 31, 2006, established a Statewide Interoperable Communication System Executive Committee (hereafter "Committee") to develop an inter-disciplinary approach among all levels of government to provide reliable communications for the state of Louisiana's entire emergency response community;

WHEREAS, it is necessary to add the chief information officer to the membership of the Committee and to correct other information relative to this Order;

NOW THEREFORE I, KATHLEEN BABINEAUX BLANCO, 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: Section 6 of Executive Order No. KBB 2006-17, issued on March 31, 2006, is amended as follows:

The Committee shall be composed of twenty-eight (28) members, selected as follows:

A. The commissioner of the Division of Administration, or the commissioner's designee;

B. The director of the Governor's Office of Homeland Security and Emergency Preparedness, or the director's designee;

C. The adjutant general of the Louisiana National Guard, or the adjutant general's designee;

D. The secretary of the Department of Public Safety and Corrections, Corrections Services, or the secretary's designee;

E. The secretary of the Department of Transportation and Development, or the secretary's designee;

F. The secretary of the Department of Wildlife and Fisheries, or the secretary's designee;

G. The secretary of the Department of Health and Hospitals, or the secretary's designee;

H. The chief information officer, or the chief information officer's designee;

I. The deputy secretary of the Department of Public Safety and Corrections, Public Safety Services, or the deputy secretary's designee;

J. The executive secretary of the Louisiana Public Service Commission, or the executive secretary's designee;

K. The president of the Louisiana Sheriff's Association, or the president's designee;

L. The president of the Police Chiefs Association, or the president's designee;

M. The president of the Louisiana Fire Chiefs Association, or the president's designee;

N. The chair of the Regional Parish Homeland Security and Emergency Preparedness Directors Committee, or the chair's designee;

O. The chair of the Louisiana House of Representatives Committee on Administration of Criminal Justice, or the chair's designee;

P. The chair of the Louisiana State Senate Judiciary B Committee; or the chair's designee;

Q. The chair of the Louisiana House of Representatives Special Committee on Louisiana Homeland Security, or the chair's designee;

R. The chair of the Louisiana State Senate Select Committee on Homeland Security, or the chair's designee;

S. One (1) representative of the Louisiana Broadband Advisory Council, selected from a list of three (3) nominees submitted by the Louisiana Broadband Advisory Council; and

T. One (1) representative from each of the nine regional interoperable communications working groups as established in Section 5 of this Order.

SECTION 2: Section 8 of Executive Order No. KBB 2006-17, issued on March 31, 2006, is amended as follows:

The Committee shall meet at regularly scheduled intervals and at the call of the chair. The Committee's membership as outlined in Section 6(T) of this Order shall not be considered as part of a quorum until such time as the regional workgroup is duly constituted and selects its representative.

SECTION 2: All other sections, subsections, and paragraphs of Executive Order No. KBB 2006-17, issued on March 31, 2006, shall remain in full force and effect.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 2nd day of June, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0606#054

Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDA

Office of the Governor
Division of Administration
Office of State Travel

General Travel—PPM 49
(LAC 4:V.Chapter 15)

The following shows the amended text in PPM 49. This supersedes all prior issues of PPM 49 published in the Louisiana Register. This revised PPM 49 also supersedes and replaces PPM 49 which had been designated as LAC 4:V.Chapter 15.

Title 4

ADMINISTRATION

Part V. Policy and Procedure Memoranda

Chapter 15. General Travel Regulations—PPM Number 49

§1501. Authorization and Legal Basis

A. In accordance with the authority vested in the Commissioner of Administration by Section 231 of Title 39 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950-968 as amended, notice is hereby given of the revision of Policy and Procedures Memorandum No. 49, the state general travel regulations, effective July 1, 2006. These amendments are both technical and substantive in nature and are intended to clarify certain portions of the previous regulations or provide for more efficient administration of travel policies. These regulations apply to all state departments, boards and commissions created by the legislature or executive order and operating from funds appropriated, dedicated, or self-sustaining; federal funds; or funds generated from any other source.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:1183 (June 2005), LR 32:938 (June 2006).

§1502. Definitions

A. For the purposes of this PPM, the following words have the meaning indicated.

Conference/Convention—is herein defined as a meeting (other than routine) for a specific purpose and/or objective. Non-routine meetings can be defined as a seminar, conference, convention, or training. Documentation required is a formal agenda, or program, or Letter of Invitation, or registration fee. Participation as an exhibiting vendor in an exhibit/trade show also qualifies as a conference. For a hotel

to qualify for conference rate lodging, requires that the hotel is hosting or is in "conjunction with hosting" the meeting. In the event the designated conference hotel(s) have no room availability, a department head may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels located near the conference hotel.

Contract Airfare—these airfares are only for use by authorized travelers on official state business. Competitive bid airfares that are fully refundable, non-penalty tickets. Contract price is firm for last seat availability.

International Travel—all travel to destinations outside the 50 United States, District of Columbia, Puerto Rico and the Virgin Islands, American Samoa, Guam.

Lowest Logical Airfare—airfares available to the public. In general, these types of airfares are non-refundable, penalty tickets. Penalties could include restrictions such as advanced purchase requirements, weekend stays, etc. Prices will increase as seats are sold. When schedule changes are required for lowest logical tickets, penalty fees are added.

Out-of-State Travel—travel to any of the other 49 states plus District of Columbia, Puerto Rico and the Virgin Islands, American Samoa, Guam.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:1183 (June 2005), LR 32:938 (June 2006).

§1504. Methods of Transportation

A. - B.1.a. ...

b. Reimbursement for use of a chartered or unchartered privately-owned aircraft under the above guidelines will be made on the following basis:

i. at the rate of 40 cents per mile; or

ii. at the lesser of state contract rate or coach economy airfare.

If there are extenuating circumstances requiring reimbursement for other than listed above, approval must be granted by the commissioner of administration.

c. ...

2. Commercial Airlines (Receipt Required) All state travelers are to purchase commercial airline tickets through the state contracted travel agency. This requirement is mandatory unless approval is granted from the State Travel Office. (In the event a traveler seeks approval to go outside the travel agency, they shall submit their request through their agency travel program administrator, who will determine if the request is to be submitted to the Office of State Travel.) While the use of the contract travel agency is mandatory, the state traveler has options for the type of

airfare ticket purchased. The state always supports purchasing the "best cost" ticket. When requesting information from a state travel agent, a traveler should request the travel agent quote both the state contract airfare price (if available) and the lowest-logical airfare available. Price is a factor, but also other circumstances for each trip should be taken into consideration. The primary difference in a state contract ticket and a lowest-logical ticket is that the state contract ticket is totally refundable and in most cases the lowest-logical ticket is not refundable. Also, the price of a state contract ticket is firm as long as there is a seat available on the plane. A state traveler must ask the question: Is there a likely-hood, my itinerary could change or be cancelled? Based on the response to this question, one should evaluate cost and risk to determine the "best cost" ticket. Another factor to assist having a travel agent search the lowest fare is being able to advise the agent if you are flexible in either your dates or time of travel. By informing the travel agent of your "window of time" for your departure and return will assist them to search for the best price.

a. Travelers are to seek airfares allowing an ample amount of lead time prior to departure date. The lead-time should be at least 14 days in advance of travel dates to ensure the lowest fares are available. Generally, the earlier a ticket is purchased, provides for lower airfares.

b. - d. ...

e. The policy regarding airfare penalties are the state will pay for the airfare and/or penalty incurred for a change in plans or cancellation when the change or cancellation is required by the State or other unavoidable situations approved by the agency's department head. Justification for the change or cancellation by the traveler's department head is required on the travel voucher.

f. - j. ...

k. The state contract air carriers will be the preferred carriers for state travelers. State employees that purchase a refundable, non-penalty ticket will be instructed to purchase that ticket from our contract airline. State employees that purchase the lowest-logical penalty tickets will also be instructed to give preference to the same airline that holds the contract city pair award, where reasonable. The state will advise our contracted travel agency of our commitment to support this decision. The state policy mandates that all airfares be purchased through our contract travel agency; therefore they provide the front line of service to assist travelers when making airfare arrangements.

l. Matched carriers are airlines that did not win an award for a certain city and will now offer the same discounted price that was awarded to the contract vendor. Matched carriers are not to be used unless there are two or more hours difference in the departure or arrival time. The state does not have a contract with the matched fare carriers; therefore, we do not have last seat availability and certain rules including cancellation penalties will apply to these fares. In order for the state to continue to receive state contracted airfares, it is necessary that the contract carrier be utilized when electing to use state contract rates, if available. When using the contract airfares there are no restrictions or penalties. Once the decision is made not to use the contract airfare you must use the lowest logical fare available.

m. When making airline reservations for a conference, let the travel agent know that certain airlines

have been designated as the official carrier for the conference. In many instances, the conference registration form specifies that certain airlines have been designated as the official carrier offering discount rates, if available. If so, giving this information to our contracted agencies could result in them securing that rate for your travel.

C. - C.1.f. ...

2. Personally-Owned Vehicles

a. ...

b. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while conducting official state business. Mileage shall be reimbursable on the basis of 40 cents per mile.

c. - d. ...

e. The department head or his designee may approve an authorization for routine travel for an employee who must travel in the course of performing his/her duties; this may include domicile travel if such is a regular and necessary part of the employee's duties, but not for attendance at infrequent or irregular meetings, etc. within the city limits where his/her office is located, the employee may be reimbursed for mileage only.

f. Reimbursements will be allowed on the basis of 40 cents per mile to travel between a common carrier/terminal and the employee's point of departure, i.e., home, office, etc., whichever is appropriate and in the best interest of the state.

g. When the use of a privately-owned vehicle has been approved by the department head for out-of-state travel for the traveler's convenience, the traveler will be reimbursed for in-route expenses on the basis of 40 cents per mile only. The total cost of the mileage may not exceed the cost of travel by using the lesser of state contract airfare or lowest logical airfare obtained at least 14 days prior to the trip departure date. The traveler is personally responsible for any other expenses in-route to and from destination which is inclusive of meals and lodging. If a traveler, at the request of the department, is asked to take their personally owned vehicle out-of-state for a purpose that will benefit the agency, then the department head may on a case-by-case basis determine to pay a traveler for all/part of in-route travel expenses. File should be justified accordingly.

C.2.h. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1254 (June 2000), LR 27:804 (June 2001), LR 28:1127 (June 2002), LR 29:824 (June 2003), LR 30:1113 (June 2004), LR 31:1185 (June 2005), LR 32:938 (June 2006).

§1506. Lodging and Meals

A. - A.3.b. ...

c. If a department head or their designee determines that single day meals will be provided for, they must follow the following allowances.

i. To receive any meal reimbursement on single day travel, an employee must be in travel status for a minimum of 12 hours. The maximum allowance for meal reimbursement for single day travel will be \$24.

(a). Breakfast and Lunch: (\$17). The 12-hour travel duration must begin at or before 6 a.m.

(b). Lunch: (\$10). Requires 12 hours duration in travel status.

(c). Lunch and Dinner: (\$24). The 12-hour travel duration must end at or after 8 p.m.

4 - 5. ...

B. Exceptions

1. Lodging Overage Allowances—(receipts required) Department head has the authority to approve actual lodging provisions of these regulations on a case by case basis not to exceed seventy-five percent over PPM49 current listed rates for the Baton Rouge, New Orleans and New Orleans' surrounding parishes, Lake Charles and Lake Charles surrounding parishes. For all other areas, a department head will have the authority to approve actual lodging provisions of these regulations on a case by case basis not to exceed 25 percent over PPM49 current listed rates. Each case must be fully documented as to necessity (e.g., proximity to meeting place) and cost effectiveness of alternative options. Documentation must be readily available in the department's travel reimbursement files. This authority shall not be delegate to any other person.

2. Meal Overage Allowances—(receipts required) Department head has the authority to approve actual meal provisions of these regulations on a case by case basis not to exceed 25 percent over PPM 49 current listed rates. Each case must be fully documented as to necessity and cost effectiveness of alternative options. Documentation must be readily available in the department's travel reimbursement files. This authority shall not be delegate to any other person.

3. Actual Expenses for State Officers—(receipts or other supporting documents are required for each item claimed). State officers and others so authorized by statute (See definitions under *Authorized Persons*) or individual exception will be reimbursed on an actual expenses basis for meals and lodging except in cases where other provisions for reimbursement have been made by statute. Request shall not be extravagant and will be reasonable in relationship to the purpose of travel. State officers entitled to actual expense reimbursements are only exempted from meals and lodging rates; they are subject to the time frames and all other requirements as listed in the travel regulations.

C. Meals and Lodging Allowances

1. - 2. ...

3. Conference Lodging Allowance - Employees will be reimbursed lodging rate, plus tax and any mandatory surcharge. (Receipts are required) Travelers may be reimbursed expenses for conference hotel lodging per the following rates, if the reservations are made at the actual conference hotel. In the event the designated conference hotel(s) have no room availability, a department head may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels located near the conference hotel.

4. No reimbursements are allowed for functions not relating to a conference, i.e., tours, dances, golf tournaments, etc.

Tier I

Breakfast	\$ 7
Lunch	\$10
Dinner	\$14
	\$31

LODGING:

	<u>Routine Lodging</u>	<u>Conference Lodging</u>
In-State cities (except as listed)	\$60	\$70
Baton Rouge	\$70	\$80
Lafayette	\$60	\$70
Slidell	\$60	\$70
Shreveport, Bossier City	\$65	\$75
Lake Charles, Sulphur	\$70	\$75
Gretna, Kenner, Metairie	\$70	\$80

Tier II

Breakfast	\$ 8
Lunch	\$12
Dinner	\$17
	\$37

LODGING:

	<u>Routine Lodging</u>	<u>Conference Lodging</u>
New Orleans	\$100	\$120 State Sponsored
		\$140 Non-State Sponsored
Out of State (except cities listed in Tiers III & IV)	\$65	\$140

Tier III

Breakfast	\$10
Lunch	\$14
Dinner	\$21
	\$45

LODGING:

	<u>Routine Lodging</u>	<u>Conference Lodging</u>
Atlanta, GA, Cleveland, OH, Dallas/Fort Worth, TX, Denver, CO, Detroit, MI, Ft. Lauderdale, FL, Hartford, CT, Houston, TX, Kansas City, MO, Las Vegas, NV, Los Angeles, CA, Miami, FL, Minneapolis/St. Paul, MN, Nashville, TN, Oakland, CA., Orlando, FL, Philadelphia, PA, Phoenix, AZ, Pittsburgh, PA, Portland, ME, Portland, OR, San Antonio, TX, San Diego, CA, St. Louis, MO, Tampa, FL, Wilmington, DE., all of Alaska or Hawaii, Puerto Rico, Virgin Islands, American Samoa, Guam	\$105	\$140

Tier IV

Breakfast	\$11
Lunch	\$15
Dinner	\$25
	\$51

LODGING:

	<u>Routine Lodging</u>	<u>Conference Lodging</u>
Baltimore, MD, Boston, MA, San Francisco, CA, Seattle, WA	\$155	\$155
Chicago, IL, New York City, NY, Washington D.C.	\$180	\$180
International Cities	\$180	\$180

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1256 (June 2000), LR 27:807 (June 2001), repromulgated LR 27:1495 (September 2001), LR 28:1130 (June 2002), LR 30:1116 (June 2004), LR 31:1189 (June 2005), LR 32:939 (June 2006).

§1508. Reimbursement for Other Expenses

A. The following expenses incidental to travel may be reimbursed.

1. Communications Expenses

a. - c. ...

d. Internet access charges for official state business from hotels or other travel locations are treated the same as business telephone charges. A department may implement a stricter policy for reimbursement of Internet charges. (Receipts required)

2. Charges for Storage and Handling of State Equipment (Receipts required)

3 - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:808 (June 2001), LR 28:1131 (June 2002), LR 30:1118 (June 2004), LR 31:1190 (June 2005), LR 32:941 (June 2006).

§1510. Agency Hosted Conferences

A.

B. Conference Lunch Allowance. Lunch direct billed to an agency in conjunction with an in-state sponsored conference is to be within the following rates plus mandated gratuity.

Lunch In-State excluding New Orleans	\$15
Lunch - New Orleans	\$20

C. - C.1. ...

2. Catering. Served on properties that require catered services: not to exceed \$4.50 plus mandated gratuity per person, per morning and/or afternoon sessions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1256 (June 2000), LR 27:807 (June 2001), repromulgated LR 27:1495 (September 2001), LR 28:1130 (June 2002), LR 30:1116 (June 2004), LR 31:1191 (June 2005), LR 32:941 (June 2006).

Jerry Luke LeBlanc
Commissioner

0606#000

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications (LAC 7:XXIII.145)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:3203, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rules and regulations for the application of an ultra low volume insecticide to be applied to soybeans fields infested with false chinch bugs.

The application of insecticides in accordance with the current concentration regulations has not been sufficient to control false chinch bugs. Failure to allow the concentrations in ultra low volume (ULV) malathion applications will allow the false chinch bugs the opportunity to destroy the soybeans during the growing season. The destruction of the soybeans crop or a substantial portion of the soybeans crop will cause irreparable harm to the economy of Northern Louisiana and to Louisiana Agricultural producers thereby creating an imminent peril to the health and safety of Louisiana citizens.

This Emergency Rule becomes effective upon the signature of the commissioner, June 6, 2006, and shall remain in effect for 90 days.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Subchapter I. Regulations Governing Application of Pesticides

Chapter 1. Advisory Commission on Pesticides

§145. Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications

A. - A.5.b.xxxvi. ...

c. malathion insecticide applied with the following conditions to control false chinch bugs in soybeans.

i. The commissioner hereby declares that prior to making any aerial application of ULV malathion to soybeans, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs ("DPEP") in writing. Upon notification, LDAF shall inspect the aircraft prior to any ULV applications.

ii. Spray shall be applied, handled, and stored in accordance with all conditions specified by state or federal regulations, including the strict observance of any buffer zones that may be implied.

iii. Aerial applicators shall strictly comply with any and all restrictions or mitigative factors, in regard to sensitive areas, including occupied buildings (churches, schools, hospitals, and homes), lakes, reservoirs, farm ponds, parks, and recreation areas that may be identified by commissioner, and such restriction and mitigation are to be

strictly complied with and observed by said aerial applicators.

iv. Aerial applicators will adjust flight patterns, to the degree possible, to avoid or minimize flying over sensitive areas. This restriction does not apply to overflight between take-off and the commencement of spray operations, or overflight between termination of spray operations and landing.

v. Aerial applicators shall be alert to all conditions that could cause spray deposit outside field boundaries and use their good faith efforts, including adjustment or termination of operations, to avoid spray deposit outside field boundaries.

vi. There shall be no aerial spraying when wind velocity exceeds 10 m.p.h.

vii. Aerial applicators will terminate application if rainfall is imminent.

viii. Insecticide spray will not be applied in fields where people or animals are present. It is the applicator's responsibility to determine if people are present prior to initiating treatment.

ix. Spraying will not be conducted in fields where other aircraft are working.

x. All mixing, loading, and unloading will be in an area where an accidental spill can be contained and will not contaminate a stream or other body of water.

xi. All aerial applications of insecticide shall be at an altitude not to exceed five feet above the soybeans canopy. However, in fields that are not near sensitive areas, if infield obstructions make the 5-foot aerial application height not feasible, then the aerial height may be extended to such height above the soybeans canopy as is necessary to clear the obstruction safely.

xii. The aircraft tank and dispersal system must be completely drained and cleaned before loading. All hoses shall be in good condition and shall be of a chemical resistant type.

xiii. Insecticide tank(s) shall be leak-proof and spray booms of corrosion resistant materials, such as stainless steel, aluminum, or fiberglass. Sealants will be tested before use.

xiv. The tank(s) in each aircraft shall be installed so the tank(s) will empty in flight. Sight gauges or other means shall be provided to determine the quantity contained in each tank before reloading.

xv. A drain valve shall be provided at the lowest point of the spray system to facilitate the complete draining of the tanks and system while the aircraft is parked so any unused insecticide can be recovered.

xvi. A pump that will provide the required flow rate at not less than 40 pounds per square inch (psi) during spraying operation to assure uniform flow and proper functioning of the nozzles. Gear, centrifugal or other rotary types, will be acceptable on aircraft with a working speed above 150 miles per hour.

xvii. ULV spraying systems with a pumping capacity that exceeds the discharge calibration rate shall have the bypass flow return to the tank bottom in a manner that prevents aeration and/or foaming of the spray formulation. Pumps utilizing hydraulic drive or other variable speed drives are not required to have this bypass, provided the pump speed is set to provide only the required pressure and the system three-way valve is used for on/off control at full throw position. Any bypass normally used to circulate materials other than the ULV will be closed for ULV spraying.

xviii. Spray booms will be equipped with the quantity and type of spray nozzles specified by the Boll Weevil Eradication Program. The outermost nozzles (left and right sides) shall be equal distance from the aircraft centerline and the distance between the two must not exceed three-fourths of the overall wing span measurement. For helicopters, the outermost nozzles must not exceed three-fourths of the rotorspan. For both fixed wing and helicopters, the program will accept the outermost nozzles between 60 and 75 percent of the wingspan/rotorspan. Longer spray booms are acceptable provided modifications are made to prevent the entrapment of air in the portion beyond the outermost nozzle. Fixed wing aircraft not equipped with a drop type spray boom may require drop nozzles in the center section that will position the spray tips into smoother air to deliver the desired droplet size and prevent spray from contacting the tail wheel assembly and horizontal stabilizer. Most helicopters will be required to position the center nozzles behind the fuselage and dropped into smooth air in order to achieve the desired droplet size.

xix. Nozzles, diaphragms, gaskets, etc. will be inspected regularly and replaced when there is evidence of wear, swelling, or other distortion in order to assure optimum pesticide flow and droplet size. Increasing pressure to compensate for restricted flow is unacceptable. A positive on/off system that will prevent dribble from the nozzles is required.

xx. A positive emergency shut-off valve between the tank and the pump, as close to the tank as possible. This valve shall be controllable from the cockpit and supplemented by check valves and flight crew training which will minimize inadvertent loss of insecticide due to broken lines or other spray system malfunction.

xxi. Bleed lines in any point that may trap air on the pressure side of the spraying system.

xxii. An operational pressure gauge with a minimum operating range of 0 to 60 psi and a maximum of 0 to 100 psi visible to the pilot for monitoring boom pressure.

xxiii. A 50-mesh in-line screen between the pump and the boom and nozzle screens as specified by the nozzle manufacturer.

xxiv. Aircraft equipped so nozzle direction can be changed from 45 degrees down and back to straight back when it is necessary to change droplet size.

xxv. All nozzles not in use must be removed and the openings plugged.

xxvi. Nozzle tips for all insecticides shall be made of stainless steel.

xxvii. Aircraft shall have an operational Differentially Corrected Global Positioning System (DGPS) and flight data logging software that will log and display the date and time

of the entire flight from take-off to landing and differentiate between spray-on and spray-off.

xxviii. Aircraft shall have a DGPS with software designed for parallel offset in increments equal to the assigned swath width of the application aircraft. Fixed towers, portable stations, satellite, Coast Guard, or other acceptable methods may provide differential correction. However, the differential signal must cover the entire project area. In fringe areas from the generated signal, an approved repeater may be used. The system shall be sufficiently sensitive to provide immediate deviation indications and sufficiently accurate to keep the aircraft on the desired flight path with an error no greater than 3 feet. Systems that do not provide course deviation updates at one-second intervals or less will not be accepted.

xxix. A course deviation indicator (CDI) or a course deviation light bar (also CDI) must be installed on the aircraft and in a location that will allow the pilot to view the indicator with direct or peripheral vision without looking down. The CDI must be capable of pilot selected adjustments for course deviation indication with the first indication at 3 feet or less.

xxx. The DGPS must display to the pilot a warning when differential correction is lost, the current swath number, and cross-track error. The swath advance may be set manually or automatically. If automatic is selected, the pilot must be able to override the advance mode to allow respraying of single or multiple swaths.

xxxi. The DGPS must be equipped with software for flight data logging that has a system memory capable of storing a minimum of 3 hours of continuous flight log data with the logging rate set at one second intervals. The DGPS shall automatically select and log spray on/off at 1-second intervals while ferry and turnaround time can be 2-second intervals. The full logging record will include position, time, date, altitude, speed in M.P.H., cross-track error, spray on/off, aircraft number, pilot, job name or number, and differential correction status. The flight data log software shall be compatible with DOS compatible PC computers, dot matrix, laser, or ink jet printers and plotters. The system must compensate for the lag in logging spray on/off. The system will display spray on/off at the field boundary without a sawtooth effect and must be capable to end log files, rename, and start a new log in flight.

xxxii. The software must generate the map of the entire flight within a reasonable time. Systems that require five minutes or more to generate the map for a three-hour flight on a PC (minimum a 386 microprocessor with 4 MB of memory) will not be accepted. When viewed on the monitor or the printed hard copy, the flight path will clearly differentiate between spray on and off. The software must be capable of replaying the entire flight in slow motion and stop and restart the replay at any point during the flight. Must be able to zoom to any portion of the flight for viewing in greater detail and print the entire flight or the zoomed-in portion. Must have a measure feature that will measure distance in feet between swaths or any portion of the screen. Must be able to determine the exact latitude/longitude at any point on the monitor.

xxxiii. Flight information software provided by the applicator must have the capability to interface with MapInfo (version 3.0 or 4.0). The interface process must be

"user friendly", as personnel will be responsible to operate the system in order to access the information.

xxxiv. Application of ULV malathion shall be at an application rate of 12 oz. per acre with no dilutions or tank mixes.

xxxv. Applications of ULV malathion shall not be made prior to sunrise on May 15, 2006 and shall not be made after sunset on September 2, 2006.

xxxvi. Applications of ULV malathion shall be restricted to seven day intervals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 21:927 (September 1995), LR 26:1964 (September 2000), LR 32:

Bob Odom
Commissioner

0606#022

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Sale of Fluid Milk Products (LAC 7:XXXI.331)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rules governing the below cost sale of fluid milk products within 48 hours prior to their expiration date.

The sale below cost of fluid milk products in Louisiana is prohibited unless the retailer meets the requirements set out in LAC 7:XXXI, §323.A.2. Often, however, consumers refuse to purchase fluid milk products that are within forty-eight hours of their expiration date unless the price is reduced to below cost. The notice requirement of §323 A.2.a.iii is very difficult, if not impossible, for retailers to comply with regarding the sale of fluid milk products within 48 hours of their expiration date. The inability of a retailer to meet the above cited notice requirement places the retailer in the position of either having to discard the fluid milk products at a total loss or of having to violate the prohibition on the sale below cost of fluid milk products.

The total loss of the value of fluid milk products creates a financial hardship on the retailer, reduces the retailer's ability to purchase fluid milk products, jeopardizes the health and safety of the consuming public, and adversely affects the production and processing of milk and milk products in Louisiana, thereby presenting an imminent peril to the public's health, safety and welfare.

The Commissioner of Agriculture and Forestry has, therefore, determined that these Emergency Rules are necessary to immediately implement a procedure to allow for the sale below cost of fluid milk products within 48 hours prior to their expiration date. These Rules become effective immediately (May 25, 2006) and will remain in effect 120 days, unless renewed by the Commissioner or until permanent Rules are promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXI. Milk, Milk Products and Substitutions

Chapter 3. Dairy Stabilization Board

§331. Sale of Fluid Milk Products within 48 Hours of Expiration Date

A. The notification procedure and requirements for sale provided for in this applies exclusively to fluid milk product that is within 48 hours of expiration.

B. Retailers of fluid milk products may satisfy the notice requirements of §323.A.2.a.iii by a notification letter directed to and received by the director of the board informing the director of the retailer's intention to engage in below-cost sales of fluid milk product within 48 hours of the expiration date if any fluid milk products needs to be sold within the 48 hour time period.

C. Any retailer desiring to utilize the notification procedure set out in Subsection B above must also comply with the following requirements.

1. Fluid milk products offered or sold below cost in conformity with this Section may not be advertised except inside the retail establishment at the point of sale during the period the fluid milk is actually being offered for sale at less than cost. Point of sale shall be the display, fixture or shelf where the fluid milk is displayed for sale.

2. The sale of fluid milk below cost in conformity with this Section may not exceed two consecutive days.

3. The size of the advertisement at the point of sale may not exceed two feet by two feet.

4. All such advertisements must clearly state the expiration date.

D. A retailer's ability to offer and to sell fluid milk products below cost in conformity with this Section may be revoked if it is determined that the retailer has abused or violated the provisions of this Section.

1. Abuse of the provisions of this Section include, but is not limited to, unreasonably frequent below cost sales and intentional over-stocking to permit sales below cost. It shall be presumed that retailers having below-cost sales of expiring fluid milk products more often than once per calendar quarter are intentionally over-stocking.

2. The board's revocation of a retailer's ability to offer and to sell fluid milk products below cost in conformity with this Section shall be in writing and sent to the retailer.

3. A retailer aggrieved by a revocation by the Board shall have the right to appeal the revocation to the Board by written notice received by the board within 10 days of the retailer's receipt of the written revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

Bob Odom
Commissioner

0606#012

DECLARATION OF EMERGENCY

Department of Economic Development Office of the Secretary

Angel Investor Tax Credit Program (LAC 13:I.Chapter 33)

The Department of Economic Development, Office of the Secretary, pursuant to the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), hereby revises and re-adopts the following Rules of the Angel Investor Tax Credit Program, in order to revise and recreate LAC 13: Part I, Chapter 33. This Emergency Rule shall become effective on June 1, 2006, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until a final Rule is promulgated in accordance with law, whichever occurs first.

The Department of Economic Development, Office of the Secretary, has found an immediate need to revise and re-adopt the Rules for the Angel Investor Tax Credit Program pursuant to R.S. 47:6020 through 6020.4. The state needs to provide for the growth and stability of Louisiana's entrepreneurial business environment by making available ready sources of capital necessary to support this environment. This program is intended to provide economic benefits to Louisiana-based investors who will make new investments or increase their existing investment in Louisiana-based economic development projects that will create and/or retain jobs for Louisiana citizens; and to enhance the entrepreneurial business environment and raise ready sources of capital for this environment through encouraging third parties to invest in early stage wealth-creating businesses expanding the economy of the state, enlarging the quality of jobs available in Louisiana. Without these Emergency Rules the public welfare may be harmed as the result of the failure to enhance the growth and stability of Louisiana's entrepreneurial business environment by making available ready sources of capital necessary to support this environment, and the loss of business investment and economic development projects creating or retaining jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 33. Angel Investor Tax Credit

§3301. General

A. The intent of the Angel Investor Tax Credit Program Act of 2005 (Act 400 of 2005; La. 47:6020 through 6020.4, the provisions of which shall hereinafter be referred to as "Act 400") is to enhance the entrepreneurial business environment and raise ready sources of capital for this environment through encouraging third parties to invest in early stage wealth-creating businesses expanding the economy of the state, enlarging the quality jobs available in Louisiana to retain the presence of young people in Louisiana. These provisions are to be read in pari materiae with Act 400. For the purposes of this rule, the "secretary" shall be either the Secretary of Economic Development or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:228 (February 2006); LR 32:

§3303. Accredited Investor

A. An Accredited Investor—

1. an angel pool (which may be a limited liability corporation or limited liability partnership, as provided below) as determined by the secretary, all of whose participants shall be accredited investors;

2. a person who has individual net worth, or joint net worth with the person's spouse, that exceeds \$1 million at the time of the purchase;

3. a person with income exceeding \$200,000 in each of the two most recent years or joint income with a spouse exceeding \$300,000 for those years and a reasonable expectation of the same income level in the current year;

4. persons, including corporations, partnerships, limited liability partnerships and limited liability corporations composed of persons meeting the qualifications of Paragraphs A.2 and 3 above, provided that the person's share of the tax credits of the entrepreneurial business shall not exceed that person's share of the profits of the entrepreneurial business or a person's share of the tax credits as a partner or a member of a limited liability corporation or partnership shall not exceed that person's share of the profits of the LLC.

B. Angel pools may receive certification from the secretary upon showing:

1. the proposed pool of investors is organized solely for the purposes of making angel investments;

2. participants in the pool are given the opportunity to screen applicants for pool investments and to participate in deal reviews as well as post investment review of company performance;

3. participants are given the opportunity to opt in or out of proposed angel investments and are not participating solely upon the determinations of an investment or fund manager;

4. such other factors of operation of the pool as may distinguish it from the operation of a venture fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:228 (February 2006); LR 32:

§3305. Louisiana Entrepreneurial Business

A. A Louisiana Entrepreneurial Business shall be defined as those businesses approved by the secretary under Act 400 and that meet the following requirements.

1. A business shall provide the secretary with a business plan that includes all appropriate long and short term forecasts and contingencies of business operations, including research and development, profit, loss and cash flow projections and details of expenditure of angel investor funding in accordance with Act 400 and shall also include the following:

a. the principal business operations of the business are located in Louisiana including Louisiana as the primary place of employment for the employees of the business;

b. demonstrating a plan or progression through which more than 50 percent of its sales will be from outside of Louisiana;

c. that the business is to operate as a person defined as an *employer* within the meaning of R.S. 51:2453(1)(b)(i) through (v), (c), and (d), and in §1105.A.1 through A.5 of the Quality Jobs Rules.

2. The secretary shall also find that the business is not a business primarily engaged in the business of retail sales, real estate, professional services, gaming or gambling, natural resource extraction or exploration, or financial services including venture capital funds.

3. Such other findings by the secretary as shall be consistent with Act 400, provided that under no circumstances shall the secretary's certification of the applicant as a Louisiana entrepreneurial business be considered or implied to be an endorsement of the business or any investment in that business and the applicant shall so advise all investors of this fact.

B. Approval of the secretary shall be obtained upon application by letter that submits the above business plan together with the Louisiana taxpayer identification number of the business and all other information regarding those items necessary to qualify the investment in the business for the angel tax credit as provided for by Act 400 addressed to the Secretary of Economic Development, Post Office Box 94185, Baton Rouge, LA 70802-9185. Upon receipt, the secretary shall make such requests for other information necessary to a determination that the business should or should not be certified as a Louisiana entrepreneurial business. The secretary's certification of the business shall include the Louisiana taxpayer identification number of the business. This certification shall be in effect for one year from the date of the Secretary's letter. The certification may be extended for additional one year periods upon application to the secretary showing that the business continues to be an entrepreneurial business within the meaning of the act and these rules, and the application includes the use of proceeds previously raised, number of employees, amount of payroll, annual revenue, and such other information as shall be requested by the secretary or his representative. In order to continue to be certified, the business shall be in compliance with all reporting and other provisions of Act 400 and these rules with respect to the administration of the credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:228 (February 2006); LR 32:

§3307. The Angel Investor Tax Credit

A. The following rules shall be applicable to investments by Accredited Investors in Louisiana Entrepreneurial Businesses.

1. By January 31 of each year, Louisiana entrepreneurial businesses certified by the secretary shall, by affidavit of its chief financial officer, provide the secretary with the list of those accredited investors, the Louisiana taxpayer identification number of the accredited investors and the amount of their investment in accordance with the statute and these rules, who have invested in the business provided that the business shall report up to and no more

than \$2,000,000 total for the calendar year 2005 that shall have been invested by accredited investors in the manner prescribed by Act 400 in order to obtain a tax credit for the accredited investors of no more than \$1,000,000 total for the tax year ending the previous December 31.

2. All tax credit amounts reported to the secretary shall be fully credited to the accredited investor unless the total of all such investments shall exceed \$10,000,000 and the total of such credits shall exceed \$5,000,000 in which case the secretary shall prorate the total amount of investment and tax credits earned and advise each accredited investor of the amount of his credit for the tax year ending December 31, no later than February 28 of the following year.

3. The secretary shall provide the accredited investor with all other necessary and appropriate certificates as provided by statute and as shall assist the Department of Revenue in its determination of applicability of the credit. No credit certificates shall be issued until after a determination has been made as to whether or not there is a necessity for prorating of the credits as provided above. When issued, the certificates shall include the Louisiana taxpayer identification number of the accredited investor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:229 (February 2006); LR 32:

Michael J. Olivier
Secretary

0606#015

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.505, 507, 703, and 1301)

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, R.S. 56:797.D(2)].

The Emergency Rules are 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 June 7, 2006, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG0672E)

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance—Higher
Education Scholarship and Grant Programs
Chapter 5. Application; Application Deadlines, and
Proof of Compliance**

**§505. Application Deadlines for High School
Graduates and Home Study Completers of 2004
and Later and Eligible Non-Graduates**

A.1. - 3. ...

B. Deadline to Facilitate Timely Payment

B.1 - C.1. ...

2. Returning Students

a. Beginning with the 2002-2003 through the 2004-2005 Academic Year (College), in order for a returning student to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or the On-Line Application is May 1 of the Academic Year (College) he first enrolls as a full-time student in an eligible college or university.

b. Beginning with the 2005-2006 Academic Year (College), in order for a returning student to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of the student's initial FAFSA or the On-Line Application is the July 1 immediately preceding the Academic Year (College) he first enrolls as a full-time student in an eligible college or university.

3. - 3.c....

d. If a returning student graduates in the 2003-2004 Academic Year (High School) and will be a first-time student in the fall semester of 2006, the student must submit the initial FAFSA or the On-Line Application no later than July 1, 2007.

C.4. - E. ...

F. Renewal FAFSA

1.a. Through the 2004-2005 Academic Year (College), in order to remain eligible for TOPS awards, a student who is eligible for federal grant aid must file a renewal FAFSA so that it is received by May 1 of each Academic Year (College) after initial eligibility is established.

b. Beginning with the 2005-2006 Academic Year (College), in order to remain eligible for TOPS awards, a student who is eligible for federal grant aid must file a renewal FAFSA so that it is received by the July 1 immediately preceding each Academic Year (College) after initial eligibility is established.

2. Students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition are not required to submit a renewal FAFSA.

3.a. In the event of a budgetary shortfall, applicants who do not file a renewal FAFSA or who do not complete all sections of the FAFSA will be the first denied a TOPS award.

b. Students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition and do not want to be the first denied a TOPS award must file a renewal FAFSA so that it is received by the July 1 immediately preceding each

Academic Year (College) after initial eligibility is established.

F.4. - G. ...

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 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 30:2017 (September 2004), LR 31:37 (January 2005), LR 32:

§507. Final Deadline for Submitting Documentation of Eligibility

A. LASFAC will continue to process eligibility for both new and renewal applicants during each award year until July 1 after the spring term of that award year.

B.1. Through the 2004-2005 Academic Year (College), all documentation and certifications necessary to establish student eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, applicant confirmation forms, promissory notes, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later than May 1 of the award year. For example, to receive an award for the 2004-2005 award year, LASFAC must have in its possession all documents relevant to establishing eligibility by May 1, 2005.

2. Beginning with the 2005-2006 Academic Year (College), all documentation and certifications necessary to establish student initial eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, applicant confirmation forms, promissory notes, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later the July 1 immediately following the Academic Year (College) the student enrolls as a first-time, full-time student in an eligible college or university. For example, to receive an award for the 2006-2007 Academic Year (College), LASFAC must have in its possession all documents relevant to establishing eligibility by July 1, 2007.

C.1. Returning students, who graduated high school during the 2001-2002 Academic Years (High School) and who enroll in an eligible college or university in the spring semester 2003, must submit documentation that establishes TOPS eligibility no later than May 1, 2004.

2. Returning students, who enroll in an eligible college or university in the fall semester of 2003 through the spring semester of 2005, must submit documentation that establishes TOPS eligibility no later than May 1 of the Academic Year (College) the student enrolls in an eligible college or university. For example, a student who seeks to enroll in an eligible college or university in the fall semester of 2003 must submit documentation that establishes TOPS eligibility no later than May 1, 2004.

3. Returning students, who enroll in an eligible college or university in the fall semester of 2005 or later, must submit documentation that establishes TOPS eligibility

no later than July 1 immediately following the Academic Year (College) the student enrolls as a full-time student in an eligible college or university. For example, a student who seeks to enroll in an eligible college or university in the fall semester of 2006 must submit documentation that establishes TOPS eligibility no later than July 1, 2007.

D.1. A student who successfully completed an undergraduate degree prior to or during the 2001-2002 Academic Year (College) and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than May 1, 2004.

2. A student who successfully completes an undergraduate degree during the 2002-2003 through the 2004-2005 Academic Year (College) and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than May 1 of the Academic Year (College) the student seeks to receive his remaining award eligibility. For example, to receive the remaining award for the 2003-2004 Academic Year (College), the student must submit the required documents no later than May 1, 2004.

3. A student who successfully completes an undergraduate degree during the 2005-2006 Academic Year (College) or later and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later the July 1 immediately following the Academic Year (College) the student seeks to receive his remaining award eligibility. For example, to receive the remaining award for the 2006-2007 Academic Year (College), the student must submit the required documents no later than July 1, 2007.

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 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 28:447 (March 2002), LR 30:1161 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 32:

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

§703. Establishing Eligibility

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

5.a.ii. 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	Equivalent (Substitute) Course
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Mathematics I, Advanced Mathematics II
Chemistry	Chemistry Com
Fine Arts Survey	Speech Debate (2 units)
Western Civilization	European History
Civics	AP American Government
-	*Applied Mathematics III was formerly referred to as Applied Geometry

A.5.a.iii. - I.8. ...

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:

Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

§1301. General Provisions

A. - E. ...

F. Reallocation of Funds. Uncommitted institutional allotted funds are reallocated if not committed by the deadline of November 1 for colleges and universities and campuses of Louisiana Technical College and January 1 for proprietary schools. The method of reallocation is dependent upon the amount of funds available for reallocation. If the reallocation amount is less than \$50,000, then only two- and four-year colleges and universities, which have fully committed their original allotment by the appropriate deadline, receive a reallocation. If \$50,000 or more is available for reallocation, it is reallocated to eligible schools of all types, which have fully committed their original allotment by the appropriate deadline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1458 (August 1999), repromulgated LR 27:1860 (November 2001), amended LR 28:2332 (November 2002), LR 32:

George Badge Eldredge
General Counsel

0606#062

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	General Science, Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—LEAP
(LAC 28:IV.1301)

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

The Emergency Rules are 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 June 7, 2006, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG0673E)

Title 28

EDUCATION

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

Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

§1301. General Provisions

A. - D. ...

E. Allocation of Funds

1. Annually, funds are allocated to postsecondary institutions based on school type, the school's prior year first-time, full-time enrollment and the amount of the prior year's allocation that was expended. Initial funds, for first-time recipients, are computed as a percentage of all participating institutions first-time, full-time enrollment as of October 10 of the prior fiscal year. A student's enrollment in an undergraduate degree granting school which is a component of a state supported medical center, shall be a first-time, full-time freshman for the purpose of this program. Continuation funds for students who had previously received LEAP are computed as a percentage of the allocated funds used during the previous year. The continuation formula applies 60 percent for four-year schools and 40 percent for two-year schools.

2. For the 2006-2007 Academic Year (College), the allocations described in E.1. above shall be made to postsecondary institutions based on 2004-2005 Academic Year (College) formula data.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 22:338 (May 1996), repromulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1458 (August 1999),

repromulgated LR 27:1860 (November 2001), amended LR 28:2332 (November 2002), LR 32:

George Badge Eldredge
General Counsel

0606#061

DECLARATION OF EMERGENCY

Tuition Trust Authority Office of Student Financial Assistance

START Savings Program
(LAC 28:VI.107, 305, 311 and 315)

The Louisiana Tuition Trust Authority (LATTA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend Rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091 et seq.).

The Emergency Rules are necessary to allow the Louisiana Office of Student Financial Assistance and 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. LATTA 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 on June 8, 2006, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (ST0674E)

Title 28

EDUCATION

Part VI. Student Financial Assistance—Higher Education Savings

Chapter 1. General Provisions

Subchapter A. Student Tuition Trust Authority

§107. Applicable Definitions

Variable Earnings—refers to that portion of funds in an ESA, invested in equities, bonds, short-term fixed income investments or a combination of any of the three.

Variable Earnings Transaction Fund—the subaccount established within the Louisiana Education Tuition and Savings Fund to receive funds as directed by rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:

Chapter 3. Education Savings Account

§305. Deposits to Education Savings Accounts

A.1. - E.1. ...

2. Deposits for investment options that include Variable Earnings will be assigned a trade date based on the method of deposit and the date of receipt.

a. Deposits by check will be assigned a trade date three business days after the business day during which they were received.

b. Deposits made by electronic funds transfer through the Automated Clearing House (ACH) Network, or its successor, will be assigned a trade date of three business days after the business day during which they were received.

c. Deposits made by all other means of electronic funds transfer will be assigned a trade date of one business day after the business day during which they were received.

3. Deposits for investment options that include variable earnings, which are received via check or electronic funds transfer through the Automated Clearing House Network, will be deposited into the fixed earnings option until the trade date. Earnings accrued on these deposits prior to the trade date shall be deposited in the Variable Earnings Transaction Fund.

4. Deposits received on weekends and holidays will be considered received on the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:788 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 32:

§311. Termination and Refund of an Education Savings Account

A. - C.2.b. ...

c. The deposits to or the current value of an account invested in a variable earnings option, whichever is less, less earning enhancements allocated to the account and earnings thereon if the account has been open for less than 12 months. Any increase in the value of an account invested in a variable earnings option over the amount deposited shall be forfeited by the account owner and deposited in the Variable Earnings Transaction Fund, if the account was invested in a variable earnings option and terminated within 12 months of the date the account was opened.

C.2.d. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002), LR 30:790 (April 2004), LR 31:639 (March 2005), LR 32:

§315. Miscellaneous Provisions

A. - M.2. ...

3. Earnings reported by the state treasurer on deposits made by check or an ACH transfer, which is not honored by the financial institution on which it was drawn subsequent to the trade date, shall be forfeited by the account owner and deposited into the Variable Earnings Transaction Fund.

N. - R. ...

S. Variable Earnings Transaction Fund

1. Monies in the Variable Earnings Transaction Fund shall be used to pay any charges assessed to the START Saving Program by a financial institution and any loss of value between the purchase and redemption of units in a variable earnings option that are incurred when a check or

ACH transfer is dishonored after the trade date by the financial institution on which it was drawn.

2. After the payment of expenses as provided in Paragraph 1, above, LATTA may declare monies remaining in the Variable Earnings Transaction Fund as surplus. Such surplus shall be appropriated to the Saving Enhancement Fund to be used as earnings enhancements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (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:

George Badge Eldredge
General Counsel

0606#077

DECLARATION OF EMERGENCY

Department of Environmental Quality

Office of the Secretary

Legal Affairs Division

8-Hour Ambient Ozone Standard and
Nonattainment New Source Review
(LAC 33:III.111, 504, 509, 607, 709, and 711)(AQ253E3)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allows the Department of Environmental Quality to use emergency procedures to establish rules, and under the authority of R.S. 30:2011, the secretary of the department hereby finds that imminent peril to the public welfare exists and declares that an emergency action is necessary to implement rules concerning the revised primary and secondary National Ambient Air Quality Standards (NAAQS) for ozone and transitional provisions for nonattainment new source review under the revised standard.

This is a renewal and revision of Emergency Rule AQ253E2, which was effective on February 10, 2006, and published in the *Louisiana Register* on February 20, 2006. This Emergency Rule, AQ253E3, is revised to mirror the text of proposed Rule AQ253, which was published as a Notice of Intent in the *Louisiana Register* on May 20, 2006. Changes in this Rule from the previous Emergency Rule include:

1. NO_x is added as a regulated pollutant;
2. a clarification is made that emissions reductions due to shutdown or curtailment may be credited;
3. the list of highly reactive VOCs is revised;
4. the "extreme" classification is added to Table 1 in LAC 33:III.504.L and Footnote 1 is revised;
5. PM_{2.5} has been added to LAC 33:III.Chapter 7; and
6. the changes to LAC 33:III.Chapter 22 are eliminated, and LAC 33:III.2202 will not be repealed.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 1. General Provisions

§111. Definitions

A. When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below.

* * *

Ozone Exceedance—a daily maximum 8-hour average ozone measurement that is greater than the value of the standard.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:777 (August 1991), LR 21:1081 (October 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:808 (May 2006), LR 32:

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

A. ...

1. For an area that is designated nonattainment for the ozone national ambient air quality standard (NAAQS), VOC and NO_x are the regulated pollutants under this Section. VOC and NO_x emissions shall not be aggregated for purposes of determining major stationary source status and significant net emissions increases.

2. Except as specified in Subsection M of this Section, the potential to emit of a stationary source shall be compared to the major stationary source threshold values listed in Subsection L. Table 1 of this Section to determine whether the source is major.

3. Except as specified in Subsection M of this Section, the emissions increase that would result from a proposed modification, without regard to project decreases, shall be compared to the trigger values listed in Subsection L. Table 1 of this Section to determine whether a calculation of the net emissions increase over the contemporaneous period must be performed.

a. - d. ...

4. Except as specified in Subsection M of this Section, the net emissions increase shall be compared to the significant net emissions increase values listed in Subsection L. Table 1 of this Section to determine whether a nonattainment new source review must be performed.

5. - 7. ...

8. For applications deemed administratively complete in accordance with LAC 33:III.519.A on or after December 20, 2001 and prior to June 23, 2003, and for which the nonattainment new source review (NNSR) permit was issued in accordance with Subsection D of this Section on or before June 14, 2005, the provisions of this Section governing serious ozone nonattainment areas applied to VOC and NO_x increases. For applications deemed administratively

On April 30, 2004, EPA enacted 8-hour ozone NAAQS classifications, effective June 15, 2004 (69 FR 23858). The revised 8-hour NAAQS is more protective than the existing 1-hour ozone NAAQS. In order to transition from the existing 1-hour standard to the new 8-hour standard, EPA adopted a rule for implementation of the 8-hour ozone NAAQS-Phase 1 (the "Phase 1 Implementation Rule") on April 30, 2004 (69 FR 23951). In the Phase 1 Implementation Rule, EPA revoked the 1-hour standard in full, including the associated designations and classifications, effective on June 15, 2005.

Litigation by a number of stakeholders pending in the United States Court of Appeals for the District of Columbia Circuit challenged various aspects of the Phase 1 Implementation Rule, resulting in EPA's agreement to reconsider several portions of the Rule through renewed notice and public comment. EPA only recently made final decisions on reconsideration, thus clearing the way for effectiveness of the Phase 1 Implementation Rule (70 FR 30592, May 26, 2005). As a result, Louisiana is required to adopt the 8-hour revised standard and measures to implement such standard. Additionally, the Phase 2 Implementation Rule (70 FR 71612, November 29, 2005) promulgated the final 8-hour ozone requirements for new source review. This Emergency Rule is necessary to address two of the most immediate aspects of implementation: 1) revision of LAC 33:III.711 to replace the 1-hour primary ambient air quality standard with the 8-hour standard; and 2) revision of nonattainment new source review provisions for parishes that were reclassified from severe under the 1-hour standard to marginal under the 8-hour standard (parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge). Because such parishes are still in nonattainment, the department is adopting measures to ensure that these parishes continue to make progress toward attainment while still accommodating growth. Regulatory changes will also delete references to the 1-hour standard and substitute the 8-hour standard, and take other actions to transition to the 8-hour standard. The attainment date for the Baton Rouge area under the 8-hour standard is June 15, 2007. Failure to adopt this Rule on an emergency basis (i.e., without the delays for public notice and comment) would result in imminent peril to the public welfare as the department would not have the authority to enforce the 8-hour standard.

This Emergency Rule is effective on June 10, 2006, and shall remain in effect for a maximum of 120 days or until a final Rule is promulgated, whichever occurs first. For more information concerning AQ253E3, you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov under rules and regulations, and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; N. Lotus Drive, Suite C., Mandeville, LA 70471.

complete in accordance with LAC 33:III.519.A on or after June 23, 2003, and for which the NNSR permit was issued in accordance with Subsection D of this Section on or before June 14, 2005, the provisions of this Section governing severe ozone nonattainment areas applied to VOC and NO_x increases.

B. - D.4. ...

5. Except as specified in Subsection M of this Section, emission offsets shall provide net air quality benefit, in accordance with offset ratios listed in Subsection L. Table 1 of this Section, in the area where the NAAQS for that pollutant is violated.

D.6. - F. ...

1. All emission reductions claimed as offset credit shall be from decreases of the same pollutant or pollutant class (e.g., VOC) for which the offset is required. Interpollutant trading, for example using a NO_x credit to offset a VOC emission increase, is not allowed. Except as specified in Subsection M of this Section, offsets shall be required at the ratio specified in Subsection L. Table 1 of this Section.

2. - 7.c. ...

8. Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours below baseline levels may be generally credited if such reductions are surplus, permanent, quantifiable, and federally enforceable, and if:

a. the shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this Subparagraph, the administrative authority may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emissions unit (However, in no event may credit be given for shutdowns that occurred before August 7, 1977.);

b. the shutdown or curtailment occurred on or after the date the permit application or application for emission reduction credits (ERCs) was filed; or

c. the applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emissions unit.

F.9. - K. Visibility Impairment. ...

L. Table 1—Major Stationary Source/Major Modification Emission Thresholds

Pollutant	Major Stationary Source Threshold Values (tons/year)	Major Modification Significant Net Increase (tons/year)	Offset Ratio Minimum
Ozone		Trigger Values	
VOC/NO _x			
Marginal	100	40(40) ³	1.10 to 1
Moderate	100	40(40) ³	1.15 to 1
Serious	50	25 ³ (5) ⁴	1.20 to 1 w/LAER or 1.40 to 1 internal w/o LAER

Pollutant	Major Stationary Source Threshold Values (tons/year)	Major Modification Significant Net Increase (tons/year)	Offset Ratio Minimum
Severe	25	25 ³ (5) ⁴	1.30 to 1 w/LAER or 1.50 to 1 internal w/o LAER
Extreme	10	Any increase	1.50 to 1
CO			
Moderate	100	100	>1.00 to 1
Serious	50	50	>1.00 to 1
SO ₂	100	40	>1.00 to 1
PM ₁₀ ¹			
Moderate	100	15	>1.00 to 1
Serious	70	15	>1.00 to 1
Lead	100	0.6	>1.00 to 1

¹The requirements of LAC 33:III.504 applicable to major stationary sources and major modifications of PM₁₀ shall also apply to major stationary sources and major modifications of PM₁₀ precursors, except where the administrator determines that such sources do not contribute significantly to PM₁₀ levels that exceed the PM₁₀ NAAQS in the area.

²Consideration of the net emissions increase will be triggered for any project that would increase emissions by 40 tons or more per year, without regard to any project decreases.

³For serious and severe ozone nonattainment areas, the increase in emissions of VOC or NO_x resulting from any physical change or change in the method of operation of a stationary source shall be considered significant for purposes of determining the applicability of permit requirements, if the net emissions increase from the source equals or exceeds 25 tons per year of VOC or NO_x.

⁴Consideration of the net emissions increase will be triggered for any project that would increase VOC or NO_x emissions by five tons or more per year, without regard to any project decreases, or for any project that would result in a 25 ton or more per year cumulative increase in emissions of VOC within the contemporaneous period or of NO_x for a period of five years after the effective date of the rescission of the NO_x waiver, and within the contemporaneous period thereafter.

VOC= volatile organic compounds

NO_x = oxides of nitrogen

CO = carbon monoxide

SO₂ = sulfur dioxide

PM₁₀= particulate matter of less than 10 microns in diameter

M. Notwithstanding the parish's nonattainment status with respect to the 8-hour national ambient air quality standard (NAAQS) for ozone, the provisions of this Subsection shall apply to sources located in the following parishes: Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge.

1. For an existing stationary source with a potential to emit of 50 tons per year or more of VOC or NO_x, consideration of the net emissions increase will be triggered for any project that would:

a. increase emissions of VOC or NO_x by 25 tons per year or more, without regard to any project decreases;

b. increase emissions of the highly reactive VOC (HRVOC) listed below by 10 tons per year or more, without regard to any project decreases:

- i. 1,3-butadiene;
- ii. butenes (all isomers);
- iii. ethylene;
- iv. propylene.

2. The following sources shall provide offsets for any net emissions increase:

- a. a new stationary source with a potential to emit of 50 tons per year or more of VOC or NO_x;
- b. an existing stationary source with a potential to emit of 50 tons per year or more of VOC or NO_x with a significant net emissions increase of VOC, including HRVOC, or NO_x of 25 tons per year or more.

3. The minimum offset ratio for an offset required by Paragraph M.2 of this Section shall be 1.2 to 1.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 31:3123, 3155 (December 2005), LR 32:

§509. Prevention of Significant Deterioration

A. - A.5. ...

B. Definitions. For the purpose of this Section, the terms below shall have the meaning specified herein as follows.

Major Modification—

- a. ...
- b. Any significant emissions increase from any emissions unit or net emissions increase at a major stationary source that is significant for volatile organic compounds (VOCs) or nitrogen oxides (NO_x) shall be considered significant for ozone.

c. - d. ...

Major Stationary Source—

- a. - c. ...
- d. a major source that is major for volatile organic compounds or nitrogen oxides shall be considered major for ozone;

e. - Table A. ...

Regulated NSR Pollutant—

- a. any pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the administrative authority (e.g., volatile organic compounds and nitrogen oxides are precursors for ozone);

b. - d. ...

Significant—

- a. in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant	Emission Rate
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Particulate matter	25 tpy of particulate emissions
	15 tpy of PM ₁₀ emissions
Ozone	40 tpy of volatile organic compounds or nitrogen oxides
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide (H ₂ S)	10 tpy
Total reduced sulfur (including H ₂ S)	10 tpy
Reduced sulfur compounds (including H ₂ S)	10 tpy
Municipal waste combustor organics ¹	0.0000035 tpy
Municipal waste combustor metals ²	15 tpy
Municipal waste combustor acid gases ³	40 tpy
Municipal solid waste landfills emissions ⁴	50 tpy

¹Measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.

²Measured as particulate matter.

³Measured as sulfur dioxide and hydrogen chloride.

⁴Measured as nonmethane organic compounds.

b. - c. ...

C. - I.5. ...

- a. the emissions increase of the pollutant from a new stationary source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following amounts:

Carbon monoxide	575 µg/m ³	8-hour average
Nitrogen dioxide	14 µg/m ³	annual average
Particulate matter	10 µg/m ³ of PM ₁₀	24-hour average
Sulfur dioxide	13 µg/m ³	24-hour average
Ozone	No <i>de minimis</i> air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds or nitrogen oxides subject to PSD would require the performance of an ambient impact analysis including the gathering of ambient air quality data.	
Lead	0.1 µg/m ³	3-month average
Fluorides	0.25 µg/m ³	24-hour average
Total reduced sulfur	10 µg/m ³	1-hour average
Hydrogen sulfide	0.2 µg/m ³	1-hour average
Reduced sulfur compounds	10 µg/m ³	1-hour average

I.5.b. - AA.15.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment,

Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2234 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 31:3135, 3156 (December 2005), LR 32:

Chapter 6. Regulations on Control of Emissions through the Use of Emission Reduction Credits Banking

§607. Determination of Creditable Emission Reductions

A. - C. ...

1. If the design value for the nonattainment area is above the national ambient air quality standard (NAAQS) for ozone, the department shall compare the current total point-source emissions inventory for the modeled parishes to the base case inventory, except that, beginning with the 2005 emissions inventory, this comparison shall be made to the base line inventory.

2. - 4.a. ...

i. if the design value for the nonattainment area is above the NAAQS for ozone and the current total point-source inventory for the modeled parishes exceeds the base case inventory or base line inventory, as appropriate per Paragraph C.1 of this Section, baseline emissions shall be the lower of actual emissions, adjusted allowable emissions determined in accordance with Paragraph C.3 of this Section, or emissions attributed to the stationary point source(s) in question in the base case or base line inventory, as appropriate; or

ii. if the design value for the nonattainment area is not above the NAAQS for ozone or the current total point-source inventory for the modeled parishes does not exceed the base case inventory or base line inventory, as appropriate per Paragraph C.1 of this Section, baseline emissions shall be the lower of actual emissions or adjusted allowable emissions determined in accordance with Paragraph C.3 of this Section; and

C.4.b. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:302 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Chapter 7. Ambient Air Quality

§709. Measurement of Concentrations—PM₁₀, PM_{2.5}, Sulfur Dioxide, Carbon Monoxide, Atmospheric Oxidants, Nitrogen Oxides, and Lead

A. PM₁₀, PM_{2.5}, sulfur dioxide, carbon monoxide, atmospheric oxidants, nitrogen oxides, and lead shall be measured by the methods listed in LAC 33:III.711.C, Table 2 or by such other equivalent methods approved by the department. The publications or their replacements listed in LAC 33:III.711.C, Table 2 are incorporated as part of these regulations by reference.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR

14:348 (June 1988), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

§711. Tables 1, 1a, 2—Air Quality

A. Table 1. Primary Ambient Air Quality Standards

Table 1. Primary Ambient Air Quality Standards		
Air Contaminant	Maximum Permissible Concentration	
PM ₁₀	50 µg/m ³	(Annual arithmetic mean)
	150 µg/m ³	(Maximum 24-hour concentration not to be exceeded more than once per year)
PM _{2.5}	15.0 µg/m ³	(Annual arithmetic mean)
	65 µg/m ³	24-hour
Sulfur Dioxide (SO ₂)	80 µg/m ³	or 0.03 ppm (Annual arithmetic mean)
	365 µg/m ³	or 0.14 ppm (Maximum 24-hour concentration not to be exceeded more than once per year)
Carbon Monoxide (CO)	10,000 µg/m ³	or 9 ppm (Maximum 8-hour concentration not to be exceeded more than once per year)
	40,000 µg/m ³	or 35 ppm (Maximum 1-hour concentration not to be exceeded more than once per year)
Ozone	0.08 ppm daily maximum 8-hour average	The standard is met at an ambient air monitoring site when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentrations is less than or equal to 0.08 ppm, as determined in accordance with 40 CFR 50, Appendix I.
Nitrogen Dioxide (NO ₂)	100 µg/m ³	(0.05 ppm) (Annual arithmetic mean)
Lead	1.5 µg/m ³	(Maximum arithmetic mean averaged over a calendar quarter)

1. - 2. ...

B. Table 1a. Secondary Ambient Air Quality Standards

Table 1a. Secondary Ambient Air Quality Standards		
Air Contaminant	Maximum Permissible Concentration	
PM ₁₀	50 µg/m ³	(Annual arithmetic mean)
	150 µg/m ³	(Maximum 24-hour concentration not to be exceeded more than once per year)
PM _{2.5}	15.0 µg/m ³	(Annual arithmetic mean)
	65 µg/m ³	24-hour
Sulfur Dioxide (SO ₂)	1,300 µg/m ³	(Maximum 3-hour concentration not to be exceeded more than once per year)
Carbon Monoxide (CO)	10,000 µg/m ³	or 9 ppm (Maximum 8-hour concentration not to be exceeded more than once per year)
	40,000 µg/m ³	or 35 ppm (Maximum 1-hour concentration not to be exceeded more than once per year)

Air Contaminant	Maximum Permissible Concentration	
Ozone	0.08 ppm daily maximum 8-hour average	The standard is met at an ambient air monitoring site when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentrations is less than or equal to 0.08 ppm, as determined in accordance with 40 CFR 50, Appendix I.
Nitrogen Dioxide (NO ₂)	100 µg/m ³	(0.05 ppm) (Annual arithmetic mean)
Lead	1.5 µg/m ³	(Maximum arithmetic mean averaged over a calendar quarter)

1. - 2. ...

C. Table 2. Ambient Air—Methods of Contaminant Measurement

Air Contaminant	Sampling Interval	Analytical Method
PM ₁₀	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix J.
PM _{2.5}	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix L.
Sulfur Dioxide	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix A.
	Continuous	Any method complying with reference or equivalent methods in Title 40, Code of Federal Regulations, Part 53, Subpart B.
Total Oxidants	Continuous	Any method complying with reference or equivalent methods in Title 40, Code of Federal Regulations, Part 50, Appendix D, and Part 53, Subpart B.
Carbon Monoxide	Continuous	Any method complying with reference or equivalent methods in Title 40, Code of Federal Regulations, Part 50, Appendix C, and Part 53, Subpart B.
Nitrogen Dioxide	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix F.
Lead	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix G.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Mike D. McDaniel, Ph.D.
Secretary

0606#035

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Sewage Sludge Regulatory Management
(LAC 33:VII.301 and IX.107, 6901, 6903, 6905,
6907, 6909, 6911, 6913, and 7135)(OS066E3)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allow the Department of Environmental Quality to use emergency procedures to establish rules, and of R.S. 30:2011 and 2074, which allow the department to establish standards, guidelines, and criteria, to promulgate rules and regulations, and to issue compliance schedules, the secretary of the department hereby declares that an emergency action is necessary in order to prevent the unauthorized disposal of sewage sludge in treatment works treating domestic sewage and other areas unprepared to receive the waste stream.

Emergency Rule OS066E2, which was effective on April 29, 2006, and published in the *Louisiana Register* on May 20, 2006, is hereby rescinded and is being reissued with amendments. This Emergency Rule, OS066E3, has been revised to:

1. improve clarity and consistency;
2. clarify compliance dates for surface disposal and sanitary wastewater treatment facilities receiving domestic septage and/or portable toilet waste into their systems;
3. establish closure requirements for sanitary wastewater treatment facilities and sewage sludge disposal ponds/lagoons;
4. establish standards for vehicles of transporters of sewage sludge (previously under the jurisdiction of the Office of Public Health); and
5. establish standard conditions for all sewage sludge (biosolids) use or disposal permits.

Prior to the Emergency Rule issued September 1, 2005, sewage sludge was managed by three different programs within the state and the EPA. The multiple permitting process was a cumbersome and expensive process for both the state and the regulated community, hence, inadequately permitted and/or designed facilities to accept the waste, which is produced in a persistent manner. The potential for dumping of sewage sludge presents a potential health risk to the public and the environment in areas of the state that are under-developed for receiving the waste. This Emergency Rule attempts to streamline and expedite the permitting process by removing the solid waste requirements for the management of sewage sludge from the solid waste regulations (LAC 33, Part VII). Sewage sludge will be managed by LAC 33:IX.Chapter 69 that is reflective of and equivalent to the Clean Water Act Section 503 program at the federal level.

This Emergency Rule is effective on June 1, 2006 and shall remain in effect for a maximum of 120 days or until a final Rule is promulgated, whichever occurs first. For more information concerning OS066E3 you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 3. Scope and Mandatory Provisions of the Program

§301. Wastes Governed by These Regulations

All solid wastes as defined by the act and these regulations are subject to the provisions of these regulations, except as follows:

A. - A.8. ...

9. sewage sludge (including domestic septage) that is generated, treated, processed, composted, blended, mixed, prepared, transported, used, or disposed in accordance with LAC 33:IX. Chapter 69. Provisions addressing sewage sludge and domestic septage found throughout these regulations will no longer apply.

B. - B.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), LR 28:780 (April 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 32:

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 1. General Provisions

§107. Definitions

* * *

Sewage Sludge—any solid, semisolid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. *Sewage sludge* includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, domestic septage, portable toilet pumpings, type III marine sanitation device pumpings (33 CFR Part 159), and sewage sludge products. *Sewage sludge* does not include grit or screenings, or ash generated during the incineration of sewage sludge.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074 (B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2538 (November 2000), LR 30:1473 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Chapter 69. Standards for the Use or Disposal of Sewage Sludge

§6901. General Provisions

A. Purpose and Applicability

1. Purpose

a. This Chapter establishes standards, which consist of general and other requirements, pollutant limits, general and other management practices, and operational standards, for the final use or disposal of sewage sludge generated during the treatment of domestic sewage in a treatment works and of domestic septage. Standards are included in this Chapter for sewage sludge and domestic septage (hereafter referred to collectively as *sewage sludge* for the purposes of this Chapter) and a material derived from sewage sludge that is applied to the land and sewage sludge fired in a sewage sludge incinerator. Also included in this Chapter are pathogen and alternative vector attraction reduction requirements for sewage sludge and a material derived from sewage sludge applied to the land; the siting, operation, and financial assurance requirements for commercial preparers or land applicers of sewage sludge and a material derived from sewage sludge; and the standards for transporters of sewage sludge and for vehicles of transporters of sewage sludge.

b. The standards in this Chapter include the frequency of monitoring, recordkeeping requirements, and reporting requirements for Class I sludge management facilities as defined in Subsection I of this Section.

c. This Chapter establishes requirements for the person who prepares sewage sludge or sewage sludge mixed with grease that is pumped or removed from a food service facility, including dewatering and solidification, that is disposed in a Municipal Solid Waste Landfill.

d. ...

2. Applicability

a. This Chapter applies to:

i. any person who prepares sewage sludge or a material derived from sewage sludge, including the dewatering and solidification of sewage sludge;

ii. any person who applies sewage sludge or a material derived from sewage sludge to the land;

iii. any person who prepares sewage sludge, including dewatering and solidification, that is disposed in a Municipal Solid Waste Landfill;

iv. the owner/operator of a surface disposal site;

v. the owner/operator of a sewage sludge incinerator; and

vi. the transporter of sewage sludge and the vehicle used to transport the sewage sludge.

b. This Chapter applies to sewage sludge or a material derived from sewage sludge that is applied to the land or placed on a surface disposal site, to the land where the sewage sludge and a material derived from sewage sludge is applied, and to a surface disposal site.

c. ...

d. This Chapter applies to the sewage sludge that is disposed in a Municipal Solid Waste Landfill.

B. Compliance Period

1. - 3.a. ...

b. Compliance with the requirements in Paragraphs F.2, 3, and 4 of this Section shall be achieved as follows.

i. A facility presently meeting all of the requirements for surface disposal in 40 CFR 503, Subpart C, must comply with the requirements in Paragraph F.2 of this Section as expeditiously as practicable, but in no case later than September 1, 2007.

ii. A facility that does not meet all of the requirements for surface disposal in 40 CFR 503, Subpart C, must comply with the requirements in Paragraph F.2 of this Section on December 30, 2005.

iii. All facilities must comply with the requirements in Paragraphs F.3 and 4 of this Section as expeditiously as practicable, but in no case later than September 1, 2007.

C. Permits and Permitting Requirements

1.a. Except as exempted in Paragraph C.2 of this Section, no person shall prepare sewage sludge or a material derived from sewage sludge, apply sewage sludge or a material derived from sewage sludge to the land, or own or operate a sewage sludge incinerator without first obtaining a permit in accordance with the deadlines set forth in Subparagraphs C.1.b-d of this Section.

b. As of December 30, 2005, those persons who have been:

i. granted an exemption under LAC 33:Part VII for any form of use or disposal of sewage sludge will have 180 days to submit an application for permit coverage under these regulations;

ii. issued a standard solid waste permit under LAC 33:Part VII for the use, disposal, treatment, or processing of sewage sludge, with the exception of a standard solid waste permit issued for a type of *surface disposal* as defined in Subsection I of this Section, may continue operations under the standard solid waste permit until such time as a permit has been reissued under these regulations by the administrative authority or for a period not to exceed five years, whichever is less. This time period may be reduced by the administrative authority if deemed necessary for the protection of human health and/or the environment;

iii. issued a standard solid waste permit for a type of *surface disposal* as defined in Subsection I of this Section shall comply with the requirements in Subparagraph B.3.b of this Section.

c. As of June 1, 2006, all other facilities not addressed under Subparagraph C.1.b of this Section shall apply for a permit as follows.

i. All sanitary wastewater treatment facilities that receive domestic septage and/or portable toilet waste into their systems shall apply for a permit within 180 days after June 1, 2006.

ii. All treatment facilities that are for the sole purpose of preparing sewage sludge or sewage sludge mixed with grease that is pumped or removed from a food service facility shall apply for a permit within 180 days after June 1, 2006.

iii. All treatment facilities that prepare sewage sludge for the use of land application and all land applicators of biosolids who are not presently operating under an effective

standard solid waste permit shall apply for a permit within 180 days after June 1, 2006.

iv. All major sanitary wastewater treatment facilities that do not receive domestic septage and/or portable toilet waste into their systems shall apply for a permit as expeditiously as practicable, but in no case later than three years from June 1, 2006.

v. All minor sanitary wastewater treatment facilities that do not receive domestic septage and/or portable toilet waste into their systems shall apply for a permit as expeditiously as practicable, but in no case later than five years from June 1, 2006.

d. At least 180 days prior to expiration of the permit described in Clause C.1.b.ii of this Section, the owner/operator of the facility shall submit an application for permit issuance under this Chapter if the owner/operator intends to continue operations after that date.

e. The person who prepares or land-applies sewage sludge or a material derived from sewage sludge shall use the Sewage Sludge (Biosolids) Use or Disposal Permit Application form. The owner/operator of a sewage sludge incinerator shall apply for a permit in accordance with LAC 33:III.Chapter 5 and shall utilize both the Air Quality Permit Application and the Sewage Sludge (Biosolids) Use or Disposal Permit Application forms. The forms can be accessed through the department's website or by contacting the Office of Environmental Services, Water and Waste Permits Division.

f. Except as allowed in Subparagraph C.1.b of this Section, all permits issued in accordance with these regulations shall be effective for a period not to exceed five years. The standard five-year permit period may be reduced to a period of less than five years if deemed necessary by the administrative authority for the protection of human health and/or the environment.

2. The person who applies bagged sewage sludge or a bagged material derived from sewage sludge to the land is exempt from the requirement of obtaining a permit if the person applies bagged sewage sludge or a bagged material derived from sewage sludge that is *Exceptional Quality* as defined in Subsection I of this Section.

a. The person who applies bulk sewage sludge or a bulk material derived from sewage sludge to the land is exempt from the requirement of obtaining a permit if the person applies bulk sewage sludge or a bulk material derived from sewage sludge that was obtained from a facility that possesses an *Exceptional Quality* Permit under LAC 33:IX.6903.J.

b. The administrative authority may exempt any other person who applies sewage sludge or a material derived from sewage sludge to the land from the requirement of obtaining a permit, on a case-by-case basis, after determining that human health and the environment will not be adversely affected by the application of sewage sludge or a material derived from sewage sludge to the land.

3. The person who prepares sewage sludge, the person who applies sewage sludge to the land, the commercial preparer or land applicator of sewage sludge, and the owner and/or operator of a sewage sludge incinerator who desires to maintain a permit shall obtain adequate training and certification in the processing, treatment, land application, and incineration of sewage sludge.

a. To maintain certification, eight units of continuous education shall be obtained on an annual basis.

b. Classes, seminars, conferences, or conventions used for units must be approved by the administrative authority.

4. Sanitary Wastewater Treatment Facilities and Sewage Sludge Disposal Ponds/Lagoons Closure Requirements

a. The use or disposal options for the closure of a facility that was utilized for the treatment of sanitary wastewater or the disposal of sewage sludge shall consist of:

i. removal and disposal in a permitted municipal solid waste landfill;

ii. obtaining Exceptional Quality Biosolids certification without further soil or site restrictions; or

iii. approval for land application as a Non-exceptional Quality Biosolids with soil or site restrictions.

b. In closing a facility that was utilized for sanitary wastewater treatment, the liquid portion must be removed in a manner that meets the requirements of LAC 33:IX.Subpart 2.

c. A closure plan for removal and disposal of the sewage sludge in a permitted solid waste landfill shall be submitted prior to site closure to the Office of Environmental Services, Water and Waste Permits Division, including but not limited to, the following information:

i. the name, mailing address, physical address, and contact person of the facility that is proposed for closure;

ii. an aerial photograph showing the location of the facility that is proposed for closure;

iii. the amount of sewage sludge that will be removed and disposed at a permitted landfill;

iv. a sampling and analysis plan for the sewage sludge. The sampling and analysis plan shall include:

(a). either a schematic drawing or aerial photograph that indicates where the samples will be taken;

(b). the lab methods utilized;

(c). the name of the laboratory where the samples will be analyzed; and

(d). any other information the department may require; and

v. the name, location, and contact person at the site where the sewage sludge will be disposed.

d. Approval or disapproval of the closure plan required in Subparagraph C.4.c of this Section shall be granted by the administrative authority after receipt and review of the plan.

e. A request for an Exceptional Quality Biosolids certification without further soil or site restrictions shall be submitted to the Office of Environmental Services, Water and Waste Permits Division, including but not limited to, the following information.

i. A sampling and analysis plan shall be submitted to the administrative authority in accordance with Subsection H of this Section. The sewage sludge shall be sampled and analyzed in a laboratory that is certified by the state of Louisiana. The minimum sampling and analysis requirements are as follows:

(a). toxicity characteristic leaching procedure (TCLP)—one composite sample;

(b). pollutants listed in Table 1 of LAC 33:IX.6903.D—at least four separate, random, representative samples of pollutants listed in the table;

(c). fecal coliform or *Salmonella sp.*—for each pollutant a minimum of four separate, random, representative samples. Report the geometric mean of the separate samples collected and analyzed. The samples must be analyzed by using Part 9221-E of "Standard Methods for the Examination of Water & Wastewater" for fecal coliform and Part 9260 of "Standard Methods for the Examination of Water & Wastewater" for *Salmonella sp.*;

(d). vector attraction reduction—for each pollutant a minimum of four separate, random, representative samples. If specific sampling and analysis methods are listed in Subsection H of this Section for vector attraction reduction, then the methods listed must be used for the determination of vector attraction reduction;

(e). PCB—one composite sample; and

(f). total nitrogen, nitrates, total phosphorus, total potassium, and pH—one composite sample from four or more separate samples collected from the treatment facility or from each cell of an oxidation pond, lagoon, or surface impoundment.

ii. Results of the analyzed samples, along with QA/QC documentation, must be submitted to the administrative authority, along with the following additional information:

(a). the name of the facility that utilized the treatment facility;

(b). the LPDES (sanitary wastewater discharge) Permit Number for the treatment facility;

(c). the design capacity of the treatment facility. If the facility was an oxidation pond, include the size of the pond (in acres) and the number of cells of the pond (1-cell, 2-cell, or 3-cell);

(d). the approximate tons of sewage sludge to be disposed;

(e). the location of the facility delineated on an aerial photograph;

(f). the future plans for the site where the treatment plant is located;

(g). the demographics within the area of the facility (businesses, hospitals, nursing homes, day-care centers, schools, walk-in clinics, etc.);

(h). potable water wells within a one-mile radius of the facility (locate on an aerial photograph; include private and public potable water wells);

(i). the name of the drinking water aquifer.

f. After receipt and review of the results of the laboratory analyses and the additional information required in Clause C.4.e.ii of this Section, a decision shall be rendered by the administrative authority regarding Exceptional Quality Biosolids certification.

g. If closure is through land application of the sewage sludge as Non-exceptional Quality Biosolids, an official application for a Sewage Sludge (Biosolids) Use or Disposal Permit must be submitted to the Office of Environmental Services, Water and Waste Permits Division, utilizing the application form that can be accessed on the department's website or by contacting the Office of Environmental Services, Water and Waste Permits Division.

5. Environmental Impact Supplementary Information. In addition to the requirements of this Chapter, all sewage sludge use or disposal permit applications must include a response to each of the following:

a. a detailed discussion demonstrating that the potential and real adverse environmental effects of the proposed facility have been avoided to the maximum extent possible;

b. a cost benefit analysis that balances the environmental impact costs against the social and economic benefits of the facility and demonstrates that the latter outweigh the former;

c. a discussion and description of possible alternative projects that would offer more protection to the environment than the proposed facility without unduly curtailing non-environmental benefits;

d. a detailed discussion of possible alternative sites that would offer more protection to the environment than the proposed facility site without unduly curtailing non-environmental benefits; and

e. a discussion and description of mitigating measures that would offer more protection to the environment than the facility as proposed without unduly curtailing non-environmental benefits.

D. Sewage Sludge Disposed in a Municipal Solid Waste Landfill

1. - 2. ...

3. The person who prepares sewage sludge that is disposed in a Municipal Solid Waste Landfill shall provide the following to the Office of Environmental Services, Water and Waste Permits Division:

a. proof that the sewage sludge is being disposed at an approved landfill by furnishing the name, address, and permit number of the landfill; and

b. copies of all records of sampling and laboratory analyses of the sewage sludge that are required by the owner/operator of the landfill.

E. Registration Requirements and Standards for Vehicles and Transporters of Sewage Sludge

1. Transporters of sewage sludge shall only transport the sewage sludge and/or grease mixed with sewage sludge to a permitted facility and shall maintain the following records.

a. The transporter shall maintain a daily log or record of activities.

b. The daily log or record shall contain the following information regarding the sewage sludge and/or grease mixed with sewage sludge:

i. the date obtained, pumped, or removed;

ii. the origin or source;

iii. the volume generated at each site;

iv. the transfer or disposal site; and

v. the total amount that was transported or disposed.

2. A transporter of sewage sludge shall obtain a transporter registration number from the Office of Environmental Services, Water and Waste Permits Division, prior to engaging in transportation activities, utilizing a form that is obtained from the Office of Environmental Services, Water and Waste Permits Division, or the department's website.

3. The types and sizes of vehicles shall comply with the regulations and licensing of the Department of Transportation and Development and with applicable local ordinances governing weight and size for the roads and streets that must be traveled during the transporting of sewage sludge.

4. The bodies of vehicles must be covered at all times, except during loading and unloading, in a manner that prevents rain from reaching the sewage sludge, inhibits access by vectors, prevents the sewage sludge from falling or blowing from the vehicle, minimizes escape of odors, and does not create a nuisance.

5. The bodies of vehicles that are utilized to transport liquefied sewage sludge or a sewage sludge that is capable of producing a leachate shall be constructed and/or enclosed with an appropriate material that will completely prevent the leakage or spillage of the liquid.

6. The vehicle washdown area shall be designed, constructed, and operated to prevent leakage that may lead to groundwater contamination or uncontrolled contaminated surface runoff.

7. Water collected in the vehicle washdown area shall be discharged and the containment system thoroughly cleaned as often as is needed to minimize odors. The leachate and the cleanout water shall be discharged in accordance with all applicable state and federal regulations.

F. Prohibitions, Restrictions, and Additional or More Stringent Requirements

1. No person shall use or dispose of sewage sludge or a material derived from sewage sludge through any practice for which requirements have not been established in this Chapter.

2. *Surface disposal*, as defined in Subsection I of this Section, is prohibited as a use or disposal method of sewage sludge or of a material derived from sewage sludge.

3.a. *Storage of sewage sludge*, as defined in Subsection I of this Section, is allowed for a period not to exceed six consecutive months when:

i. necessary for the upgrade, repair, or maintenance of a treatment works treating domestic sewage or for agricultural storage purposes when the sewage sludge is to be used for *beneficial use* as defined in Subsection I of this Section;

ii. notification has been made by the person who wishes to store the sewage sludge to the administrative authority; and

iii. subsequent approval by the administrative authority has been received.

b.i. The administrative authority may approve the storage of sewage sludge for commercial preparers or land appliers of sewage sludge or for purposes other than those listed in Subparagraph F.3.a of this Section, for a period greater than six consecutive months, if the person who stores the sewage sludge demonstrates that the storage of the sewage sludge will not adversely affect human health and the environment.

ii. The demonstration shall be in the form of an official request forwarded to the administrative authority at least 90 days prior to the storage of the sewage sludge and shall include, but is not limited to:

(a). the name and address of the person who prepared the sewage sludge;

(b). the name and address of the person who either owns the land or leases the land where the sewage sludge is to be stored, if different from the person who prepared the sewage sludge;

(c). the location, by either street address or latitude and longitude, of the land;

(d). an explanation of why the sewage sludge needs to remain on the land;

(e). an explanation of how human health and the environment will not be affected;

(f). the approximate date when the sewage sludge will be stored on the land and the approximate length of time the sewage sludge will be stored on the land; and

(g). the final use and disposal method after the storage period has expired.

iii.(a). The administrative authority shall make a determination as to whether or not the information submitted is complete and shall issue the determination within 30 days of having received the request. If the information is deemed incomplete, the administrative authority will issue a notice of deficiency. The commercial preparer or land applier of sewage sludge shall have 45 days, thereafter, to respond to the notice of deficiency.

(b). Within 30 days after deeming the information complete, the administrative authority will then make and issue a determination to grant or deny the request for the storage of sewage sludge.

4. The use of ponds or lagoons is allowed for the *treatment of sewage sludge*, as defined in Subsection I of this Section, only after a permit has been granted under these regulations and the applicable air and water discharge permits have been applied for and granted by the administrative authority.

a. The person who makes use of a pond or lagoon to treat or for treatment of sewage sludge shall provide documentation to the Office of Environmental Services, Water and Waste Permits Division, that indicates the final use or disposal method for the sewage sludge and shall apply for the appropriate permit for the chosen final use or disposal in accordance with this Chapter.

b. The person who makes use of a pond or lagoon to treat or for treatment of sewage sludge shall provide documentation by a qualified groundwater scientist to the Office of Environmental Services, Water and Waste Permits Division, that indicates that the area where the pond or lagoon is located will adequately protect against potential groundwater contamination either by natural soil conditions or by a constructed soil or synthetic liner that has a hydraulic conductivity of 1×10^{-7} centimeters per second or less, and protect from the potential to *contaminate an aquifer* as defined in Subsection I of this Section.

5. Materials Prohibited from Feedstock or Supplements that are Blended, Composted, or Mixed with Sewage Sludge

a.i. The person who generates, transports, or treats sewage sludge shall not blend, compost, or mix hazardous waste with sewage sludge.

ii. The blending, composting, or mixing of sewage sludge with feedstock or supplements containing any

of the materials listed in Table 1 of LAC 33:IX.6901.F is prohibited.

b. The administrative authority may prohibit the use of other materials as feedstock or supplements if the use of such materials has a potential to adversely affect human health or the environment, as determined by the administrative authority.

c. Material utilized as feedstock or supplements and blended, composted, or mixed with sewage sludge must be sampled and analyzed on an annual basis to determine if the material is nonhazardous by a hazardous waste determination in accordance with 40 CFR 261 and/or LAC 33:Part V.

d. Results of the sampling and analysis required in Subparagraph F.5.c of this Section must be submitted to the administrative authority on an annual basis.

Table 1 of LAC 33:IX.6901.F Materials Prohibited from Feedstock or Supplements That Are Blended, Composted, or Mixed with Sewage Sludge
Antifreeze
Automotive (lead-acid) batteries
Brake fluid
Cleaners (drain, oven, toilet)
Gasoline and gasoline cans
Herbicides
Household (dry cell) batteries
Oil-based paint
Pesticides
Photographic supplies
Propane cylinders
Treated wood containing the preservatives CCA and/or PCP
Tubes and buckets of adhesives, caulking, etc.
Swimming pool chemicals
Unmarked containers
Used motor oil

6.a. Sewage sludge composting operations shall not be located on airport property unless an exemption or approval is granted by the U.S. Department of Transportation's Federal Aviation Administration.

b. If an exemption or approval is granted by the U.S. Department of Transportation's Federal Aviation Administration to allow a sewage sludge composting operation to be located on airport property, the location restrictions at LAC 33:IX.6905.A.1.f and g for off-airport property operations shall apply.

7.a. The use of raw or untreated sewage sludge as daily, interim, or final cover at a Municipal Solid Waste Landfill is prohibited.

b. The use of sewage sludge as daily, interim, or final cover at a Municipal Solid Waste Landfill is allowed only if the sewage sludge meets the requirements and is used in accordance with the requirements in LAC 33:IX.Chapter 69.

8. Sewage sludge mixed with grease shall be disposed in a permitted landfill and shall not be introduced into any part of a treatment works, including its collection system, or applied to the land.

9. On a case-by-case basis, the permitting authority may impose requirements in addition to or more stringent than the requirements in this Chapter when necessary to

protect human health and the environment from any adverse effect of a pollutant in the sewage sludge.

G. Exclusions

1. Co-Firing of Sewage Sludge

a. Except for the co-firing of sewage sludge with *auxiliary fuel*, as defined in LAC 33:IX.6911.B, this Chapter does not establish requirements for sewage sludge co-fired in an incinerator with other wastes or for the incinerator in which sewage sludge and other wastes are co-fired.

b. This Chapter does not establish requirements for sewage sludge co-fired with auxiliary fuel if the auxiliary fuel exceeds 30 percent of the dry weight of the sewage sludge and auxiliary fuel mixture.

2. Sludge Generated at an Industrial Facility. This Chapter does not establish requirements for the use or disposal of sludge generated at an industrial facility during the treatment of industrial wastewater, including sewage sludge generated during the treatment of industrial wastewater combined with domestic sewage.

3. Hazardous Sewage Sludge. This Chapter does not establish requirements for the use or disposal of sewage sludge or a material derived from sewage sludge that is hazardous under 40 CFR Part 261 and/or LAC 33:Part V.

4. Sewage Sludge with High PCB Concentration. This Chapter does not establish requirements for the use or disposal of sewage sludge with a concentration of polychlorinated biphenyls (PCBs) equal to or greater than 50 milligrams per kilogram of total solids (dry weight basis).

5. Incinerator Ash. This Chapter does not establish requirements for the use or disposal of ash generated during the firing of sewage sludge in a sewage sludge incinerator.

6. Grit and Screenings. This Chapter does not establish requirements for the use or disposal of grit (e.g., sand, gravel, cinders, or other materials with a high specific gravity) or screenings (e.g., relatively large materials such as rags) generated during preliminary treatment of domestic sewage in a treatment works.

7. Drinking Water Treatment Sludge. This Chapter does not establish requirements for the use or disposal of sludge generated during the treatment of either surface water or groundwater used for drinking water.

H. Sampling and Analysis

1. Sampling

a. The permittee shall collect and analyze representative samples of sewage sludge or a material derived from sewage sludge that is applied to the land, and sewage sludge fired in a sewage sludge incinerator.

b. The permittee shall create and maintain records of sampling and monitoring information that shall include:

- i. the date, exact place, and time of sampling or measurements;
- ii. the individual(s) who performed the sampling or measurements;
- iii. the date(s) analyses were performed;
- iv. the individual(s) who performed the analysis;
- v. the analytical techniques or methods used; and
- vi. the results of such analysis.

2. Methods. The materials listed below are incorporated by reference in this Chapter. The materials are incorporated as they exist on the date of approval, and notice of any change in these materials will be published in the *Louisiana Register*. They are available for inspection at the

Office of the Federal Register, 7th Floor, Suite 700, 800 North Capitol Street, NW, Washington, DC, and at the Office of Water Docket, Room L-102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC. Copies may be obtained from the standard producer or publisher listed in the regulation. Information regarding other sources of these documents is available from the Department of Environmental Quality, Office of Environmental Services, Water and Waste Permits Division. Methods in the materials listed below shall be used to analyze samples of sewage sludge.

a. Enteric Viruses. ASTM Designation: D 4994-89, "Standard Practice for Recovery of Viruses From Wastewater Sludges," 1992 Annual Book of ASTM Standards: Section 11—Water and Environmental Technology, ASTM, 1916 Race Street, Philadelphia, PA 19103-1187.

b. Fecal Coliform. Part 9221 E or Part 9222 D, "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005.

c. Helminth Ova. Yanko, W.A., "Occurrence of Pathogens in Distribution and Marketing Municipal Sludges," EPA 600/1-87-014, 1987. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (PB 88-154273/AS).

d. Inorganic Pollutants. *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, Second Edition (1982) with Updates I (April 1984) and II (April 1985) and Third Edition (November 1986) with Revision I (December 1987). Second Edition and Updates I and II are available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (PB-87-120-291). Third Edition and Revision I are available from Superintendent of Documents, Government Printing Office, 941 North Capitol Street, NE, Washington, DC 20002 (Document Number 955-001-00000-1).

e. *Salmonella sp.* Bacteria. Part 9260 D, "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005; or Kenner, B.A. and H.P. Clark, "Detection and Enumeration of Salmonella and Pseudomonas Aeruginosa," *Journal of the Water Pollution Control Federation*, Vol. 46, No. 9, September 1974, pp. 2163-2171. Water Environment Federation, 601 Wythe Street, Alexandria, VA 22314.

f. Specific Oxygen Uptake Rate. Part 2710 B, "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005.

g. Total, Fixed, and Volatile Solids. Part 2540 G, "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005.

h. Incineration of Sewage Sludge—Standards of Performance and Particulate Matter. Materials and Methods at 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003.

i. Incineration of Sewage Sludge—National Emission Standards for Beryllium and for Mercury. Materials, Methods, and Standards at 40 CFR Part 61 as incorporated by reference at LAC 33:III.5116.

j. Composting of Sewage Sludge. *Test Methods for the Examination of Composting and Compost*, The US Composting Council Research and Education Foundation and USDA, TMECC Website: <http://tmecc.org/tmecc/index.html>.

k. Nutrients—*Methods of Soil Analysis*, Soil Science Society of America Series (Most Recent Editions).

I. General Definitions. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Administrative Authority—the Secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Air Operations Area—any area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft. An *air operations area* includes paved areas or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft, in addition to those areas' associated runways, taxiways, or aprons.

Apply Sewage Sludge or Sewage Sludge Applied to the Land—land application of sewage sludge.

Base Flood—a flood that has a 1 percent chance of occurring in any given year (i.e., a flood with a magnitude equaled once in 100 years).

Beneficial Use—using sewage sludge or a material derived from sewage sludge for the purpose of soil conditioning or crop or vegetative fertilization in a manner that does not pose adverse effects upon human health and the environment or cause any deterioration of land surfaces, soils, surface waters, or groundwater.

Bulk Sewage Sludge—sewage sludge that is not sold or given away in a bag or other container for application to the land.

Class I Sludge Management Facility—for the purpose of this Chapter:

a. any *publicly owned treatment works (POTW)* or *privately owned sanitary wastewater treatment facility (POSWTF)*, as defined in this Subsection, regardless of ownership, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage;

b. the person who prepares sewage sludge or a material derived from sewage sludge, including commercial preparers of sewage sludge;

c. the owner/operator of a sewage sludge incinerator; and

d. the person who applies sewage sludge or a material derived from sewage sludge to the land (includes commercial land applicators of sewage sludge).

Commercial Preparer or Land Applicator of Sewage Sludge—any person who prepares or land-applies sewage sludge or a material derived from sewage sludge for monetary profit or other financial consideration and either the person is not the generator of the sewage sludge or the sewage sludge was obtained from a facility or facilities not owned by or associated with the person.

Contaminate an Aquifer—to introduce a substance that causes the maximum contaminant level for nitrate in 40 CFR 141.62(b) to be exceeded in the groundwater, or that causes the existing concentration of nitrate in groundwater to increase when existing concentration exceeds the maximum contaminant level for nitrate in 40 CFR 141.62(b).

Cover Crop—a small grain crop, such as oats, wheat, or barley, not grown for harvest.

Domestic Septage—either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. *Domestic septage* does not include liquid or solid material removed from a septic tank, cesspool, or similar treatment works that receives either commercial wastewater or industrial wastewater, and does not include grease removed from a grease trap at a restaurant.

Domestic Sewage—waste and wastewater from humans or household operations that is discharged to or otherwise enters a treatment works.

Dry Weight Basis—calculated on the basis of having been dried at 105°C until reaching a constant mass (i.e., essentially 100 percent solids content).

Exceptional Quality—sewage sludge or a material derived from sewage sludge that meets the ceiling concentrations in Table 1 of LAC 33:IX.6903.D, the pollutant concentrations in Table 3 of LAC 33:IX.6903.D, the pathogen requirements in LAC 33:IX.6909.C.1, one of the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-h, and the concentration of PCBs of less than 10 mg/kg of total solids (dry weight).

Feed Crops—crops produced primarily for consumption by animals.

Feedstock—primarily biologically decomposable organic material that is blended, mixed, or composted with sewage sludge.

Fiber Crops—crops such as flax and cotton.

Food Crops—crops consumed by humans. These include, but are not limited to, fruits, vegetables, and tobacco.

Food Service Facility—any facility that prepares and/or packages food or beverages for sale or consumption, on- or off-site, with the exception of private residences. *Food service facilities* include, but are not limited to, food courts, food manufacturers, food packagers, restaurants, grocery stores, bakeries, lounges, hospitals, hotels, nursing homes, churches, and schools.

Grease—a material, either liquid or solid, composed primarily of fat, oil, or grease from animal or vegetable sources. The terms *fats, oils, and grease; oil and grease; and oil and grease substances* shall all be included within this definition.

Groundwater—water below the land surface in the saturated zone.

Industrial Park—an area that is legally zoned for the purpose of the construction and operation of a group of industries and businesses and entered as legally zoned for such purpose in the public records of the state, parish, city, town, or community where the park is located.

Industrial Wastewater—wastewater generated in a commercial or industrial process.

Land Application—the beneficial use of sewage sludge or a material derived from sewage sludge by either spraying or spreading onto the land surface, injection below the land surface, or incorporation into the soil.

Other Container—either an open or closed receptacle. This includes, but is not limited to, a bucket, a box, a carton,

and a vehicle or trailer with a load capacity of 1 metric ton or less.

Permitting Authority—either EPA or a state with an EPA-approved sludge management program.

Person Who Prepares Sewage Sludge—the person who generates sewage sludge during the treatment of domestic sewage in a treatment works, the person who treats sewage sludge, or the person who derives a material from sewage sludge.

Pollutant—an organic substance, an inorganic substance, a combination of organic and inorganic substances, or a pathogenic organism that, after discharge and upon exposure, ingestion, inhalation, or assimilation into an organism either directly from the environment or indirectly by ingestion through the food chain, could, on the basis of information available to the administrative authority, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunction in reproduction), or physical deformations in either organisms or offspring of the organisms.

Pollutant Limit—a numerical value that describes the amount of a pollutant allowed per unit amount of sewage sludge (e.g., milligrams per kilogram of total solids); the amount of a pollutant that can be applied to a unit area of land (e.g., kilograms per hectare); or the volume of a material that can be applied to a unit area of land (e.g., gallons per acre).

Private Land Applier—a person who land-applies sewage sludge or a material derived from sewage sludge for private benefit purposes, where the land application is not for monetary profit or other financial consideration and either the person did not generate or prepare the sewage sludge or a material derived from sewage sludge, or the facility or facilities from which the sewage sludge or a material derived from sewage sludge was obtained are not owned by or associated with the private land applier.

Privately Owned Sanitary Wastewater Treatment Facility (POSWTF)—a privately owned treatment works that is utilized to treat sanitary wastewater and is not a *publicly owned treatment works (POTW)*, as defined in this Subsection.

Publicly Owned Treatment Works (POTW)—a treatment works, as defined by Section 212 of the Clean Water Act, that is owned by a *state* or *municipality* as defined by Section 504(2) of the Clean Water Act. This includes all devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW; and the municipality, as defined by Section 502(4) of the Clean Water Act, that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

Qualified Groundwater Scientist—an individual with a baccalaureate or post-graduate degree in the natural sciences or engineering who has sufficient training and experience in groundwater hydrology, subsurface geology, and/or related fields, as may be demonstrated by state registration, professional certification, or completion of accredited university programs, to make sound professional judgments regarding groundwater monitoring, pollutant fate and transport, and corrective action.

Runoff—rainwater, leachate, or other liquid that drains overland on any part of a land surface and runs off of the land surface.

Sewage Sludge—any solid, semisolid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. *Sewage sludge* includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, domestic septage, portable toilet pumpings, type III marine sanitation device pumpings (33 CFR Part 159), and sewage sludge products. *Sewage sludge* does not include grit or screenings, or ash generated during the incineration of sewage sludge.

Surface Disposal—the use or disposal of sewage sludge that does not meet the criteria of *land application* as defined in this Subsection. This may include, but is not limited to, ponds, lagoons, sewage sludge only landfills (monofills), or landfarms.

Supplements—for the purpose of this Chapter, materials blended, composted, or mixed with sewage sludge or other feedstock and sewage sludge in order to raise the moisture level and/or to adjust the carbon to nitrogen ratio, and materials added during composting or to compost to provide attributes required by customers for certain compost products.

To Store, or Storage of, Sewage Sludge—the temporary placement of sewage sludge on land.

To Treat, or Treatment of, Sewage Sludge—the preparation of sewage sludge for final use or disposal. This includes, but is not limited to, blending, mixing, composting, thickening, stabilization, and dewatering and solidification of sewage sludge. This does not include storage of sewage sludge.

Transporter of Sewage Sludge—any person who moves sewage sludge off-site or moves sewage sludge to a storage site, treatment or processing site, disposal site, or land application site.

Treatment Works—a federally owned, publicly owned, or privately owned device or system used to treat (including recycle and reclaim) either domestic sewage or a combination of domestic sewage and industrial waste of a liquid nature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:781 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005), LR 32:

§6903. Land Application

A. Applicability

1. This Section applies to any person who prepares sewage sludge or a material derived from sewage sludge that is applied to the land, to any person who applies sewage sludge or a material derived from sewage sludge to the land, to sewage sludge or a material derived from sewage sludge that is applied to the land, and to the land on which sewage sludge or a material derived from sewage sludge is applied.

2.a.i. The general requirements in Paragraph C.1 of this Section, the other requirements in Paragraph E.1 of this Section, the general management practices in Subparagraph C.2.a of this Section, and the other management practices in

Paragraph E.2 of this Section do not apply when bulk sewage sludge is applied to the land if the bulk sewage sludge is *Exceptional Quality* as defined in LAC 33:IX.6901.I and the preparer has received and maintains an Exceptional Quality Permit under the requirements in Subsection J of this Section.

ii. The general requirements in Paragraph C.1 of this Section, the other requirements in Paragraph E.1 of this Section, the general management practices in Subparagraph C.2.a of this Section, and the other management practices in Paragraph E.2 of this Section do not apply when a bulk material derived from sewage sludge is applied to the land if the derived bulk material is *Exceptional Quality* as defined in LAC 33:IX.6901.I and the preparer has received and maintains an Exceptional Quality Permit under the requirements in Subsection J of this Section.

b. ...

3.a.i. The general requirements in Paragraph C.1 of this Section and the general management practices in Paragraph C.2 of this Section do not apply if sewage sludge sold or given away in a bag or other container is *Exceptional Quality* as defined in LAC 33:IX.6901.I and the preparer has received and maintains an Exceptional Quality Permit under the requirements in Subsection J of this Section.

ii. The general requirements in Paragraph C.1 of this Section and the general management practices in Paragraph C.2 of this Section do not apply if a material derived from sewage sludge is sold or given away in a bag or other container and the material is *Exceptional Quality* as defined in LAC 33:IX.6901.I and the preparer has received and maintains an Exceptional Quality Permit under the requirements in Subsection J of this Section.

iii. The general requirements in Paragraph C.1 of this Section and the general management practices in Paragraph C.2 of this Section do not apply when a material derived from sewage sludge is sold or given away in a bag or other container for application to the land if the sewage sludge from which the material is derived is *Exceptional Quality* as defined in LAC 33:IX.6901.I and the preparer has received and maintains an Exceptional Quality Permit under the requirements in Subsection J of this Section.

A.3.b. - C.1.a.ii.(c). ...

b. No person shall apply sewage sludge or a material derived from sewage sludge to the land except in accordance with the requirements in this Chapter.

c. The person who applies sewage sludge or a material derived from sewage sludge to the land shall obtain information needed to comply with the requirements in this Chapter.

d. Sewage sludge or a material derived from sewage sludge shall not be applied to the land until a determination has been made by the administrative authority that the land application site is a legitimate beneficial use site.

2. General Management Practices

a. All Sewage Sludge or Material Derived from Sewage Sludge

i. ...

ii. Sewage sludge or material derived from sewage sludge shall be applied to the land only in accordance with the requirements pertaining to slope in Table 1 of LAC 33:IX.6903.C.

iii. In addition to the restrictions addressed in Clause C.2.a.ii of this Section, all sewage sludge or material derived from sewage sludge having a concentration of PCBs equal to or greater than 10 mg/kg of total solids (dry wt.) must be incorporated into the soil regardless of slope.

iv. When sewage sludge or a material derived from sewage sludge is applied to agricultural land, forest, or a reclamation site, the following buffer zones shall be established for each application area, unless otherwise specified by the administrative authority:

(a) - (b). ...

(c). established school, hospital, institution, business, day-care facility, nursing home, hotel/motel, playground, park, golf course, or restaurant/food establishment—1,000 feet, unless special permission is granted by a qualified representative of the established school, hospital, institution, business, day-care facility, nursing home, hotel/motel, playground, park, golf course, or restaurant/food establishment. The permission must be in the form of a notarized affidavit executed by the owner waiving the 1,000-foot buffer zone. However, in no case shall the application area be located less than 200 feet from any of the above establishments;

(d). property boundary—100 feet, unless special permission is granted by the property owner(s); and

(e). occupied residential home or structure—500 feet, unless special permission is granted by the owner and/or lessee of the occupied residential home or structure. The permission must be in the form of a notarized affidavit executed by the owner and/or lessee waiving the 500-foot buffer zone. However, in no case shall land application of sewage sludge be conducted less than 200 feet from the occupied residential home or structure.

v. Sewage sludge or a material derived from sewage sludge shall not be applied to agricultural land, forest, or a reclamation site during the months when the water table is less than or at 2 feet below the soil surface as indicated in the Parish Soil Surveys or the Water Features Data published by the Natural Resources Conservation Service (NRCS); or some form of monitoring device shall be provided to ensure that the annual high water table is greater than 2 feet below the soil surface at the time of application.

vi. The person who applies sewage sludge or a material derived from sewage sludge to agricultural or forest land shall provide proof to the administrative authority that a full nutrient management plan has been developed for the agricultural or forest land where the sewage sludge or a material derived from sewage sludge is applied. The full nutrient management plan shall be developed by the Natural Resource Conservation Service, a certified soil scientist, a certified crop advisor, or a local LSU Agricultural Center Cooperative Extension Service agent.

b. - b.ii.(d). ...

Table 1 of LAC 33:IX.6903.C	
Slope Limitations for Land Application of Sewage Sludge	
Slope Percent	Application Restriction
0-3	None, except drainage to prevent standing water shall be provided.
3-6	A 100-foot vegetated runoff area should be provided at the down slope end of the application area if a liquid is applied. Measures should be taken to prevent erosion.
6-12	Liquid material must be injected into the soil. Solid material must be incorporated into the soil if the site is not covered with vegetation. A 100-foot vegetated runoff area is required at the down slope end of the application area for all applications. Measures must be taken to prevent erosion. Terracing may be required if deemed a necessity by the administrative authority to prevent runoff from the land application site and erosion.
>12	Unsuitable for application unless terraces are constructed and a 200-foot vegetated buffer area with a slope of less than 3 percent is provided at the down slope edge of the application area and the material is incorporated (solid material) and injected (liquid material) into the soil. Measures must be taken to prevent runoff from the land application site and to prevent erosion.

D. - D.2.d. Table 4.

3. Repealed.

Equation (1). Repealed.

E. - F.1.c.

2. Vector Attraction Reduction—Sewage Sludge

a. One of the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-j shall be met when bulk sewage sludge is applied to agricultural land, forest, a public contact site, or a reclamation site.

b. One of the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-h shall be met when sewage sludge or a material derived from sewage sludge is applied to a lawn or a home garden.

c. One of the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-h shall be met when sewage sludge is sold or given away in a bag or other container for application to the land.

G. Frequency of Monitoring

1. The frequency of monitoring for the pollutants listed in Table 1, Table 2, Table 3, and Table 4 of LAC 33:IX.6903.D; the frequency of monitoring for pathogen density requirements in LAC 33:IX.6909.C.1 and 2.b; and the frequency of monitoring for vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-d and g-h shall be the frequency specified in Table 1 of LAC 33:IX.6903.G.

Table 1 of LAC 33:IX.6903.G	
Frequency of Monitoring—Land Application	
Amount of Sewage Sludge ¹ (metric tons per 365-day period)	Frequency
Greater than zero but less than 290	Once per year
Equal to or greater than 290 but less than 1,500	Once per quarter (four times per year)
Equal to or greater than 1,500 but less than 15,000	Once per 60 days (six times per year)
Equal to or greater than 15,000	Once per month (12 times per year)

¹Either the amount of bulk sewage sludge applied to the land or the amount of sewage sludge prepared for sale or give-away in a bag or other container for application to the land (dry weight basis).

2. After the sewage sludge has been monitored for two years at the frequency in Table 1 of LAC 33:IX.6903.G, the permitting authority may reduce the frequency of monitoring for pollutant concentrations and for the pathogen density requirements in LAC 33:IX.6909.C.1.e.ii and iii.

H. Recordkeeping

1. All *Class I sludge management facilities*, as defined in LAC 33:IX.6901.I, that prepare sewage sludge shall keep a record of the annual production of sewage sludge (i.e., dry ton or dry metric tons) and of the sewage sludge management practice used and retain such record for a period of five years.

2. Additional Recordkeeping

a. The recordkeeping requirements for the person who prepares the sewage sludge or a material derived from sewage sludge that is land applied and meets the criteria in Subparagraph A.2.a or 3.a of this Section are those indicated in Subparagraph J.4.a of this Section.

b. - b.ii.(c), Certification.

c. For bulk sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site and that meets the pollutant concentrations in Table 3 of LAC 33:IX.6903.D, the Class B pathogen requirements in LAC 33:IX.6909.C.2, and one of the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-j:

i. - ii.(b).

(c). when the vector attraction reduction requirement in either LAC 33:IX.6909.D.2.i or j is met, a description of how the vector attraction reduction requirement is met;

(d). - (e), Certification.

d. For bulk sewage sludge applied to the land that is agricultural land, forest, a public contact site, or a reclamation site whose cumulative loading rate for each pollutant does not exceed the cumulative pollutant loading rate for each pollutant in Table 2 of LAC 33:IX.6903.D and that meets the Exceptional Quality or Class B pathogen requirements in LAC 33:IX.6909.C, and the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-j:

d.i. - e.ii.(a).

(b). the following certification statement:
"I certify, under penalty of law, that the information that will be used to determine compliance with the general management practices in LAC 33:IX.6903.C.2.a.i-v and b.i was prepared for each site on which sewage sludge given away or sold in a bag or other container is applied under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including fine and imprisonment."

I. Reporting

1. All *Class I sludge management facilities*, as defined in LAC 33:IX.6901.I, that prepare sewage sludge shall submit the information in Paragraph H.1 of this Section to the Office of Environmental Services, Water and Waste Permits Division, on February 19 of each year.

2. Additional Reporting Requirements

a. Reporting requirements for a person who prepares the sewage sludge or a material derived from sewage sludge having an Exceptional Quality Permit are as indicated in Subparagraph J.4.b of this Section.

b. All other *Class I sludge management facilities*, as defined in LAC 33:IX.6901.I, that apply bulk sewage sludge to the land and are required to obtain a permit under LAC 33:IX.6901.C, shall submit the information in Paragraph H.2 of this Section for the appropriate requirements, to the Office of Environmental Services, Water and Waste Permits Division, as indicated in the following clauses.

i. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.6903.G of once per year, the reporting period and the report due date shall be as specified in Table 1 of LAC 33:IX.6903.I.

ii. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.6903.G of once per quarter (four times per year), the reporting period and the report due date shall be as specified in Table 2 of LAC 33:IX.6903.I.

iii. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.6903.G of once per 60 days (six times per year), the reporting period and the report due date shall be as specified in Table 3 of LAC 33:IX.6903.I.

iv. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.6903.G of once per month (12 times per year), the reporting period and the report due date shall be as specified in Table 4 of LAC 33:IX.6903.I.

Table 4 of LAC 33:IX.6903.I	
Reporting—Land Application	
Monitoring Period ¹ (Once per Month)	Report Due Date
April	August 28
May	
June	
July	November 28
August	
September	
October	February 28
November	
December	
¹ Separate reports must be submitted for each monitoring period.	

3. The administrative authority may require any facility indicated in Subparagraph I.2.a of this Section to report any or all of the information required in Subparagraph I.2.b of this Section if deemed necessary for the protection of human health or the environment.

J. Exceptional Quality Permit

1.a. The person who prepares the sewage sludge or a material derived from sewage sludge who desires to receive an Exceptional Quality Permit must prepare sewage sludge that is of *Exceptional Quality* as defined in LAC 33:IX.6901.I and shall forward to the Office of Environmental Services, Water and Waste Permits Division, an Exceptional Quality Permit Request Form having the following information:

i. - vi.(h). ...

b. Samples required to be collected in accordance with Clauses J.1.a.i-v of this Section shall be from at least four representative samplings of the sewage sludge or the material derived from sewage sludge taken at least 60 days apart within the 12 months prior to the date of the submittal of an Exceptional Quality Permit Request Form.

2. Any Exceptional Quality Permit shall have a term of not more than five years.

3.a. For the term of the Exceptional Quality Permit, the preparer of the sewage sludge or material derived from sewage sludge shall conduct continued sampling at the frequency of monitoring specified in Paragraph G.1 of this Section. The samples shall be analyzed for the parameters specified in Clauses J.1.a.i-iii of this Section, and for the pathogen and vector attraction reduction requirements in Clauses J.1.a.iv and v, as required by LAC 33:IX.6909.

b. If results of the sampling indicate that the sewage sludge or the material derived from sewage sludge no longer is *Exceptional Quality* as defined in LAC 33:IX.6901.I, then the preparer must cease any land application of the sewage sludge as an Exceptional Quality sewage sludge.

c. If the sewage sludge that is no longer of Exceptional Quality is used or disposed, the exemption for Exceptional Quality sewage sludge no longer applies and the sewage sludge must meet all the requirements and restrictions of this Chapter that apply to a sewage sludge that is not Exceptional Quality.

d. The sewage sludge or material derived from sewage sludge shall not be applied to the land as an Exceptional Quality sewage sludge until the sample analyses have shown that the sewage sludge or material derived from sewage sludge meets the criteria for *Exceptional Quality* as defined in LAC 33:IX.6901.I.

Table 1 of LAC 33:IX.6903.I	
Reporting—Land Application	
Monitoring Period (Once per Year)	Report Due Date
January - December	February 28

Table 2 of LAC 33:IX.6903.I	
Reporting—Land Application	
Monitoring Period ¹ (Once per Quarter)	Report Due Date
January, February, March	August 28
April, May, June	
July, August, September	February 28
October, November, December	
¹ Separate reports must be submitted for each monitoring period.	

Table 3 of LAC 33:IX.6903.I	
Reporting—Land Application	
Monitoring Period ¹ (Once per 60 Days)	Report Due Date
January, February	June 28
March, April	
May, June	October 28
July, August	
September, October	February 28
November, December	
¹ Separate reports must be submitted for each monitoring period.	

Table 4 of LAC 33:IX.6903.I	
Reporting—Land Application	
Monitoring Period ¹ (Once per Month)	Report Due Date
January	May 28
February	
March	

4.a. Recordkeeping. The person who prepares the sewage sludge or a material derived from sewage sludge shall develop the following information and shall retain the information for five years:

i. the results of the sample analysis required in Subparagraph J.3.a of this Section; and

ii. the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the Exceptional Quality pathogen requirements in LAC 33:IX.6909.C.1 and the vector attraction reduction requirement in [insert one of the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-h] was prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

b. Reporting. The person who prepares the sewage sludge or a material derived from sewage sludge shall forward the information required in Subparagraph J.4.a of this Section to the Office of Environmental Services, Water and Waste Permits Division, on a quarterly basis. The schedule for quarterly submission is contained in the following table.

Schedule For Quarterly Submission	
Monitoring Period	Report Due Date
January, February, March	May 28
April, May, June	August 28
July, August, September	November 28
October, November, December	February 28

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074.B.(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:785 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

§6905. Siting and Operation Requirements for Commercial Preparers of Sewage Sludge

A. Exemption. A *publicly owned treatment works (POTW)*, as defined in LAC 33:IX.6901.I, shall be exempted from the siting requirements in LAC 33:IX.6909.B and the facility closure requirements in Paragraph C.3 of this Section if the POTW prepares sewage sludge or a sewage sludge treatment facility is located within the POTW's perimeter.

B. Siting

1. Location Characteristics

a. Facilities shall not be located less than 200 feet from a property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowners and occupants. A copy of the notarized affidavit waiving the 200-foot buffer zone shall be entered in the mortgage and conveyance records of the parish for the adjoining landowner's property.

b. Facilities that are not located within the boundaries of a legally zoned and established industrial park:

i. shall not be located less than 1,000 feet from an established school, hospital, institution, day-care facility,

nursing home, hotel/motel, playground, park, golf course, or restaurant/food establishment unless special permission is granted by the owner of the established school, hospital, institution, day-care facility, nursing home, hotel/motel, playground, park, golf course, or restaurant/food establishment. The permission must be in the form of an affidavit executed by the owner waiving the 1,000-foot buffer zone. However, in no case shall the facility be located less than 200 feet from any of the above establishments;

ii. shall not be located less than 500 feet from an established home residence unless special permission has been granted by the owner and/or lessee of the established home residence in the form of an affidavit executed by the owner and/or lessee waiving the 500-foot buffer zone. However, in no case shall the facility be located less than 200 feet from an established home residence.

c. Facilities shall not be located less than 300 feet from a private potable water supply or a private water supply elevated storage tank or ground storage tank unless special permission is granted by the private potable water supply owner.

d. Facilities shall not be located less than 300 feet from a public potable water supply or a public water supply elevated storage tank or ground storage tank unless special permission is granted by the Department of Health and Hospitals.

e. Untreated sewage sludge and/or supplement or feedstock material to be utilized at a facility shall not be located less than 25 feet from a subsurface drainage pipe or drainage ditch that discharges directly to waters of the state.

f. Facilities that prepare or compost only sewage sludge or blend, mix, or compost sewage sludge and have only woodchips or yard waste (e.g., leaves, lawn clippings, or branches) as feedstock or supplements shall not be located closer than the greater of the following distances:

i. 1,200 feet from any aircraft's approach or departure airspace or *air operations area* as defined in LAC 33:IX.6901.I; or

ii. the distance called for by the U. S. Department of Transportation Federal Aviation Administration's airport design requirements.

g. Facilities that prepare sewage sludge that include food or other municipal solid waste as feedstock or supplements or prepare sewage sludge with grease that was pumped or removed from a food service facility shall not be located closer than:

i. 5,000 feet from any airport property boundary (including any aircraft's approach or departure airspace or air operations area) if the airport does not sell Jet-A fuel and serves only piston-powered aircrafts; or

ii. 10,000 feet from any airport property boundary (including any aircraft's approach or departure airspace or air operations area) if the airport sells Jet-A fuel and serves turbine-powered aircrafts or sells Jet-A fuel and is designed to serve turbine-powered and/or piston-powered aircrafts.

h. Facilities shall not be located less than 100 feet from wetlands, surface waters (streams, ponds, lakes), or areas historically subject to overflow from floods.

i. Facilities shall only be located in a hydrologic section where the historic high water table is at a minimum of a 3-foot depth below the surface, or the water table at the

facility shall be controlled to a minimum of a 3-foot depth below this zone.

j. Storage and processing of sewage sludge or any material derived from sewage sludge is prohibited within any of the buffer zones indicated in Subparagraphs B.1.a-i of this Section.

k. Facilities located in, or within 1,000 feet of, swamps, marshes, wetlands, estuaries, wildlife-hatchery areas, habitat of endangered species, archaeological sites, historic sites, publicly owned recreation areas, and similar critical environmental areas shall be isolated from such areas by effective barriers that eliminate probable adverse impacts from facility operations.

l. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility.

m. Access to facilities by land or water transportation shall be by all-weather roads or waterways that can meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents; and the surface roadways shall be adequate to withstand the weight of transportation vehicles.

2. Facility Characteristics

a. Perimeter Barriers, Security, and Signs

i. All facilities must have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry.

ii. During operating hours, each facility entry point shall be continuously monitored, manned, or locked.

iii. During non-operating hours, each facility entry point shall be locked.

iv. All facilities that receive wastes from off-site sources shall post readable signs that list the types of wastes that can be received at the facility.

b. Fire Protection and Medical Care. All facilities shall have access to required fire protection and medical care, or such services shall be provided internally.

c. Receiving and Monitoring Sewage Sludge, Other Feedstock, or Supplements Used

i. Each processing or treatment facility shall be equipped with a device or method to determine quantity (by wet-weight tonnage), sources (whether the sewage sludge or other feedstock or supplements to be mixed with the sewage were generated in-state or out-of-state), and types of feedstock or supplements. The facility shall also be equipped with a device or method to control entry of sewage sludge, other feedstock, or supplements coming on-site and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous, industrial, unauthorized, or unpermitted solid waste).

ii. Each processing or treatment facility shall be equipped with a central control and recordkeeping system for tabulating the information required in Clause B.2.c.i of this Section.

3. Facility Surface Hydrology

a. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the facility to adjoining areas during a 24-hour/25-year storm event. When rainfall records are not available, the design standard shall be 12 inches of rainfall below 31 degrees north latitude and 9 inches of rainfall above 31 degrees north

latitude. If the 24-hour/25-year storm event level is lower, the design standard shall be required.

b. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.

c. All storm water and wastewater from a facility must conform to applicable requirements of LAC 33:IX.Chapters 23-67.

4. Facility Geology

a. Except as provided in Subparagraph B.4.c of this Section, facilities shall have natural stable soils of low permeability for the area occupied by the facility, including vehicle parking and turnaround areas, that should provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to a sand or other water-bearing stratum that would provide a conduit to such aquifer.

b. The natural soil surface must be capable of supporting heavy equipment operation during and after prolonged periods of rain.

c. A design for surfacing natural soils that do not meet the requirements in Subparagraphs B.4.a and b of this Section shall be prepared under the supervision of a registered engineer, licensed in the state of Louisiana with expertise in geotechnical engineering and geohydrology. Written certification by the engineer that the surface satisfies the requirements of Subparagraphs B.4.a and b of this Section shall be provided.

5. Facility Plans and Specifications. Facility plans and specifications represented and described in the permit application or permit modifications for all facilities must be prepared under the supervision of, and certified by, a registered engineer, licensed in the state of Louisiana.

6. Facility Administrative Procedures

a. Permit Modifications. Permit modifications shall be in accordance with the requirements of this Chapter.

b. Personnel. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

C. Operations

1. Composters, Mixers, Blenders, and Preparers

a. Facility Operations and Maintenance Manual

i. A Facility Operations and Maintenance Manual shall be developed and forwarded with the permit application to the Office of Environmental Services, Water and Waste Permits Division.

ii. The Facility Operations and Maintenance Manual must describe, in specific detail, how the sewage sludge and the other feedstock or supplements to be blended, composted, or mixed with the sewage sludge (if applicable) will be managed during all phases of processing operations. At a minimum, the manual shall address the following:

- (a) site and project description;
- (b) regulatory interfaces;
- (c) process management plan;
- (d) pathogen treatment plan;
- (e) odor management plan;
- (f) worker health and safety management plan;
- (g) housekeeping and nuisance management plan;
- (h) emergency preparedness plan;

- (i). security, community relations, and public access plan;
- (j). regulated chemicals (list and location of regulated chemicals kept on-site);
- (k). recordkeeping procedures;
- (l). feedstock, supplements, and process management;
- (m). product distribution records;
- (n). operator certification; and
- (o). administration of the operations and maintenance manual.

iii. The Facility Operations and Maintenance Manual shall be kept on-site and readily available to employees and, if requested, to the administrative authority or his/her duly authorized representative.

b. Facility Operational Standards

i. The facility must include a receiving area, mixing area, curing area, compost storage area for composting operations, drying and screening areas, and truck wash area located on surfaces capable of preventing groundwater contamination (periodic inspections of the surface shall be made to ensure that the underlying soils and the surrounding land surface are not being contaminated).

ii. All containers shall provide containment of the sewage sludge and the other feedstock or supplements to be blended, composted, or mixed with the sewage sludge and thereby control litter and other pollution of adjoining areas.

iii. Provisions shall be made for the daily cleanup of the facility, including equipment and waste-handling areas.

iv. Treatment facilities for washdown and contaminated water shall be provided or the wastewater contained, collected, and transported off-site to an approved wastewater treatment facility.

v. Leachate Management. Leachate produced in the composting process:

(a). must be collected and disposed off-site at a permitted facility; or

(b). must be collected, treated, and discharged on-site in accordance with LAC 33:IX.Chapters 23-67; or

(c). may be reused in the composting process as a source of moisture.

vi. Sufficient equipment shall be provided and maintained at all facilities to meet their operational needs.

vii. Odor Management

(a). The production of odor shall be minimized.

(b). Processed air and other sources of odor shall be contained and, if necessary, treated in order to remove odor before discharging to the atmosphere.

viii. Other feedstock and supplements that are blended, composted, or mixed with sewage sludge shall be treated for the effective removal of sharps including, but not limited to, sewing needles, straight pins, hypodermic needles, telephone wires, and metal bracelets.

2. Composters Only

a. Any compost made from sewage sludge that cannot be used according to these regulations shall be reprocessed or disposed in an approved solid waste facility.

b. Composted sewage sludge shall be used, sold, or disposed at a permitted disposal facility within 36 months of completion of the composting process.

3. Facility Closure Requirements

a. Notification of Intent to Close a Facility. All permit holders shall notify the administrative authority in writing at least 90 days before closure or intent to close, seal, or abandon any individual unit within a facility and shall provide the following information:

i. date of planned closure;

ii. changes, if any, requested in the approved closure plan; and

iii. closure schedule and estimated cost.

b. Closure Requirements

i. An insect and rodent inspection is required before closure. Extermination measures, if required, must be provided.

ii. All remaining sewage sludge or a material derived from sewage sludge, other feedstock, and supplements shall be removed to a permitted facility for disposal.

iii. The permit holder shall verify that the underlying soils have not been contaminated in the operation of the facility. If contamination exists, a remediation/removal program developed to meet the requirements of Subparagraph C.3.c of this Section must be provided to the administrative authority.

c. Remediation/Removal Program

i. Surface liquids and sewage sludges containing free liquids shall be dewatered or removed.

ii. If a clean closure is achieved, there are no further post-closure requirements. The plan for clean closure must reflect a method for determining that all waste has been removed, and such a plan shall, at a minimum, include the following:

(a). identification (analysis) of the sewage sludge, other feedstock, and supplements that have entered the facility;

(b). selection of the indicator parameters to be sampled that are intrinsic to the sewage sludge, other feedstock, and supplements that have entered the facility in order to establish clean-closure criteria. Justification of the parameters selected shall be provided in the closure plan;

(c). sampling and analyses of the uncontaminated soils in the general area of the facility for a determination of background levels using the indicator parameters selected. A diagram showing the location of the area proposed for the background sampling, along with a description of the sampling and testing methods, shall be provided;

(d). a discussion of the sampling and analyses of the "clean" soils for the selected parameters after the waste and contaminated soils have been excavated. Documentation regarding the sampling and testing methods (i.e., including a plan view of the facility, sampling locations, and sampling quality-assurance/quality-control programs) shall be provided;

(e). a discussion of a comparison of the sample(s) from the area of the excavated facility to the background sample. Concentrations of the selected parameter(s) of the bottom and side soil samples of the facility must be equal to or less than the background sample to meet clean closure criteria;

(f). analyses to be sent to the Office of Environmental Services, Water and Waste Permits Division, confirming that the requirements of Subparagraph C.3.b of this Section have been satisfied;

(g). identification of the facility to be used for the disposal of the excavated waste; and

(h). a statement from the permit holder indicating that, after the closure requirements have been met, the permit holder will file a request for a closure inspection with the Office of Environmental Services, Water and Waste Permits Division, before backfilling takes place. The administrative authority will determine whether the facility has been closed properly.

iii. If sewage sludge or a material derived from sewage sludge or other feedstock and supplements used in the blending, composting, or mixing process remains at the facility, the closure and post-closure requirements for industrial (Type I) solid waste landfills or non-industrial landfills (Type II), as provided in LAC 33:Part VII, shall apply.

iv. If the permit holder demonstrates that removal of most of the sewage sludge or a material derived from sewage sludge or other feedstock and supplements to achieve an alternate level of contaminants based on indicator parameters in the contaminated soil will be adequately protective of human health and the environment (including groundwater) in accordance with LAC 33:I.Chapter 13, the administrative authority may decrease or eliminate the post-closure requirements.

(a). If levels of contamination at the time of closure meet residential standards as specified in LAC 33:I.Chapter 13 and approval of the administrative authority is granted, the requirements of Clause C.3.c.iv of this Section shall not apply.

(b). Excepting those sites closed in accordance with Subclause C.3.c.iv.(a) of this Section, within 90 days after a closure is completed, the permit holder must have entered in the mortgage and conveyance records of the parish in which the property is located, a notation stating that solid waste remains at the site and providing the indicator levels obtained during closure.

v. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:794 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005), LR 32:

§6907. Financial Assurance Requirements for Commercial Preparers or Land Appliers of Sewage Sludge

A. - A.2. ...

a. Evidence of liability insurance may consist of either a signed duplicate original of a commercial preparer or land applier of sewage sludge liability endorsement, or a certificate of insurance. All liability endorsements and certificates of insurance must include:

2.a.i. - 5.a.i. ...

ii. the guarantor is the parent corporation of the permit holder or applicant of the commercial preparer or land applier of sewage sludge facility or facilities to be covered by the guarantee, and the guarantee extends to certain facilities;

A.5.a.iii. - B.8.d. ...

i. a list of commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, owned or operated by the permit holder or applicant of the facility, for which financial assurance for liability coverage is demonstrated through the use of financial tests, including the amount of liability coverage;

ii. a list of commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, owned or operated by the permit holder or applicant, for which financial assurance for the closure or post-closure care is demonstrated through the use of a financial test or self-insurance by the permit holder or applicant, including the cost estimates for the closure and post-closure care of each facility;

iii. a list of the commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, owned or operated by any subsidiaries of the parent corporation for which financial assurance for closure and/or post-closure is demonstrated through the financial test or through use of self-insurance, including the current cost estimate for the closure or post-closure care for each facility and the amount of annual aggregate liability coverage for each facility; and

iv. a list of commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, for which financial assurance for closure or post-closure care is not demonstrated through the financial test, self-insurance, or other substantially equivalent state mechanisms, including the estimated cost of closure and post-closure of such facilities.

e. - i.i. ...

ii. the guarantor is the parent corporation of the permit holder or applicant of the commercial preparer or land applier of sewage sludge facility or facilities to be covered by the guarantee, and the guarantee extends to certain facilities;

iii. *closure plans*, as used in the guarantee, refers to the plans maintained as required by the Louisiana commercial preparer or land applier of sewage sludge rules and regulations for the closure and post-closure care of facilities, as identified in the guarantee;

8.i.iv. - 12.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:796 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005), LR 32:

§6909. Pathogens and Vector Attraction Reduction

A. Scope. This Section contains the following:

1. ...

2. the site restrictions for land on which a Class B sewage sludge is applied; and

3. the alternative vector attraction reduction requirements for sewage sludge that is applied to the land.

B. Special Definitions. In addition to the terms referenced and defined at LAC 33:IX.6901.I, the following definitions apply to this Section.

* * *

C. Pathogens

1. Sewage Sludge—Exceptional Quality

a. - b. ...

c. Exceptional Quality—Alternative 1

i. Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in the sewage sludge shall be less than three Most Probable Number per 4 grams of total solids (dry weight basis) at the time the sewage is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

c.ii. - d. ...

i. Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in the sewage sludge shall be less than three Most Probable Number per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

ii.(a). - ii.(c). ...

e. Exceptional Quality—Alternative 3

i. Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in sewage sludge shall be less than three Most Probable Number per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

ii.(a). - iii.(d). ...

f. Exceptional Quality—Alternative 4

i. Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in the sewage sludge shall be less than three Most Probable Number per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is

prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

ii. ...

iii. The density of viable helminth ova in the sewage sludge shall be less than one per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

g. Exceptional Quality—Alternative 5

i. Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in the sewage sludge shall be less than three Most Probable Number per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

ii. ...

h. Exceptional Quality—Alternative 6

i. Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in the sewage sludge shall be less than three Most Probable Number per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

1.h.ii. - 2.e.v. ...

vi. Turf grown on land where sewage sludge is applied shall not be harvested for one year after application of the sewage sludge when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the administrative authority.

vii. - viii. ...

3. Repealed.

a. Repealed.

b. Repealed.

D. - D.1.c. ...

d. Repealed.

2.a. - 2.j.ii. ...

k. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:806 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

§6911. Incineration

A. - A.2. ...

B. Special Definitions. All terms not defined below shall have the meaning given them in LAC 33:IX.6901.I and in LAC 33:III.111.

C. - C.2.f. ...

3. In conducting the performance tests required in Paragraph C.2 of this Section, the owner or operator shall use as reference methods and procedures the test methods referenced in LAC 33:IX.6901.H or other methods and procedures as specified in this Section, except as provided for in Subparagraph C.2.b of this Section.

C.4.a. - D.6.b.iv. ...

v. samples of the sewage sludge charged to the incinerator shall be collected in nonporous jars at the beginning of each run and at approximately 1-hour intervals thereafter until the test ends, and "2540 G Total Fixed and Volatile Solids in Solid and Semisolid Samples" shall be used to determine dry sewage sludge content of each sample (total solids residue), except that:

D.6.v.(a). - I.3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:809 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

§6913. Standard Conditions Applicable to All Sewage Sludge (Biosolids) Use or Disposal Permits

A. General Conditions

1. Introduction. In accordance with the provisions of this Chapter all Sewage Sludge (Biosolids) Use or Disposal Permits shall incorporate either expressly or by reference all conditions and requirements applicable to the preparation and use or disposal of sewage sludge set forth in the Louisiana Environmental Quality Act, as amended, as well as all applicable regulations.

2. Duty to Comply. The permittee must comply with all conditions of an issued final permit. Any permit noncompliance constitutes a violation of the Louisiana Environmental Quality Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

3. Enforcement Actions

a. The department may take enforcement action as prescribed by state law or regulation against any person who:

i. fails to submit a permit application as required by law;

ii. knowingly makes any false statement, representation, or certification in any application, record, report, or other document filed with the department pursuant to the act or these regulations. Violations of this provision may subject the violator to the penalties provided for in the act for perjury or false statements;

iii. fails to correct deficiencies in the permit application, or upon becoming aware that any relevant facts or information were omitted in a permit application or in any report to the department, fails to promptly submit such facts or information;

iv. fails to take any necessary action to complete the permit issuance, such as payment of fees or publication of required notices; or

v. fails to comply with any condition of the permit.

b. Exception. In cases where the permit application is withdrawn by the applicant, a written notification shall be provided to the Office of Environmental Services, Water and Waste Permits Division, stating that no sewage sludge use or disposal practice or other activity that would require a permit from the Office of Environmental Services, Water and Waste Permits Division, is currently taking place. Provided that the application was not made in response to previous enforcement action, the applicant is then exempt from enforcement action for causes listed under this Paragraph.

4. Toxic Pollutants

a. If any sewage sludge use or disposal standard or prohibition is promulgated under this Chapter or Section 405 of the Clean Water Act for a pathogen, pollutant, vector attraction reduction, management practice, etc., and that standard or prohibition is more stringent than any applicable requirement in an existing permit, the administrative authority shall institute proceedings under these regulations to modify or revoke and reissue the permit to conform to the sewage sludge use or disposal standard or prohibition.

b. The permittee shall comply with sewage sludge use or disposal standards or prohibitions established under this Chapter within the time frame provided in the regulations that established these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. Duty to Reapply for an Individual Permit. If the permittee wishes to continue an activity regulated by an existing permit after the expiration date of that permit, the permittee must apply for and obtain a new permit. The new application shall be submitted at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the administrative authority. (The administrative authority shall not grant permission for applications to be submitted later than the expiration date of the existing permit.) A permit that was issued in accordance with these regulations and that has expired shall be administratively continued until such time as a decision on an application to continue an activity under the permit has been issued by the administrative authority, if the application was received by the department at least 180 days prior to the permit expiration.

6. Permit Action. The conditions set forth in LAC 33:IX.2903, 2905, 2907, 3105, and 6509 for cause for modification, revocation and reissuance, and for termination of a permit shall apply to permits issued in accordance with these regulations.

7. Property Rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

8. Duty to Provide Information. The permittee shall furnish to the administrative authority, within a reasonable time, any information that the administrative authority may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine compliance with the permit. The permittee shall

also furnish to the administrative authority, upon request, copies of records required to be kept by the permit.

9. State Laws. Nothing in the permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation.

10. Severability. If any provision of these regulations, or the application thereof, is held to be invalid, the remaining provisions of these regulations shall not be affected, so long as they can be given effect without the invalid provision. To this end, the provisions of these regulations are declared to be severable.

11. Draft Permits. The conditions set forth in LAC 33:IX.3107.A for draft permits shall also pertain to permits issued in accordance with these regulations.

12. Fact Sheet. A fact sheet shall be prepared for each draft permit issued in accordance with these regulations. The fact sheet shall include, but not be limited to, the following:

- a. the name of the applicant;
- b. the name of the facility;
- c. the address of the facility;
- d. the physical location of all facilities that are utilized to prepare sewage sludge or a material derived from sewage sludge;
- e. the physical location of all land application sites;
- f. general and management practices;
- g. soil and site restrictions;
- h. monitoring, sampling and analysis, and reporting requirements; and
- i. all other information that is pertinent to the facility and to the permitting process.

13. Public Notice and Public Comment Period. The conditions set forth in LAC 33:IX.3113 for public notices and the public comment period shall apply to all permits issued in accordance with these regulations.

14. Public Comments and Requests for Public Hearings. The conditions set forth in LAC 33:I.1505 and IX.3115 for public comments and requests for public hearings shall apply to all permits issued in accordance with these regulations.

15. Public Hearings. The conditions set forth in LAC 33:IX.3117 for public hearings shall apply to all permits issued in accordance with these regulations.

16. Obligations to Raise Issues and Provide Information during the Public Comment Period. The conditions set forth in LAC 33:IX.3119 for the obligations to raise issues and provide information during the public comment period shall apply to all permits issued in accordance with these regulations.

17. Reopening of the Public Comment Period. The conditions set forth in LAC 33:IX.3121 for reopening of the public comment period shall apply to all permits issued in accordance with these regulations.

18. Issuance of a Final Permit Decision. After the close of the public comment period under Paragraph A.13 of this Section on a draft permit, the administrative authority shall issue a final permit decision. The administrative authority shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a Sewage Sludge

(Biosolids) Use or Disposal Permit. For the purposes of this Section a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

19. Response to Comments. The conditions set forth in LAC 33:IX.3125 for responding to comments shall apply to all permits issued in accordance with these regulations.

B. Proper Operation and Maintenance

1. Need to Halt or Reduce Not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

2. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any sewage sludge use or disposal practice in violation of the permit that has a reasonable likelihood of adversely affecting human health or the environment. The permittee shall also take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying practice.

3. Proper Operation and Maintenance

a. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

b. The permittee shall provide an adequate operating staff that is duly qualified to carry out operation and maintenance and other functions necessary to ensure compliance with the conditions of the permit.

C. Monitoring and Records

1. Inspection and Entry. The conditions set forth in LAC 33:IX.6513 for inspection and entry shall apply to all permits issued in accordance with these regulations.

2. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under LAC 33:IX.6901.H or, unless otherwise specified in 40 CFR Part 503, as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted on the sludge reporting form specified by the administrative authority.

3. Laboratory Accreditation

a. LAC 33:I.Chapters 45-59 provide requirements for an accreditation program specifically applicable to commercial laboratories, wherever located, that provide chemical analyses, analytical results, or other test data to the department, by contract or by agreement, and the data is:

- i. submitted on behalf of any facility, as defined in R.S.30:2004;
- ii. required as part of any permit application;
- iii. required by order of the department;

iv. required to be included on any monitoring report submitted to the department;

v. required to be submitted by a contractor; or

vi. otherwise required by department regulations.

b. The department laboratory accreditation program is designed to ensure the accuracy, precision, and reliability of the data generated, as well as the use of department-approved methodologies in generation of that data. Laboratory data generated by commercial environmental laboratories that are not accredited under these regulations will not be accepted by the department. Retesting of analyses will be required by an accredited commercial laboratory. Where retesting is not possible, the data generated will be considered invalid and in violation of the LPDES permit.

c. Regulations on the environmental laboratory accreditation program and a list of laboratories that have applied for accreditation are available on the department's website. Questions concerning the program may be directed to the Office of Environmental Assessment, Laboratory Services Division.

D. Reporting Requirements

1. Facility Changes. The permittee shall give notice to the Office of Environmental Services, Water and Waste Permits Division, as soon as possible of any planned physical alterations or additions to the permitted facility.

2. Anticipated Noncompliance. The permittee shall give advance notice to the Office of Environmental Services, Water and Waste Permits Division, of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. Transfers. A permit is not transferable to any person except after notice to the Office of Environmental Services, Water and Waste Permits Division. The administrative authority may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Louisiana Environmental Quality Act. Except as provided in LAC 33:IX.2901.A, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made to identify the new permittee and incorporate such other requirements as may be necessary under the Louisiana Environmental Quality Act.

4. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of a permit shall be submitted no later than 14 days following each schedule date.

5. Other Noncompliance. The permittee shall report all instances of noncompliance not reported under Paragraph D.4 of this Section at the time monitoring reports are submitted.

6. Other Information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the administrative authority, it shall promptly submit such facts or information.

7. Signatory Requirements. All applications, reports, or information submitted to the administrative authority shall be signed and certified.

a. All permit applications shall be signed as follows:

i. for a corporation—by a responsible corporate officer. For the purpose of this Section, a *responsible corporate officer* means:

(a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation. These responsible corporate officers are presumed to have the authority to sign permit applications unless the corporation has notified the administrative authority to the contrary; or

(b) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to ensure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and the authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions rather than to specific individuals;

ii. for a partnership or sole proprietorship—by a general partner or the proprietor, respectively; or

iii. for a municipality, state, federal, or other public agency—by either a principal executive officer or ranking elected official. For purposes of this Paragraph, a principal executive officer of a federal agency includes:

(a) the chief executive officer of the agency; or

(b) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., regional administrators of EPA).

b. All reports required by permits and other information requested by the administrative authority shall be signed by a person described in Subparagraph D.7.a of this Section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

i. the authorization is made in writing by a person described in Subparagraph D.7.a of this Section;

ii. the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or a position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and

iii. the written authorization is submitted to the administrative authority.

c. Changes to Authorization. If an authorization under Subparagraph D.7.b of this Section is no longer accurate because a different individual or position has

responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Subparagraph D.7.b of this Section must be submitted to the administrative authority prior to, or together with, any reports, information, or applications to be signed by an authorized representative.

d. Certification. Any person signing a document under the provisions of Subparagraph D.7.a or b of this Section, shall make the following certification.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with the system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

8. Availability of Reports. All recorded information (completed permit application forms, fact sheets, draft permits, or any public document) not classified as confidential information under R.S. 30:2030(A) and 2074(D) and designated as such in accordance with LAC 33:IX.2323.A and C and LAC 33:IX.6503 shall be made available to the public for inspection and copying during normal working hours in accordance with the Public Records Act, R.S. 44:1 et seq. Claims of confidentiality for the following will be denied:

a. the name and address of any permit applicant or permittee;

b. permit applications, permits, and effluent data;

c. information required by the Sewage Sludge (Biosolids) Use or Disposal Permit Application forms provided by the administrative authority. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:

Chapter 71. Appendices

§7135. Appendix R—Financial Assurances Documents

Document 1. Liability Endorsement

COMMERCIAL PREPARER OR LAND APPLIER OF
SEWAGE SLUDGE
LIABILITY ENDORSEMENT

[See Prior Text in Liability Endorsement]

Document 2. Certificate of Insurance

COMMERCIAL PREPARER OR LAND APPLIER OF
SEWAGE SLUDGE FACILITY
CERTIFICATE OF LIABILITY INSURANCE

[See Prior Text in Certificate of Liability Insurance]

Document 3. Letter of Credit

COMMERCIAL PREPARER OR LAND APPLIER OF
SEWAGE SLUDGE FACILITY
IRREVOCABLE LETTER OF CREDIT

[See Prior Text in Irrevocable Letter of Credit]

(A). A final judgment issued by a competent court of law in favor of a governmental body, person, or other entity and against [permit holder's or applicant's name] for sudden and accidental occurrences for claims arising out of injury to persons or property due to the operation of the commercial preparer or land applier of sewage sludge site at the [name of permit holder or applicant] at [site location] as set forth in the Louisiana Administrative Code (LAC), Title 33, Part IX.6907.A.

[See Prior Text in Irrevocable Letter of Credit]

Document 4. Trust Agreement

COMMERCIAL PREPARER OR LAND APPLIER OF
SEWAGE SLUDGE FACILITY

TRUST AGREEMENT/STANDBY TRUST AGREEMENT

This Trust Agreement (the "Agreement") is entered into as of [date] by and between [name of permit holder or applicant], a [name of state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the state of" or "a national bank" or "a state bank"], the "Trustee."

WHEREAS, the Department of Environmental Quality of the State of Louisiana, an agency of the state of Louisiana, has established certain regulations applicable to the Grantor, requiring that a permit holder or applicant for a permit of a commercial preparer or land applier of sewage sludge processing facility shall provide assurance that funds will be available when needed for [closure and/or post-closure] care of the facility;

WHEREAS, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facility identified herein;

WHEREAS, the Grantor, acting through its duly authorized officers, has selected [the Trustee] to be the trustee under this Agreement, and [the Trustee] is willing to act as trustee.

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

[See Prior Text in Trust Agreement]

Document 5. Surety Bond

COMMERCIAL PREPARER OR LAND APPLIER OF
SEWAGE SLUDGE FACILITY
FINANCIAL GUARANTEE BOND

Date bond was executed: _____

Effective date: _____

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety: [name and business address]

[agency interest number, site name, facility name, facility permit number, and current closure and/or post-closure amount(s) for each facility guaranteed by this bond]

Total penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we the sureties bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally

with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Louisiana Environmental Quality Act, R.S. 30:2001, et seq. and specifically 2074(B)(4), to have a permit in order to own or operate the commercial preparer or land applier of sewage sludge facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required by the *Louisiana Administrative Code* (LAC), Title 33, Part IX.6907, when a surety bond is used to provide such financial assurance;

NOW THEREFORE, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of the facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

OR, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after an order to close is issued by the administrative authority or a court of competent jurisdiction,

OR, if the Principal shall provide alternate financial assurance as specified in LAC 33:IX.6907.B and obtain written approval from the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority from the Surety,

THEN, this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to perform as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification or amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety has received written authorization for termination of the bond by the administrative authority.

Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:IX.6907.B and the conditions of the commercial preparer or land applier of sewage sludge facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

* * *

[See Prior Text in Financial Guarantee Bond]

Document 6. Performance Bond

COMMERCIAL PREPARER OR LAND APPLIER OF SEWAGE SLUDGE FACILITY PERFORMANCE BOND

Date bond was executed: _____

Effective date: _____

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety: [name(s) and business address(es)]

[agency interest number, site name, facility name, facility permit number, facility address, and closure and/or post-closure amount(s) for each facility guaranteed by this bond (indicate closure and/or post-closure costs separately)]

Total penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons by These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Louisiana Environmental Quality Act, R.S. 30:2001, et seq. and specifically 2074(B)(4), to have a permit in order to own or operate the commercial preparer or land applier of sewage sludge facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

AND, if the Principal shall faithfully perform post-closure care of each facility for which this bond guarantees post-closure care, in accordance with the closure plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide financial assurance as specified in Louisiana Administrative Code (LAC), Title 33, Part IX.6907.B and obtain written approval of the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of LAC 33:IX.6905.C.3, or of its permit, for the facility for which this

bond guarantees performances of closure, the Surety shall either perform closure, in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has been found in violation of the post-closure requirements of the LAC 33:IX.6905.C.3, or of its permit for the facility for which this bond guarantees performance of post-closure, the Surety shall either perform post-closure in accordance with the closure plan and other permit requirements or place the post-closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance, as specified in LAC 33:IX.6907.B, and obtain written approval of such assurance from the administrative authority during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permit, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have lapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:IX.6907.B and the conditions of the commercial preparer or land applier of sewage sludge facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

* * *

[See Prior Text in Facility Performance Bond]

Document 7. Letter of Credit

COMMERCIAL PREPARER OR LAND APPLIER OF
SEWAGE SLUDGE FACILITY
IRREVOCABLE LETTER OF CREDIT

* * *

[See Prior Text in Irrevocable Letter of Credit]

Document 8. Certificate of Insurance

COMMERCIAL PREPARER OR LAND APPLIER OF
SEWAGE SLUDGE FACILITY
CERTIFICATE OF INSURANCE FOR CLOSURE AND/OR
POST-CLOSURE CARE

* * *

[See Prior Text in Certificate of Insurance]

Document 9. Letter from the Chief Financial Officer

COMMERCIAL PREPARER OR LAND APPLIER OF
SEWAGE SLUDGE FACILITY
LETTER FROM THE CHIEF FINANCIAL OFFICER
(LIABILITY COVERAGE, CLOSURE, AND/OR
POST-CLOSURE)

* * *

[See Prior Text in Letter]

(A). The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, for which liability coverage is being demonstrated through the financial test specified in LAC 33:IX.6907.A. The amount of annual aggregate liability coverage covered by the test is shown for each facility:

(B). The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, for which financial assurance for [insert "closure," "post-closure," or "closure and post-closure"] is demonstrated through a financial test similar to that specified in LAC 33:IX.6907.B or other forms of self-insurance. The current [insert "closure," "post-closure," or "closure and post-closure"] cost estimates covered by the test are shown for each facility:

(C). This firm guarantees through a corporate guarantee similar to that specified in [insert "LAC 33:IX.6907.B" or "LAC 33:IX.6907.A and B"], [insert "liability coverage," "closure," "post-closure," or "closure and post-closure"] care of the following commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, of which [insert the name of the permit holder or applicant] are/is a subsidiary of this firm. The amount of annual aggregate liability coverage covered by the guarantee for each facility and/or the current cost estimates for the closure and/or post-closure care so guaranteed is shown for each facility:

(D). This firm is the owner or operator of the following commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, for which financial assurance for liability coverage, closure and/or post-closure care is not demonstrated either to the U.S. Environmental Protection Agency or to a state through a financial test or any other financial assurance mechanism similar to those specified in LAC 33:IX.6907.A and/or B. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility:

* * *

[See Prior Text in Letter]

Document 10. Corporate Guarantee

COMMERCIAL PREPARER OR LAND APPLIER OF
SEWAGE SLUDGE FACILITY
CORPORATE GUARANTEE FOR LIABILITY COVERAGE,
CLOSURE, AND/OR POST-CLOSURE CARE

* * *

[See Prior Text in Corporate Guarantee]

(B). [Subsidiary] is the [insert "permit holder," or "applicant for a permit"] hereinafter referred to as [insert "permit holder" or "applicant"] for the following commercial preparer or land applier of sewage sludge facility covered by this guarantee: [List the agency interest number, site name, facility name, and facility permit number. Indicate for each facility whether guarantee is for liability coverage, closure, and/or post-closure and the amount of annual aggregate liability coverage, closure, and/or post-closure costs covered by the guarantee.]

[Fill in Paragraphs (C) and (D) below if the guarantee is for closure and/or post-closure.]

* * *

[See Prior Text in Corporate Guarantee]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:818 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of Environmental Assessment, LR 31:2028 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2519 (October 2005), LR 32:

Mike D. McDaniel, Ph.D.
Secretary

0606#019

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Office of Facility Planning and Control**

**Demolition or Disposing of State Owned Buildings
(LAC 34:III.701)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and the provisions of R.S. 39:121, the Division of Administration, Facility Planning and Control hereby gives notice that it is adopting an Emergency Rule to amend LAC 34:III.701, Demolition or Disposing of State Owned Buildings. This rule change is the result of Act 13, 2006 which gives the Director of Facility Planning and Control the authority to approve the immediate demolition of buildings under emergency conditions. Three typographic errors have also been corrected. This is an Emergency Rule change because it allows Facility Planning and Control to demolish buildings that pose a threat to safety without waiting the 30 days required by the existing Rules. This is critical to the safety of workers involved the recovery process for Hurricanes Katrina and Rita and can affect the safety of the public as well.

Title 34

**GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY CONTROL**

Part III. Facility Planning and Control

**Chapter 7. Demolition or Disposing of State Owned
Buildings**

§701. Preface

A. Act 537 of 1982 enacted R.S. 38:2212.2 to provide for the demolition of state buildings. The statute prohibits the demolition of state buildings unless the appropriate legislators have been notified and unless disposition has been approved by the Office of Facility Planning and Control (FPC). Following are the procedures adopted and promulgated pursuant to this statute.

1. - 3. ...

4. Copies of the field engineer inspection report are sent to the user agency and to the Louisiana Property Assistance Agency. Contents of the report may require a response from the agency.

5. If it is determined by the office of facility planning and control that a building or structure has been damaged as a result of fire, hurricane, or natural disaster and imminent danger is presented to life or property, the director of facility planning and control, division of administration, may approve a request to raze or demolish a building or structure immediately after legislative notification has been issued.

6. If capital outlay funds are to be used for demolition, Facility Planning and Control will authorize contracts to be awarded for the demolition. When the demolition has been completed, Facility Planning and Control will notify the State Land Office and Office of Risk Management so the building can be removed from the statewide building inventory and insurance coverage will be deleted.

7. If other than capital outlay funds are to be used, the user agency will be responsible for demolition of the structure in accordance with state purchasing laws and regulations. When the demolition has been completed the user agency must notify the State Land Office and the Office of Risk Management so the building can be removed from the statewide building inventory and insurance coverage will be deleted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 20:47 (January 1994), amended LR 32:

Jerry W. Jones
Director

0606#043

DECLARATION OF EMERGENCY

**Office of the Governor
Office of Homeland Security
and Emergency Preparedness**

**Mandatory Evacuation of Designated Persons
by Local Government in Advance of Hurricanes
(LAC 55:XXI.Chapters 1 and 3)**

Under the authority of R.S. 29:727(E)(13) and in accordance with R.S. 49:953 (B), the Governor's Office of Homeland Security and Emergency Preparedness has adopted an Emergency Rule creating regulations that provide for emergency assessments, evacuation, and sheltering plans. The Governor's Office of Homeland Security and Emergency Preparedness finds that the governor and the legislature recognized an imminent peril to the public health, safety and welfare of certain identified at risk classes of people who live in areas of the state which are subject to hurricanes, by adoption of the requirements in Act 36 of the First Extraordinary Session of 2006 that rules and standards for evacuations be promulgated within a shorter time delay than that provided in the Administrative Procedure Act, R.S. 49:953(A).

These emergency regulations are adopted for the well-being, safety and protection of the citizens and visitors of the state of Louisiana who find themselves in areas subject to the dangers of hurricanes is paramount. This action preempts the normal delays for adoption of rules pursuant to the Administrative Procedure Act.

**Title 55
PUBLIC SAFETY**

**Part XXI. Homeland Security and Emergency
Preparedness**

Chapter 1. General Provisions

§101. Overview

A. Act 35 of the First Extraordinary Session of 2006, effective on March 1, 2006, established the Governor's Office of Homeland Security and Emergency Preparedness in R.S. 29:725.

B. Revised Statutes 29:727(E)(13) added by Act 36 of the First Extraordinary Session of 2006, effective February 23, 2006, requires the Office of Homeland Security and Emergency Preparedness, prior to May 31, 2006 to promulgate standards and regulations in accordance with the Administrative Procedure Act for local governments when a mandatory evacuation has been ordered for evacuation of people located in high risk areas utilizing all available modes of transportation, including but not limited to school and municipal buses, government-owned vehicles, vehicles provided by volunteer agencies, trains and ships in advance of the storm to public shelters located outside of the risk area with priority consideration being given to the special needs of the following classes of people:

1. people with specific special needs such as the elderly and the infirm;
2. tourists;
3. those who refuse to leave;
4. those without personal transportation.

C. Revised Statutes 29:727(E)(14) added by Act 36 of the First Extraordinary Session of 2006, effective February 23, 2006, requires the Office of Homeland Security and Emergency Preparedness, prior to May 31, 2006 to promulgate standards and regulations in accordance with the Administrative Procedure Act for local governments when a mandatory evacuation has been ordered for the evacuation or safe housing of essential workers located in high risk areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 32:

§103. Goals and Objectives

A. The goals of these regulations are:

1. to protect citizens who cannot protect themselves when threatened or endangered by an approaching hurricane;
2. to reduce loss of life due to impediments to self-evacuation from an approaching hurricane;
3. to protect essential workers whose jobs require that they remain in harm's way before, during and after a hurricane; and
4. to protect personal liberty while preserving law and order in areas evacuated due to imminent threat of a hurricane.

B. The objectives of these regulations are:

1. to identify the population which lacks means to self-evacuate;
2. to identify and provide for the use of available transportation resources for use by local governments during mandatory evacuations;
3. to identify and provide means of protection for essential workers whose employment or commission

requires that they remain in areas susceptible to damage and destruction wrought by hurricanes; and

4. to provide for establishment of rules by local government for citizens in high risk areas who refuse to leave when a mandatory evacuation is ordered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 32:

§105. Definitions

At Risk Population—people who fall within the following non-exclusive categories:

1. those without means of personal transportation;
2. the infirm who are not living in a public or private health care facility;
3. nursing home residents;
4. private Hospital patients;
5. other special needs who are not confined to a health care facility;
6. hotel and motel guests.

High Risk Area—any parish that is located in whole or in part below Interstate 10 or Interstate 12 in the state of Louisiana.

Local Government—a parish and municipality of the state of Louisiana.

Essential Worker—persons working in public safety, government, disaster response, health care, or private business as designated and deemed necessary and/or critical for disaster response by their employer or by virtue of their official commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 32:

Chapter 3. Risk Assessment

§301. Biennial Risk Assessment

A. Every parish and municipality shall perform a biennial risk assessment for the at risk population with the results thereof to be provided to the Governor's Office of Homeland Security on or before December 1, 2006, and on or before that date every second year thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 32:

§303. Evacuating and Sheltering Private Nursing Home Residents

A. The evacuation and sheltering of private nursing home residents and private hospital patients is and shall remain the primary responsibility of the host health care facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 32:

§305. Municipal Risk Assessment

A. The municipal risk assessment shall consist of a survey of the people living within the corporate limits to identify the people in each category of the at risk population defined herein and the essential workers as defined herein,

and to determine whether the individuals so identified may need sheltering in a general population shelter or a special needs shelter as those terms are defined by the Louisiana Department of Health and Hospitals. The results of the municipal survey shall be furnished to the parish office of homeland security and emergency management established pursuant to R.S. 29:727(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 32:

§307. Parish Risk Assessment

A. The parish risk assessment shall consist of a survey of the people living outside the corporate limits of any municipality to identify the people in the each category of the at risk population defined herein and the essential workers as defined herein, and to determine whether the individuals so identified may need sheltering in a general population shelter or a special needs shelter as those terms are defined by the Louisiana Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 32:

§309. Transportation

A. Every parish and municipality shall prepare an inventory of all available modes of transportation, including but not limited to school and municipal buses, government-owned vehicles, vehicles provided by volunteer agencies, trains and ships for use in a mandatory evacuation. A copy of the municipal inventory shall be provided to the parish office of homeland security and emergency management established pursuant to R.S. 29:727(B). A copy of the combined parish and municipal inventory shall be submitted biennially beginning on or before December 1, 2006, and on or before that date in every second year thereafter to the Governor's Office of Homeland Security and Emergency Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 32:

§311. Evacuation and Sheltering Plan

A.1. The parish office of homeland security and emergency management established pursuant to R.S. 29:727(B), using the combined list of at risk population and essential workers and the combined list of available means of transportation, shall develop an evacuation and sheltering plan for each category of at risk population to include at a minimum:

- a. use of available means of transportation for evacuation of at risk population;
- b. means of notification of the at risk population of a mandatory evacuation;
- c. means of notification of at risk population of available transportation;
- d. determination of individuals and facilities where risk of sheltering in place outweighs the risk of loss of life during the evacuation process;

e. coordination of transportation resources with a shelter destination outside of the impact area;

f. provisions for medical emergencies which occur during the evacuation process;

g. ways and means to execute the evacuation and sheltering plan within 36 hours of declaration of voluntary evacuation and within 12 hours of declaration of mandatory evacuation.

2. The plan shall be submitted to GOHSEP on or before March 1, 2007. Early compliance is encouraged.

B. The parish office of homeland security and emergency management shall develop an evacuation and sheltering plan for essential workers which shall include at a minimum provisions for food, water, and shelter for at least 72 hours post landfall of any hurricane.

C. Each parish and municipality shall make provisions for those citizens who refuse to leave when a mandatory evacuation is ordered, which provisions shall respect the rights of personal liberty and freedom of all citizens, while protecting and preserving law and order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 32:

Col. Perry "Jeff" Smith, CPA
Acting Director

0606#041

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Medical Examiners

Temporary Permit For Acupuncturists' Assistants (LAC 46:XLV.2131)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), which allows the Louisiana State Board of Medical Examiners to use emergency procedures to establish rules, and under the authority of R.S. 37:1270(B), and 37:1360, the Board of Medical Examiners hereby declares that emergency action is necessary in order to accommodate a continuing need for the provision of gratuitous health care services to victims, responders and relief workers of Hurricanes Katrina and Rita by volunteer acupuncturists' assistants. This Emergency Rule becomes effective on June 1, 2006, and shall remain in effect for the maximum period allowed by law or until a final Rule is promulgated, whichever occurs first. For more information concerning this Emergency Rule you may contact Rita Arceneaux, Executive Assistant, at (504) 568-6820.

This Emergency Rule is available on the internet at www.lsbme.louisiana.gov (Temporary Licensure), and may be obtained from the board office from 8 a.m. until 4:30 p.m. Monday through Friday, 630 Camp Street, New Orleans, LA 70130. Copies of this Emergency Rule may also be requested by telephone at (504) 568-6820.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 21. Acupuncturists and Acupuncturists' Assistants

Subchapter F. Restricted Licensure, Permits

§2131. Temporary Permit

A. The board may issue a temporary permit to an acupuncturist's assistant, valid for a period of not more than 60 days, to provide voluntary, gratuitous acupuncture services in this state during a public health emergency and for such periods thereafter as the Louisiana Department of Health and Hospitals ("DHH") shall deem the need for emergency services to continue to exist, at sites specified by DHH or approved by the board.

B. To be eligible for issuance of such a permit an individual shall:

1. hold a current, unrestricted license in good standing issued by the licensing authority of any state to practice as an acupuncturist's assistant;

2. prior to providing such services present or cause to be presented to the board:

a. indisputable personal identification;

b. a copy of his or her license to practice as an acupuncturist's assistant or such other information as may be deemed satisfactory to the board by which to verify state licensure;

c. a completed application containing such information as may be required by the board; and

d. notification of intent to practice on a form provided by the board, signed by a physician licensed to practice medicine in this state who will fulfill the functions of a supervising physician as described in this Section. An individual is responsible for updating the board should any of the information required and submitted on the applicant's notice of intent change after a temporary permit has been issued under this Section.

C. To be eligible for approval as a supervising physician under this Section a physician shall:

1. possess a current, unrestricted license to practice medicine in Louisiana;

2. submit a completed application containing such information as may be required by the board.

D. Although a physician must notify the board each time the physician intends to undertake the supervision of an acupuncturist's assistant under this Section, registration with the board is only required once. Notification of supervision of new or additional acupuncturist's assistants by a registered supervising physician shall be deemed given to the board upon the acupuncturist's assistant's filing with the board a notice of intent to practice in accordance with §2131.B of this Section.

E. The board shall maintain a list of physicians who are registered to supervise acupuncturists' assistants under this Section. Each registered physician is responsible for updating the board should any of the information required and submitted on the physician's application change after the physician has become registered.

F. An acupuncturist's assistant holding a permit under this Section shall practice in this state only on a voluntary,

gratuitous basis, shall perform only those acupuncture services authorized by this Section, and shall practice only at sites specified by DHH or approved by the board.

G. Acupuncture services performed by an individual issued a permit under this Section shall be limited to auricular acupuncture (insertion of disposable needles at a specified combination of points on the surface of the outer ear) utilizing the five-point protocol adopted by the National Acupuncture Detoxification Association and approved by the supervising physician. Such services may be performed under the general direction and supervision, rather than patient-specific order, of the supervising physician. All services shall be documented in written form by the acupuncturist's assistant and available for review by the supervising physician but need not be countersigned. The supervising physician shall be available during normal working hours by telephonic or other means of communication to address any questions or concerns that may arise from the provision of acupuncture services under this Section.

H. A temporary permit may be issued upon such terms, conditions, limitations or restrictions as to time, place, nature, and scope of practice as are, in the judgment of the board, deemed necessary or appropriate to its responsibilities under law. The board may, in addition, waive or modify any of the requirements of Chapters 21 and 51 of these rules, applicable to certification as an acupuncturist's assistant, that it may deem necessary or appropriate to effectuate the purposes of this Section.

I. An acupuncturist's assistant shall visibly display a permit issued under this Section, or such other identifying information as the board may specify, in plain view on his or her person at all times while exercising the privileges of such permit.

J. A temporary permit creates no right or entitlement to certification as an acupuncturist's assistant or renewal of the permit after its expiration. A temporary permit shall expire and become null and void on the earlier of:

1. 60 days from the date on which it was issued;

2. a date specified on the permit less than 60 days from the date of issuance;

3. the date the acupuncturist's assistant's term of voluntary, gratuitous service is terminated; or

4. the date on which the acupuncturist's assistant's relationship with the supervising physician, identified in the notice of intent, terminates.

K. The board may, in its discretion, extend or renew for one or two additional 60-day periods a permit that has expired provided that all conditions prerequisite to original issuance are satisfied.

L. Following termination of a declaration of emergency the board may issue, extend or renew a 60-day permit under this Section during such period as DHH shall deem the need for emergency services to continue to exist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1275, R.S. 37:1360, and R.S. 49:953(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 32:

Kim Edward LeBlanc, M.D., Ph.D
President

0606#002

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Veterinary Medicine

Veterinary Practice
(LAC 46:LXXXV.309)

The Department of Health and Hospitals, Board of Veterinary Medicine (the "board") has adopted this Emergency Rule, effective June 9, 2006, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, and the Veterinary Practice Act, R.S. 37:1569, as well as R.S. 29:769(E) as amended in Act No. 207 of the 2006 Regular Session of the Louisiana Legislature which became effective upon the governor's signature on June 2, 2006. The Emergency Rule is to remain in effect for a period of 120 days or until adoption of the final Rule, whichever occurs first.

In keeping with its function as set forth by the State Legislature in R.S. 29:769(E), as amended in the 2006 Regular Session, the board has developed and adopted this Emergency Rule thereby creating the process for adopting of a future Emergency Rule implementing temporary registration in Louisiana, during a public health emergency lawfully declared as such by the governor, for out of state veterinarians or veterinary technicians, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States.

The 2006 hurricane season began June 1, 2006. The immediate implementation of this Emergency Rule is in the best interest for the protection of the public health and safety in the event a public health emergency is lawfully declared by the governor prior to the final promulgation of the Rule through regular rule-making procedure. This Emergency Rule will allow the implementation by subsequent Emergency Rule for the temporary registration in Louisiana, during a public health emergency lawfully declared as such by the governor, for out of state veterinarians or veterinary technicians, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States. The Emergency Rule will not limit or adversely impact the practices of Louisiana licensed veterinarians or Louisiana registered veterinary technicians in hospitals, clinics or mobile clinics at the present time or during a declared state of public health emergency.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 3. Licensure Procedures

§309. Temporary Registration during a Declared Public Health Emergency.

A. In a public health emergency lawfully declared as such by the governor of Louisiana, the requirement for a Louisiana license (veterinarian) or Louisiana registration (veterinary technician) may be suspended by the board through its emergency rule-making authority at that time to those out of state veterinarians and/or veterinary technicians, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States, for a

period of time not to exceed the duration and scope of R.S. 29:769(E), as more particularly set forth in this rule.

B. The emergency rule implemented by the board pursuant to the provisions of the Administrative Practice Act shall address the necessity for such an emergency rule and the specificity necessary to address the needs of the particular declared emergency at issue. Such information will be posted on the board's Internet website along with the appropriate forms for review and use by interested parties.

C. Accordingly, the following requirements for temporary registration may be imposed pursuant to the emergency rule issued and/or any other requirements which more properly address the needs of the particular declared emergency.

D. A veterinarian or veterinary technician not licensed, certified or registered in Louisiana, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States, may gratuitously provide veterinary services if:

1. the veterinarian or veterinary technician has photo identification and a license to verify a current and unrestricted license, certification or registration in another jurisdiction of the United States, and properly registers with the board prior to providing veterinary services in Louisiana as follows;

2. the veterinarian or veterinary technician is engaged in a legitimate relief effort during the emergency period, and provides satisfactory documentation to the board of the location site(s) that he will be providing gratuitous veterinary services;

3. the veterinarian or veterinary technician shall comply with the Louisiana Veterinary Practice Act, board rules, and other applicable laws, as well as practice in good faith, and within the reasonable scope of his skills, training, and ability; and

4. the veterinarian or veterinary technician renders veterinary services on a gratuitous basis with no revenue of any kind to be derived whatsoever from the provision of veterinary services within the state of Louisiana.

E. The authority provided for in the emergency rule shall be applicable for a period of time not to exceed 60 days at the discretion of the board, with the potential extension of up to two additional periods not to exceed 60 days for each extension as determined appropriate and necessary by the board.

F. All interested veterinarians or veterinary technicians shall submit a copy of their respective current and unrestricted licenses, certifications or registrations issued in other jurisdictions of the United States and photograph identification, as well as other requested information, to the Louisiana Board of Veterinary Medicine office for registration with this agency prior to gratuitously providing veterinary services in Louisiana.

G. Should a qualified veterinarian or veterinarian technician registered with the board thereafter fail to comply with any requirement or condition established by this rule, the board may terminate his registration upon notice and hearing.

H. In the event a veterinarian or veterinarian technician fails to register with the board, but practices veterinary medicine, whether gratuitously or otherwise, then such

conduct will be considered the unlawful practice of veterinary medicine and prosecuted accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 32:

Wendy Parrish
Administrative Director

0606#047

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Family Planning Waiver (LAC 50:XXII.Chapters 21-27)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XXII.Chapters 21-27 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This 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 implemented a family planning research and demonstration project under the authority of a Section 1115 waiver by Emergency Rule (*Louisiana Register*, Volume 32, Number 5). This waiver provides family planning services to women from age 19 through 44 years old with income at or below 200 percent of the federal poverty level. The bureau now proposes to amend the provisions governing the family planning waiver to clarify the recipient eligibility criteria and the reimbursement methodology, and to establish an official name for the waiver.

This action is being taken to promote the health and welfare of women by improving access to family planning services for women in the targeted population. It is anticipated that the implementation of this Emergency Rule will increase expenditures for family planning services by approximately \$24,879,968 for state fiscal year 2006-2007.

Effective June 20, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing the implementation of the Family Planning Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXII. 1115 Demonstration Waivers

Subpart 3. Family Planning Waiver

Chapter 21. General Provisions

§2101. Purpose

A. The family planning waiver, called Take Charge, will increase access to family planning services for women who currently are not eligible for such services, but who would be eligible for Medicaid coverage, based on their income, if they became pregnant.

B. The primary goals of this family planning waiver are to:

1. increase access to services which will allow management of reproductive health;
2. reduce the number of unintended pregnancies; and
3. decrease Medicaid expenditures from prenatal and delivery related services for women in the targeted population.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§2103. Enrollment

A. Family planning waiver services will be available to eligible women according to the following enrollment caps.

1. For the first year, priority will be set to enroll up to 25,000 women whose pregnant woman certifications are being closed.

a. On a first-approved basis, up to 50,000 additional women who are not eligible for participation in the priority group established in Paragraph A.1 above may be enrolled until a cap of 75,000 enrollees has been reached for the first waiver year. Enrollment caps cannot be exceeded.

2. For the second year, priority will be set to enroll up to 22,250 women whose pregnant woman certifications are being closed.

a. On a first-approved basis, additional enrollees, including those established in Paragraph A.2 above, will be allowed to enroll until a cap of 110,250 enrollees has been reached for the second waiver year. Enrollment caps cannot be exceeded.

B. Additional enrollment caps for subsequent years will be published in Potpourri notices.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Chapter 23. Eligibility

§2301. Recipient Qualifications

A. Family planning waiver services shall be provided to women who:

1. are 19 through 44 years of age;
2. have family income at or below 200 percent of the federal poverty level;
3. are not eligible for inclusion in any other Medicaid program or State Children's Health Insurance Program (SCHIP); and
4. do not have Medicare or other private health insurance coverage other than a single coverage policy which provides limited benefits, such as a dental or vision 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, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Chapter 25. Services

§2501. Covered Services

A. Services provided in this family planning waiver include:

1. annual physical exams;

2. necessary lab tests; and
3. contraceptive services, including sterilizations and Food and Drug Administration (FDA) approved family planning pharmaceuticals, devices, methods or supplies.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§2503. Service Limits

A. There is a limit of four visits per calendar year for services rendered by a physician, nurse practitioner, physician assistant, or nurse.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§2505. Service Delivery

A. Family planning waiver services may be delivered through any enrolled Medicaid provider whose scope of practice includes family planning services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Chapter 27. Reimbursement

§2701. Reimbursement Methodology

A. All Medicaid providers, including federally qualified health centers, rural health clinics and tribal 638 facilities, shall be reimbursed for family planning waiver services at the Medicaid fee-for-service rates.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Implementation of this proposed Rule is subject to approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0606#064

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Hospital Services—Inpatient Hospitals
Disproportionate Share Hospital Payment Methodologies
(LAC 50:V.Chapter 3)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule 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 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 to adopt the provisions governing the disproportionate share payment methodologies for hospitals in May of 1999 (*Louisiana Register*, Volume 25, Number 5). The May 20, 1999 Rule was later amended to change the criteria used to define rural hospitals and to clarify the policy governing final payments and adjustments (*Louisiana Register*, Volume 29, Number 1).

The Benefits Improvement and Protection Act of 2000 made provisions for public hospitals to receive disproportionate share hospital adjustment payments up to 175 percent of their allowable uncompensated care cost. Act 1024 of the 2001 Regular Session directed the Department of Health and Hospitals, as the federally designated Medicaid state agency, to specify in the Medicaid State Plan how uncompensated care is defined and calculated and to determine what facilities qualify for uncompensated care payments and the amount of the payments. In determining payments, the department shall prioritize local access to primary health care for the medically indigent and uninsured, and shall not include unreimbursed costs resulting from excess inpatient hospital capacity. For the period July 1, 2003 through June 30, 2005, the state's Medicaid uncompensated care payments shall be distributed in proportion to the amount and type of uncompensated care reported by all qualified facilities as required by Act 491 of the 2001 Regular Session. Further, Senate Concurrent Resolution 94 of the 2001 Regular Session and Senate Concurrent Resolution 27 of the 2002 Regular Session of the Louisiana Legislature requested the Department of Health and Hospitals, the Louisiana State University Health Sciences Center-Health Services Division, and the Louisiana State University Health Sciences Center-Shreveport to study and recommend common acute hospital payment methodologies for state and non-state hospitals participating in the Medicaid Program and the Medicaid Disproportionate Share Program. In accordance with the Benefits Improvement and Protection Act of 2000 and the findings and recommendations contained in the final reports of the study committees, the department repealed and replaced all provisions governing disproportionate share hospital payments (*Louisiana Register*, Volume 29, Number 6). Acts 14, 526 and 1148 of the 2003 Regular Session of the Louisiana Legislature directed the department to amend the qualifying criteria and the payment methodology for disproportionate share payments to small rural hospitals. In compliance with Acts 14, 526 and 1148, the bureau amended the June 20, 2003 Emergency Rule (*Louisiana Register*, Volume 29, Number 9). The department subsequently promulgated an Emergency Rule to repeal and replace all rules governing disproportionate share hospital payment methodologies (*Louisiana Register*, Volume 31, Number 6).

Act 182 of the 2005 Regular Session of the Louisiana Legislature, enacted as the Healthcare Affordability Act, established the Louisiana Healthcare Affordability Trust Fund as a special fund in the state treasury for the purposes of preserving and enhancing the availability of inpatient and

outpatient hospital care for all patients, enhancing the stability of Medicaid funding by capturing a reliable source of funding for a portion of the state's obligation, and easing "cost-shifting" to employers and private insurers by providing reimbursement for a portion of hospitals' uncompensated care and Medicaid underpayment. The monies in the fund shall be generated by a provider fee levied on all hospitals licensed by the state under R.S. 40:2100 et seq., except for those hospitals specifically exempted by the provisions contained in Act 182. In compliance with Act 182, the department amended the June 26, 2005 Emergency Rule governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, Volume 31, Number 7).

Act 323 of the 2005 Regular Session of the Louisiana Legislature amended R.S. 40:1300.143(3)(a)(xii), relative to the Rural Hospital Preservation Act, to provide an additional definition of a rural hospital. An Emergency Rule was promulgated to amend the definition of a small rural hospital as contained in the June 26, 2005 Emergency Rule, in compliance with Act 323 (*Louisiana Register*, Volume 31, Number 9). The bureau amended the June 26, 2005 Emergency Rule to incorporate the provisions of the July 1, 2005 and September 1, 2005 Emergency Rules (*Louisiana Register*, Volume 31, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 25, 2005 Emergency Rule. This action is being taken to enhance federal revenue.

Effective June 24, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions, as contained in October 25, 2005 Emergency Rule, governing disproportionate share hospital payment methodologies.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 3. Disproportionate Share Hospital Payment Methodologies

§301. General Provisions

A. The reimbursement methodology for inpatient hospital services incorporates a provision for an additional payment adjustment for hospitals serving a disproportionate share of low income patients.

B. The following provisions govern the disproportionate share hospital (DSH) payment methodologies for qualifying hospitals.

1. Total cumulative disproportionate share payments under any and all disproportionate share hospital payment methodologies shall not exceed the federal disproportionate share state allotment for Louisiana for each federal fiscal year or the state appropriation for disproportionate share payments for each state fiscal year. The department shall make necessary downward adjustments to hospital's disproportionate share payments to remain within the federal disproportionate share allotment and the state disproportionate share appropriated amount.

2. Appropriate action including, but not limited to, deductions from DSH, Medicaid payments and cost report settlements shall be taken to recover any overpayments resulting from the use of erroneous data, or if it is determined upon audit that a hospital did not qualify.

3. DSH payments to a hospital determined under any of the methodologies described in this Chapter 3 shall not exceed the hospital's net uncompensated cost as defined in §§305-313 or 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. Any Medicaid profit shall be used to offset the cost of treating the uninsured in determining the hospital specific DHH limits.

4. Qualification is based on the hospital's latest filed cost report and related uncompensated cost data as required by the department. Qualification for small rural hospitals is based on the latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports and related uncompensated cost data will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments with the exception of public state-operated hospitals, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

5. Hospitals shall be notified by letter at least 60 days in advance of calculation of DSH payment to submit documentation required to establish DSH qualification. Only hospitals that timely return DSH qualification documentation will be considered for DSH payments. The required documents are:

- a. obstetrical qualification criteria;
- b. low income utilization revenue calculation;
- c. Medicaid cost report; and
- d. uncompensated cost calculation.

6. Hospitals and/or units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments for the remainder of the current DSH pool payment cycle and thereafter.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§303. Disproportionate Share Hospital Qualifications

A. In order to qualify as a disproportionate share hospital, a hospital must:

1. have at least two obstetricians who have staff privileges and who have agreed to provide obstetric services to individuals who are Medicaid eligible. In the case of a hospital located in a rural area (i.e., an area outside of a metropolitan statistical area), the term *obstetrician* includes any physician who has staff privileges at the hospital to perform nonemergency obstetric procedures; or
2. treat inpatients who are predominantly individuals under 18 years of age; or
3. be a hospital which did not offer nonemergency obstetric services to the general population as of December 22, 1987; and
4. have a utilization rate in excess of one or more of the following specified minimum utilization rates:

a. Medicaid utilization rate is a fraction (expressed as a percentage). The numerator is the hospital's number of Medicaid (Title XIX) inpatient days. The denominator is the total number of the hospital's inpatient days for a cost reporting period. Inpatient days include newborn and psychiatric days and exclude swing bed and skilled nursing days. Hospitals shall be deemed disproportionate share providers if their Medicaid utilization rates are in excess of the mean, plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments; or

b. hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of 25 percent. Low-income utilization rate is the sum of:

i. the fraction (expressed as a percentage). The numerator is the sum (for the period) of the total Medicaid patient revenues plus the amount of the cash subsidies for patient services received directly from state and local governments. The denominator is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the cost reporting period from the financial statements; and

ii. the fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in §303.A.4.b.i in the period which are reasonably attributable to inpatient hospital services. The denominator is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero. This numerator shall not include contractual allowances and discounts (other than for indigent patients ineligible for Medicaid), i.e., reductions in charges given to other third-party payers, such as HMOs, Medicare, or Blue Cross; nor charges attributable to Hill-Burton obligations. A hospital providing "free care" must submit its criteria and procedures for identifying patients who qualify for free care to the Bureau of Health Services Financing for approval. The policy for free care must be posted prominently and all patients must be advised of the availability of free care and the procedures for applying. Hospitals not in compliance with free care criteria will be subject to recoupment of DSH and Medicaid payments; or

5. effective November 3, 1997, be a small rural hospital as defined in §311.A.1.a-h; and

6. any hospital licensed by the state under R.S. 40:2100 et seq., but does not include:

- a. any hospital owned by the state;
- b. any hospital owned by the United States or any agency or department thereof;
- c. any hospital that generally seeks no reimbursement for its services;
- d. rural hospitals as defined in R.S. 40:1300.143; and
- e. hospitals certified by Medicare as separately licensed long term acute care, rehabilitation or psychiatric hospitals; and

7. effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§305. High Uninsured Hospitals

A. Definitions

High Uninsured Utilization Rate Hospital—a hospital that has an uninsured utilization rate in excess of the mean, plus one standard deviation of the uninsured utilization rates for all hospitals.

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients.

B. DSH payments to individual high uninsured hospitals shall be calculated as follows.

1. Inpatient High Uninsured. Payments shall be equal to 100 percent of the hospital's cost of furnishing inpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients. DSH payments calculated under this payment methodology shall be subject to the adjustment provision below in Subsection E; and/or

2. Outpatient High Uninsured. Payments shall be equal to 100 percent of the hospital's cost of furnishing outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients. DSH payments calculated under this payment methodology shall be subject to the adjustment provision in Subsection E below.

C. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid, other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an annual attestation that patients whose care is included in the hospitals' net uncompensated cost are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

D. DSH payments to individual high uninsured hospitals shall be equal to 100 percent of the hospital's net uncompensated costs and subject to the adjustment provision in §301.B.1-6.

E. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each high uninsured hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying high uninsured hospitals during the state fiscal year; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

F. A hospital receiving DSH payments shall furnish emergency and nonemergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§307. Other Uninsured Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients.

Other Uninsured Utilization Rate Hospital—a qualifying hospital that is not included in §§305, 311, or 313.

B. DSH payments to an individual other uninsured hospital shall be calculated as follows:

1. Private Other Uninsured. Hospitals shall be compensated for at least 75 percent of their uncompensated care as reported on the latest uncompensated care filing prior to May 31 of the previous fiscal year. Any hospital which has not filed previously or is not yet required by regulation to make an uncompensated care filing, or which is without a full year cost report, may file an estimate of its uncompensated costs within 45 days of the end of the quarter in which such care was provided. Any such hospital otherwise eligible for uncompensated care cost compensation shall be included in the payment to be made in the quarter in which the estimate is filed, subject to final adjustment as otherwise provided. Except as hereinafter provided, the uncompensated care payment shall be paid in equal quarterly installments due on the fifteenth day of the third month in each calendar quarter. The amount of the fourth quarter payments in any fiscal year for inpatient services, outpatient services, inpatient psychiatric services and disproportionate share hospital payments shall be reduced or increased proportionately as necessary to achieve the total annual cost to the state, including federal financial participation, of implementing this amended reimbursement methodology. Amounts due to individual hospitals shall be adjusted as necessary to reflect any differences between payments during the preceding 12 months to hospitals for estimates of uncompensated care and the amount actually due during the period based on uncompensated care filings by those hospitals.

2. Public Other Uninsured. Non-state public hospitals, except small rural hospitals, shall certify to the Department of Health and Hospitals the state nonfederal share of expenditures for all of their Medicaid claims and shall provide a certification of incurred uncompensated care costs that constitute public expenditures that are eligible for financial participation under Title XIX of the Social Security

Act. Both certifications shall be submitted in a form satisfactory to the department at the earliest possible date after July 1, but no later than October 1 of each fiscal year beginning July 1, 2005. The reimbursement methodology for the hospitals participating in the certification, except small rural hospitals, shall be 100 percent of their allowable costs.

C. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid, and other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an attestation that patients whose care is included in the hospitals' net uncompensated cost are not Medicaid eligible at the time of registration; and
2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:
 - a. patient age;
 - b. family size;
 - c. number of dependent children; and
 - d. household income.

D. In the event it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each other uninsured hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying other uninsured hospitals during the state fiscal year; then
2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

E. A hospital receiving DSH payments shall furnish emergency and nonemergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§309. All Other Qualifying Hospitals Not Included in Any Other Group

A. Definition

All Other Qualifying Hospitals Not Included in Any Other Group—a hospital that meets the federal DSH statutory utilization requirements in §303.A.4.a-b.ii. and is not included in any other qualifying group.

B. DSH payments to individual other qualifying hospitals shall be based on actual paid Medicaid days for a six-month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Annualization of days for the purposes of the

Medicaid days pool is not permitted. The amount will be obtained by DHH from a report of paid Medicaid days by service date.

C. Disproportionate share payments for individual hospitals in this group shall be calculated based on the product of the ratio determined by:

1. dividing each qualifying hospital's actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by the department from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified hospitals included in this group. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days; then
2. multiplying by \$248,267 which is the state appropriation for disproportionate share payments allocated for this pool of hospitals for SFY 2005-2006.

D. A pro rata decrease necessitated by conditions specified in §301.B.1-6 for hospitals in this group will be calculated based on the ratio determined by:

1. dividing the hospitals' Medicaid days by the Medicaid days for all qualifying hospitals in this group; then
2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated 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, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§311. Small Rural Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients. Any uncompensated costs of providing health care services in a rural health clinic licensed as part of a small rural hospital as defined below shall be considered outpatient hospital services in the calculation of uncompensated costs.

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

- a. had no more than 60 hospital beds as of July 1, 1994 and is located in a parish with a population of less than 50,000 or in a municipality with a population of less than 20,000; or
- b. meets the qualifications of a sole community hospital under 42 CFR §412.92(a); or
- c. had no more than 60 hospital beds as of July 1, 1999 and is located in a parish with a population of less than 17,000 as measured by the 1990 census; or
- d. had no more than 60 hospital beds as of July 1, 1997 and is a publicly-owned and operated hospital that is located in either a parish with a population of less than

50,000 or a municipality with a population of less than 20,000; or

e. had no more than 60 hospital beds as of June 30, 2000 and is located in a municipality with a population, as measured by the 1990 census, of less than 20,000; or

f. had no more than 60 beds as of July 1, 1997 and is located in a parish with a population, as measured by the 1990 and 2000 census, of less than 50,000; or

g. was a hospital facility licensed by the Department that had no more than 60 hospital beds as of July 1, 1994, which hospital facility:

i. has been in continuous operation since July 1, 1994;

ii. is currently operating under a license issued by the department; and

iii. is located in a parish with a population, as measured by the 1990 census, of less than 50,000; or

h. has no more than 60 hospital beds or has notified the department as of March 7, 2002 of its intent to reduce its number of hospital beds to no more than 60, and is located in a municipality with a population of less than 13,000 and in a parish with a population of less than 32,000 as measured by the 2000 census; or

i. has no more than 60 hospital beds or has notified DHH as of December 31, 2003 of its intent to reduce its number of hospital beds to no more than 60 and is located:

i. as measured by the 2000 census, in a municipality with a population of less than 7,000;

ii. as measured by the 2000 census, in a parish with a population of less than 53,000; and

iii. within 10 miles of a United States military base; or

j. has no more than 60 hospital beds as of September 26, 2002 and is located:

i. as measured by the 2000 census, in a municipality with a population of less than 10,000; and

ii. as measured by the 2000 census, in a parish with a population of less than 33,000; or

k. has no more than 60 hospital beds as of January 1, 2003 and is located:

i. as measured by the 2000 census, in a municipality with a population of less than 11,000; and

ii. as measured by the 2000 census, in a parish with a population of less than 90,000; or

l. has no more than 40 hospital beds as of January 1, 2005, and is located:

i. in a municipality with a population of less than 3,100; and

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

B. Payment based on uncompensated cost for qualifying small rural hospitals shall be in accordance with the following four pools.

1. *Public (Nonstate) Small Rural Hospitals*—small rural hospitals as defined in §311.A.2 which are owned by a local government.

2. *Private Small Rural Hospitals*—small rural hospitals as defined in §311.A.2 that are privately owned.

3. *Small Rural Hospitals*—small rural hospitals as defined in §311.A.2.i-k.

4. *Small Rural Hospitals*—small rural hospitals as defined in §311.A.2.l.

C. Payment to hospitals included in §311.B.1-3 is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for each pool. Payments to hospitals included in §311.B.4 shall be the lesser of the hospital's actual uncompensated care cost or \$250,000. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

D. Pro Rata Decrease

1. A pro rata decrease necessitated by conditions specified in §301.B.1-6 for rural hospitals described in this §311 will be calculated using the ratio determined by:

a. dividing the qualifying rural hospital's uncompensated costs by the uncompensated costs for all rural hospitals in §311; then

b. multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state DSH appropriated amount.

2. No additional payments shall be made after the final payment is disbursed by the department for the state fiscal year. Recoupment shall be initiated upon completion of an audit if it is determined that the actual uncompensated care costs for the state fiscal year for which the payment is applicable is less than the actual amount paid.

E. Qualifying hospitals must meet the definition for a small rural hospital contained in §311.A.2. Qualifying hospitals must maintain a log documenting the provision of uninsured care as directed 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 of the Secretary, Bureau of Health Services Financing, LR 32:

§313. Public State-Operated Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Public State-Operated Hospital—a hospital that is owned or operated by the State of Louisiana.

B. DSH payments to individual public state-owned or operated hospitals shall be up to 100 percent of the hospital's net uncompensated costs. Final payment will be based on the uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

C. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment, the department shall calculate a pro rata decrease for each public state-owned or operated hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public state-owned or operated hospitals during the state fiscal year; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment.

D. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Acute hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an attestation that patients whose care is included in the hospitals' net uncompensated cost are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0606#068

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Louisiana Hurricane Relief Waiver
Uncompensated Care Costs Pool
(LAC 50:XXII.Chapters 41-53)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XXII.Chapters 41-53 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 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 requested

and received approval from the Centers for Medicare and Medicaid Services (CMS) to implement a multi-state 1115 demonstration waiver to ensure the continuity of health care services for individuals displaced as a result of Hurricanes Katrina and Rita. Under the demonstration waiver, Louisiana will provide services through its Medicaid Program to evacuees who qualify as members of the demonstration population consisting of parents, pregnant women, children under age 19, individuals with disabilities, low income Medicare beneficiaries, and individuals in need of long term care whose income is within the levels listed on the simplified eligibility chart.

In addition, CMS approved the establishment of a fund, the Uncompensated Care Costs (UCC) Pool, to reimburse health care providers that incur uncompensated care costs for medically necessary services and supplies rendered to evacuees and other affected individuals who do not have coverage through insurance or other options, including Title XIX and Title XXI of the Social Security Act. The bureau proposes to promulgate an Emergency Rule to adopt the provisions governing the administration of the UCC pool (*Louisiana Register*, Volume 32, Number 3). This Emergency Rule is being promulgated to continue the provisions of the March 13, 2006 Emergency Rule. This action is being taken to protect the health and welfare of uninsured individuals who were displaced from their homes by Hurricanes Katrina or Rita and subsequently required medical services and/or supplies.

Effective July 12, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following provisions governing the Uncompensated Care Costs Pool under the Louisiana Hurricane Relief Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXII. 1115 Demonstration Waivers

Subpart 5. Louisiana Hurricane Relief Waiver

Chapter 41. General Provisions

§4101. Purpose

A. As a result of the devastation caused by Hurricanes Katrina and Rita, many Louisiana health care providers have incurred costs in furnishing medical services and supplies to hurricane evacuees and other affected individuals who do not have health care coverage through insurance or any other financial mechanism. The purpose of the Uncompensated Care Costs (UCC) Pool is to provide reimbursement to health care providers through federal financial participation for services rendered for which there is no other source of payment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Chapter 43. Eligible Populations

§4301. Definitions

Affected Individual—an individual who resided in a designated individual assistance county or parish pursuant to Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as declared by the President as a result of Hurricanes Katrina and Rita, and continues to

reside in the same state where such county or parish is located.

Evacuee—an affected individual who has been displaced to another 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, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§4303. Eligibility Requirements

A. In order to qualify as a member of the eligible population, an individual must be either a United States citizen or a legal alien who resided in a designated individual assistance county or parish for Hurricane Katrina or Hurricane Rita as declared by the President.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Chapter 45. Covered Services

§4501. Medicaid State Plan Services

A. Reimbursement is available through the UCC pool for the following services covered under the Louisiana Medicaid State Plan:

1. inpatient and outpatient hospital services, including ancillary services;
2. physician services (inpatient and outpatient);
3. mental health clinic services;
4. inpatient psychiatric services (free-standing psychiatric hospitals and distinct part psychiatric units);
5. emergency ambulance services;
6. home health services:
 - a. coverage of durable medical equipment and supplies is limited to emergency items;
7. nursing facility services;
8. pharmacy services;
9. laboratory services;
10. X-ray services;
11. hemodialysis services;
12. hospice services;
13. rural health clinic services; and
14. federally qualified health clinic facilities.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§4503. Non-Medicaid State Plan Services

A. Reimbursement is available through the UCC pool for methadone and suboxone substance abuse treatments only to the extent that these services are not otherwise reimbursable under other funding sources including, but not limited to, grant or reimbursement programs offered through:

1. the Federal Emergency Management Agency;
2. the Substance Abuse and Mental Health Services Administration;
3. the National Institutes of Health; or
4. any other federal or state program (Medicaid, SCHIP, Medicare), private insurance or any private source.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Chapter 47. Provider Participation

§4701. Participation Requirements

A. In order to qualify for reimbursement through the UCC pool for Medicaid State Plan covered services, the provider must have been enrolled to participate in the Louisiana Medicaid Program on or before August 24, 2005.

B. In order to qualify for reimbursement through the UCC pool for methadone and suboxone substance abuse treatments, the provider must be approved by the Office of Addictive Disorders.

C. Qualifying providers may be either a public or a private 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 of the Secretary, Bureau of Health Services Financing, LR 32:

Chapter 49. Requests for Payment

§4901. Submission Requirements

A. Requests for payment must be "person specific" for each Hurricane Katrina or Rita evacuee or other affected individual. The request must contain the following data, if known, for the evacuee or other affected individual:

1. last name;
2. first name;
3. middle initial;
4. Social Security number;
5. date of birth;
6. residential address the week prior to Hurricane Katrina or Hurricane Rita;
7. parish of residence the week prior to Hurricane Katrina or Hurricane Rita;
8. date(s) of service; and
9. any other identifying data that would assist in establishing the recipient's identity in the absence of any of the items cited in Paragraphs 1-8 above.

B. Providers may submit requests for payment of costs incurred during the following time periods:

1. dates of service from August 24, 2005 through January 31, 2006 for Hurricane Katrina; and
2. dates of service from September 23, 2005 through January 31, 2006 for Hurricane Rita.

C. Providers shall be required to sign an attestation that confirms that:

1. the services provided were medically necessary;
2. they have not received payment from any other source;
3. they will not subsequently bill another source for payment;
4. they are not aware of any other payment source for the services rendered; and
5. payment will be accepted as payment in full for the services rendered.

D. The deadline for submission of all payment requests is June 30, 2006.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Chapter 51. Uncompensated Care Pool Reimbursement

§5101. Allowable Payment

A. Reimbursement through the UCC pool is only available for covered services provided within the state of Louisiana to individuals who meet the requirements to be a member of the eligible population.

B. Payment through the UCC pool for Medicaid State Plan services shall be an interim payment up to 70 percent of the Medicaid fee-for-service rate currently on file for the respective service. Additional payments shall be contingent on the availability of funds in the UCC Pool.

1. UCC pool payments to hospitals that qualify for Medicaid disproportionate share hospital (DSH) payments will be offset from the cost of treating uninsured patients for the state fiscal year to which the DSH payment is applicable to determine the hospital specific DSH limits.

C. Payment through the UCC pool for methadone and suboxone substance abuse treatment services shall be an interim payment up to 70 percent of the fee schedule established by the Office of Addictive Disorders. Additional payments shall be contingent on the availability of funds in the UCC Pool.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Chapter 53. Administrative Appeals

§5301. Fair Hearings and Appeals

A. There are no provisions under this demonstration waiver for fair hearings for those individuals who have received medical services or supplies and do not have insurance coverage or any other source of payment.

B. There are no provisions under this demonstration waiver for appeals for health care providers who have incurred costs associated with the provision of the uncompensated care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0606#066

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Medicaid Eligibility Treatment of Loans, Mortgages, Promissory Notes and Other Property Agreements

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule 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 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 a Rule promulgating the Medicaid Eligibility Manual in its entirety by reference, including section I-1600 which addresses the treatment of resources in the eligibility determination process (*Louisiana Register*, Volume 22, Number 5). The May 20, 1996 Rule was amended to revise Medicaid policy in regard to the treatment of certain loans, mortgages, promissory notes, and property agreements (*Louisiana Register*, Volume 31, Number 8). The bureau amended by Emergency Rule the August 20, 2005 Rule governing the transfer of resources to further define and clarify the provisions governing the treatment of loans, mortgages, promissory notes, and other property agreements during the eligibility determination process. This Emergency Rule is being promulgated to continue the provisions of the February 20, 2006 Emergency Rule. This action is being taken to avoid federal sanctions.

Emergency Rule

Effective June 21, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions of the August 20, 2005 Rule governing the treatment of transfer of assets in the determination of Medicaid eligibility. This policy change applies to applications, renewals of eligibility or changes in situation for all individuals, except for those persons receiving Supplemental Security Income (SSI) or deemed to be receiving SSI.

Loans, Mortgages, Promissory Notes, and Property Agreements or Assignments

A. A loan, mortgage, promissory note, property agreement or property assignment is a countable resource and a potential transfer of assets regardless of any non-assignability, non-negotiability or non-transferability provisions contained therein.

Instruments Containing Certain Provisions

A. Any loans, mortgages, promissory notes, property agreements or property assignments executed that contain any of the following provisions shall not be considered bona fide and shall be evaluated as a transfer of resources:

1. self-canceling clauses or clauses that forgive a portion of the principal;

2. payments that are not in equal amounts for the term of the loan (contain balloon payments or interest only payments) even if the principle is due within the holder's life expectancy;

3. repayment terms that exceed the holder's life expectancy; or

4. evidence exists that there is not a good faith agreement to repay the entire principal.

B. Pursuant to the rules and regulations, the department shall establish what constitutes a bona fide transaction for establishing Medicaid eligibility.

C. An opportunity to rebut the treatment of such instruments as countable resources or transfer of resources shall be provided to the applicant/recipient through the appeals process.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0606#069

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Nursing Facility Minimum Licensing Standards Emergency Preparedness (LAC 48:I.9729)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby amends LAC 48:I.9729 as authorized by R.S. 36:254 and R.S. 40:2009.1-2116.4. This Emergency Rule is promulgated in accordance with 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 to adopt minimum licensing standards for nursing homes (*Louisiana Register*, Volume 24, Number 1). The January 20, 1998 Rule was amended by Emergency Rule to revise the provisions governing emergency preparedness requirements for nursing facilities (*Louisiana Register*, Volume 31, Number 11). This Emergency Rule is being promulgated to amend the provisions of the October 18, 2005 Emergency Rule and supersedes the June 17, 2006 Emergency Rule published in the May 20, 2006 Louisiana Register (*Louisiana Register*, Volume 32, Number 5).

This action is being taken to prevent imminent peril to the health and well-being of Louisiana citizens who are residents of nursing facilities that may be evacuated as a result of declared disasters or other emergencies. It is anticipated that the implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2006-2007.

Effective June 1, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing emergency preparedness requirements for nursing facilities.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 97. Nursing Homes

Subchapter B. Organization and General Services

§9729. Emergency Preparedness

A. The nursing facility shall have an emergency preparedness plan which conforms to the Office of Emergency Preparedness (OEP) model plan designed to manage the consequences of declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its approved emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

1. Upon request by the department, a nursing facility shall forward information and documentation regarding emergency preparedness, evacuation and operational status to the Bureau of Health Services Financing, Health Standards Section. Such information and documentation shall, at a minimum, include:

- a. a copy of the nursing facility's emergency preparedness plan;
- b. updates, amendments, modifications or changes to the nursing facility's emergency preparedness plan;
- c. the number of operational beds; and
- d. census information.

2. If the department determines, upon review of the nursing facility's emergency preparedness plan, that the plan is not viable or does not promote the health, safety and welfare of nursing home residents, the nursing facility shall be required to amend its emergency preparedness plan.

B. At a minimum, the nursing facility shall have a written plan that describes:

1. the procedures and criteria for a determination by the nursing facility to evacuate the facility or shelter in place;

a. for evacuation determinations, the nursing facility's plan shall provide for a primary sheltering host site and alternative sheltering host sites outside the area of risk, verified by written agreements or contracts;

2. the delivery of essential care and services to residents, whether the residents are housed off-site or when additional residents are housed in the nursing facility during an emergency;

3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the nursing facility or at another location;

4. a plan for coordinating transportation services required for evacuating residents to another location, including proof of transportation or a contract with a transportation company, verified by a written transportation agreement or contract;

5. the procedures to notify the resident's family or responsible representative if the resident is evacuated to another location;

6. staffing patterns for evacuation, including contact information for such staff;

7. a procedure or method whereby each nursing home resident has a manner of identification attached to his person or clothing;

8. a procedure or method whereby each nursing home resident has the following minimum information included with him/her during all phases of the evacuation:

- a. current and active diagnoses;
- b. medications, including dosage and times administered;
- c. allergies;
- d. special dietary needs or restrictions; and
- e. next of kin, including contact information;

9. procedures for ensuring that licensed nursing staff accompany residents on buses or other transportation during evacuation; and

10. procedures for ensuring that an adequate supply of water, food, medication and supplies accompanies residents on buses or other transportation during evacuation.

C. The nursing facility's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The nursing facility's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if indicated by the nursing facility's performance during the planned drill. Any revisions, modifications, amendments or changes to the plan shall be submitted to the Health Standards Section within 30 days.

D. The nursing facility's plan shall be reviewed and approved by the parish OEP, utilizing appropriate community-wide resources.

E. The plan shall be available to representatives of the Office of the State Fire Marshal.

F. Evacuation, Temporary Relocation or Temporary Cessation

1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operation at its licensed location and sustains damages due to wind, sustains flooding or sustains power outages longer than 48 hours, the nursing facility shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Health Standards Section, and the nursing facility has received a letter of approval from the department for reopening the facility.

a. The purpose of these surveys is to assure that the facility is in compliance with the licensing standards in the areas of health and safety requirements, the structural soundness of the building, the sanitation code and staffing requirements.

b. The Health Standards Section will determine the facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.

2. If a nursing facility evacuates, temporarily relocates or temporarily ceases operation at its licensed location and does not sustain damages due to wind, does not sustain flooding or does not sustain power outages longer than 48 hours, the nursing facility may be reopened without the necessity of the required surveys. Prior to reopening, such nursing facility must notify the Health Standards Section that

the facility is reopening, and must receive written authority from the Health Standards Section to reopen.

G. Authority to Reopen and Execution of Emergency Preparedness Plan

1. Before reopening at its licensed location, the nursing facility must submit a detailed summary to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. A copy of the facility's approved emergency preparedness plan must be attached to the detailed summary. The detailed summary must contain, at a minimum:

- a. pertinent plan provisions and how the plan was followed and executed;
- b. plan provisions that were not followed;
- c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
- d. contingency arrangements made for those plan provisions not followed; and
- e. a list of injuries and/or deaths of residents that occurred during the execution of the plan, evacuation and temporary relocation.

2. Before reopening, the nursing facility must receive written approval from the licensing agency that the facility was in substantial compliance with the emergency preparedness plan. The licensing agency will review the facility's plan and the detailed summary submitted.

a. If the licensing agency determines from these documents that the facility was in substantial compliance with the plan, the licensing agency will issue approval to the facility for reopening, subject to the facility's compliance with any other applicable rules.

b. If the licensing agency is unable to determine substantial compliance with the plan from these documents, the licensing agency may conduct an on-site survey or investigation to determine whether the facility substantially complied with the plan.

c. If the licensing agency determines that the facility failed to comply with the provisions of its plan, the facility shall not be allowed to reopen.

H. Notification

1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operations at its licensed location, the nursing facility must immediately give notice to the Health Standards Section, by facsimile, telephone or email, of the following:

- a. the date and time of the evacuation;
- b. the sheltering host site(s) to which the nursing facility is evacuating; and
- c. a list of residents being evacuated, which shall indicate the evacuation site for each resident;

2. Within 48 hours of a nursing facility's evacuation, temporary relocation or temporary cessation of operations, the nursing facility must notify the Health Standards Section of any deviations from the intended sheltering host site(s) and must provide the Health Standards Section with a list of all residents and their locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:49 (January 1998), amended LR 32:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0606#010

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Pharmacy Benefits Management Program
Erectile Dysfunction Drug Coverage**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule 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 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 repealed the May 20, 1999 and March 20, 2005 Rules governing the coverage of erectile dysfunction drugs and terminated coverage of these drugs under the Medicaid Program (*Louisiana Register*, Volume 31, Number 11). Section 104 of Public Law 109-91 as enacted on October 20, 2005 by the 109th United States Congress, eliminated Medicaid coverage of erectile dysfunction drugs except for the treatment of conditions other than sexual or erectile dysfunction for which the drugs have been approved by the Food and Drug Administration.

In compliance with the directives of Section 104 of Public Law 109-91 and regulations established by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, the bureau amended by Emergency Rule the November 20, 2005 Rule. This Emergency Rule is being promulgated to continue the provisions of the February 20, 2006 Emergency Rule. This action is being taken to avoid federal sanctions.

Emergency Rule

Effective June 21, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing shall not cover and reimburse prescription drugs for the treatment of sexual or erectile dysfunction under the Medicaid Program. Erectile dysfunction drugs shall be covered for the treatment of conditions other than sexual or erectile dysfunction for which the drugs have been approved by the Food and Drug Administration.

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Department of Health and Hospitals, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0606#070

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Division of Long Term Supports and Services

Home and Community Based Services Waivers Elderly and Disabled Adults Waiver (LAC 50:XXI.Chapters 81-89)

The Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services amends LAC 50:XXI.Chapters 81-89 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 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 governing home and community-based waiver services for elderly and disabled adults in LAC 50:XXI.Chapters 81-89 (*Louisiana Register*, Volume 30, Number 8). The Division of Long Term Supports and Services hereby amends the provisions governing the Elderly and Disabled Adult Waiver to:

1. eliminate the duplication of like services currently provided in the waiver and as a Medicaid State Plan service;
2. define the existing service package and establish new services; and
3. revise the methodology for allocation of waiver opportunities.

This action is being taken to avoid sanctions from the Centers for Medicare and Medicaid Services. It is anticipated that the implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2006-2007.

Effective July 1, 2006, the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services amends the following provisions governing the Elderly and Disabled Adult Waiver Program.

Title 50 PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

Subpart 7. Elderly and Disabled Adult Waiver Chapter 81. General Provisions §8101. Introduction

A. The target population for the Elderly and Disabled Adult (EDA) Waiver is individuals who meet Medicaid financial eligibility and the level of care for a nursing facility and who are:

1. 65 years of age or older; and
2. 21-64 years of age and disabled according to Medicaid standards or Social Security Income disability criteria.

B. Services are provided under the provisions of the approved waiver agreement between the Centers for Medicare and Medicaid Services (CMS) and the Louisiana 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, Office of the Secretary, Bureau of Health Services Financing, LR 19:1029 (August 1993), amended LR 24:42 (January 1998), repromulgated LR 30:1698 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:

§8103. Request for Services Registry

A. The Department of Health and Hospitals (DHH) is responsible for the Request for Services Registry, hereafter referred to as "the registry," for the Elderly and Disabled Adult Waiver. An individual who wishes to have his or her name placed on the registry shall contact a toll-free telephone number maintained 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 of the Secretary, Bureau of Community Supports and Services, LR 28:835 (April 2002), amended LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:

§8105. Programmatic Allocation of Waiver Opportunities

A. When funding is appropriated for a new EDA Waiver opportunity or an existing opportunity is vacated, the department shall send a written notice to an individual on the registry indicating that a waiver opportunity is available and that the individual will be evaluated for a possible EDA Waiver opportunity assignment.

B. EDA Waiver opportunities are offered based on the date of first request for services with priority given to individuals who are in a nursing facility, but could return to their home if EDA Waiver services are provided. Priority is also given to those persons who have indicated that they are at imminent risk of nursing facility placement.

C. The remaining waiver opportunities, if any, are offered on a first-come, first-serve basis to individuals who qualify for a nursing facility level of care, but who are not at imminent risk of being admitted to a nursing facility.

D. If the applicant is determined to be ineligible for any reason, the next individual on the registry is notified as stated above and the process continues until an individual is

determined eligible. An EDA Waiver opportunity is assigned to an individual when eligibility is established and the individual is certified.

AUTHORITY NOTE: Promulgated in 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 24:42 (January 1998), repromulgated LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:

Chapter 83. Services

§8301. Service Descriptions

A. The following services are available to recipients in the EDA Waiver. All services must be provided in accordance with the recipient's approved comprehensive plan of care (CPOC).

1. Support Coordination is services that will assist recipients in gaining access to necessary waiver and State Plan services, as well as needed social, educational and other services, regardless of the funding source for these services. Support coordinators shall be responsible for ongoing monitoring of the provision of services included in the recipient's approved CPOC.

2. Transition Intensive Support Coordination is services that will assist recipients who are currently residing in nursing facilities in gaining access to necessary waiver and State Plan services, as well as needed social, educational and other services, regardless of the funding source for these services. Support coordinators will initiate and oversee the process for assessment and reassessment, as well as be responsible for ongoing monitoring of the provision of services included in the recipient's approved CPOC.

3. Environmental Accessibility Adaptation is necessary physical adaptations made to the home to ensure the health, safety, and welfare of the recipient, or enable the recipient to function with greater independence in the home. Without these necessary adaptations, the recipient would require institutionalization. These services must be provided in accordance with state and local laws governing licensure and/or certification.

a. There is a lifetime cap per recipient for this service.

4. Personal Emergency Response System (PERS). This is an electronic device which enables the recipient to secure help in an emergency. PERS services are limited to specific recipients.

5. Companion Services are services provided to a functionally-impaired recipient that include care, supervision and socialization during the day or night.

6. Transition Services. These services assist an individual, who has been approved for an EDA Waiver opportunity, to leave a nursing facility and return to live in the community.

a. Service Limit. Funds are available one time per lifetime for specific items as approved in the recipient's CPOC.

AUTHORITY NOTE: Promulgated in 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 24:42 (January 1998), repromulgated LR 30:1699 (August 2004), amended by the Department of Health and

Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:

§8303. Comprehensive Plan of Care

A. Reimbursement shall not be made for EDA Waiver services provided prior to department's approval of the comprehensive plan of care (CPOC).

B. The support coordinator shall complete a CPOC which shall contain the:

1. types and number of services (including waiver and all other services) necessary to maintain the waiver recipient safely in the community;

2. individual cost of each service (including waiver and all other services); and

3. average cost of services per day covered by the CPOC.

AUTHORITY NOTE: Promulgated in 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 24:42 (January 1998), repromulgated LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:

Chapter 85. Admission and Discharge Criteria

§8501. Admission Criteria

A. Admission to the EDA Waiver Program shall be determined in accordance with the following criteria:

1. initial and continued Medicaid financial eligibility;

2. initial and continued eligibility for a nursing facility level of care;

3. justification, as documented in the approved CPOC, that the EDA Waiver services are appropriate, cost effective and represent the least restrictive environment for the individual;

4. assurance that the health, safety and welfare of the individual can be maintained in the community with the provision of EDA Waiver services; and

5. the individual is either in a nursing facility or is at imminent risk of nursing facility placement.

AUTHORITY NOTE: Promulgated in 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 24:42 (January 1998), repromulgated LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:

§8503. Admission Denial or Discharge Criteria

A. Admission shall be denied or the recipient shall be discharged from the EDA Waiver Program if one of the following conditions is determined.

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

2. The individual does not meet the criteria for a nursing facility level of care.

3. The recipient is incarcerated or placed under the jurisdiction of penal authorities or courts.

4. The recipient has a change of residence to another state.

5. The individual is admitted to an acute care hospital, rehabilitation hospital or a nursing facility with the intent to stay or a stay that is longer than 90 consecutive days.

6. Continuity of services is interrupted as a result of the recipient not receiving and/or refusing EDA Waiver services during a period of 30 consecutive days.

7. The health, safety and welfare of the individual cannot be assured through the provision of EDA Waiver services within the individual's cost effectiveness.

8. The individual fails to cooperate in the eligibility determination process or in the performance of the CPOC.

9. Failure on behalf of the individual to maintain a safe and legal home environment.

10. It is not cost effective to serve the individual in the EDA Waiver.

AUTHORITY NOTE: Promulgated in 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 24:42 (January 1998); amended LR 24:457 (March 1998), repromulgated LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:

Chapter 87. Waiver Cost Effectiveness

§8701. Waiver Costs Limit

A. In order to assure the cost effectiveness of the EDA Waiver, each recipient shall have access to an array of waiver services whose average cost per day shall not exceed a limit set by the department. This limit shall be set, at least annually, at a percentage of the average costs borne by the Medicaid Program for the equivalent population receiving nursing facility services, including an allowance for temporary, brief periods of excess costs in order to maintain a recipient in the community.

B.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, Office of the Secretary, Bureau of Health Services Financing, LR 24:42 (January 1998), repromulgated LR 30:1700 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:

Chapter 89. Provider Responsibilities

§8901. Reporting Requirements

A. Support coordinators and direct service providers are obligated to report changes to the department that could affect the waiver recipient's eligibility including, but not limited to, those changes cited in the denial or discharge criteria.

B. Support coordinators and direct service providers are responsible for documenting the occurrence of incidents or accidents that affect the health, safety and welfare of the recipient and completing an incident report. The incident report shall be submitted to the department with the specified 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, Office of the Secretary, Bureau of Health Services Financing, LR 24:42 (January 1998), repromulgated LR 30:1700 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0606#065

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers Supports Waiver (LAC 50:XXI.Chapters 53-61)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities adopts LAC 50:XXI Chapters 53-61 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 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 currently provides community-based services to individuals who meet the level of care requirements for institutional placement through four Medicaid home and community-based services (HCBS) waivers as authorized by §1915(c) of the Social Security Act. The Medicaid HCBS waivers are: the Adult Day Health Care Waiver, Elderly and Disabled Adult Waiver, Children's Choice Waiver and New Opportunities Waiver. The Office for Citizens with Developmental Disabilities now proposes to implement a new HCBS waiver, hereafter referred to as the Supports Waiver, to promote independence for individuals who are age 18 or older with a developmental disability, while ensuring health and safety through a system of recipient safeguards. The mission of the Supports Waiver is to create options and provide meaningful opportunities that enhance the lives of men and women with developmental disabilities through vocational and community inclusion.

This action is being taken to secure enhanced federal funding. It is estimated that the increase in expenditures due to implementation of this Emergency Rule will be \$31,254,780 for state fiscal year 2006-2007.

Effective July 1, 2006, the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities adopts provisions governing the implementation of a new home and community-based services waiver to be called the Supports Waiver.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services
Waivers

Subpart 5. Supports Waiver

Chapter 53. General Provisions

§5301. Purpose

A. The mission of this waiver is to create options and provide meaningful opportunities that enhance the lives of men and women with developmental disabilities through vocational and community inclusion. The Supports Waiver is designed to:

1. promote independence for individuals with a developmental disability who are age 18 or older while ensuring health and safety through a system of recipient safeguards;

2. provide an alternative to institutionalization and costly comprehensive services through the provision of an array of services and supports that promote community inclusion and independence by enhancing and not replacing existing informal networks; and

3. increase high school to community transition resources by offering supports and services to those 18 years and older.

B. Allocation of Waiver Opportunities. Waiver opportunities (slots) shall be allocated in the following manner for those individuals who request the waiver services and who meet the eligibility requirements.

1. Reserved capacity will be for those persons currently receiving state general funded vocational and habilitative services through the Office for Citizens with Developmental Disabilities.

2. The next reserved capacity will be for those persons currently waiting for state general funded vocational and habilitative services through the Office for Citizens with Developmental Disabilities.

3. All other waiver opportunities shall be offered on a first come, first served basis to individuals who request this waiver service and who meet the recipient qualifications.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

Chapter 55. Target Population

§5501. Recipient Qualifications

A. In order to qualify for the Supports Waiver, an individual must be 18 years of age or older and meet the definition for a developmental disability as defined in R.S. 28:451.2. Developmental disability means either:

1. a severe chronic disability of a person that:
 - a. is attributable to an intellectual or physical impairment or combination of intellectual and physical impairments;
 - b. is manifested before the person reaches age 22;
 - c. is likely to continue indefinitely;
 - d. results in substantial functional limitations in three or more of the following areas of major life activity:
 - i. self-care;
 - ii. receptive and expressive language;
 - iii. learning;
 - iv. mobility;
 - v. self-direction;
 - vi. capacity for independent living; or
 - vii. economic self-sufficiency;
 - e. is not attributable solely to mental illness;
 - f. reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated;
2. a substantial developmental delay or specific congenital or acquired condition in a person from birth through age 9 which, without services and support, has a high probability of resulting in those criteria in

Subparagraphs A.1.a-f above later in life that may be considered to be a developmental disability.

B. The individual must:

1. meet the requirements for an intermediate care facility for the mentally retarded level of care, which requires active treatment of mental retardation or a developmental disability under the supervision of a qualified mental retardation or developmental disability professional;

2. meet the financial eligibility requirements for the Medicaid program as a member of the group of individuals who would be eligible for Medicaid if they:

a. were in a medical institution;

b. need home and community-based services in order to remain in the community; and

c. have a special income level equal to 300 percent of the Supplemental Security Income (SSI) federal benefit rate;

3. be a resident of Louisiana;

4. be a citizen of the United States or a qualified alien; and

5. meet the health and safety assurances.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

Chapter 57. Covered Services

§5701. Supported Employment Services

A. Supported employment services consists of intensive, ongoing supports and services necessary for a recipient to achieve the desired outcome of employment in a community setting in the state of Louisiana where a majority of the persons employed are without disabilities. Recipients utilizing these services may need long-term supports for the life of their employment due the nature of their disability, and natural supports would not meet this need.

B. Supported employment services provide supports in the following areas:

1. individual job, group employment, or self-employment;

2. job assessment, discovery and development; and

3. initial job support and job retention, including assistance in personal care with activities of daily living in the supported employment setting and follow-along.

C. When supported employment services are provided at a work site where a majority of the persons employed are without disabilities, payment is only made for the adaptations, supervision and training required by recipients receiving the service as a result of their disabilities. It does not include payment for the supervisory activities rendered as a normal part of the business setting.

D. Transportation is included in supported employment services, but whenever possible, family, neighbors, friends, coworkers or community resources that can provide needed transportation without charge should be utilized.

E. These services are also available to those recipients who are self-employed. Funds for self-employment may not be used to defray any expenses associated with setting up or operating a business.

F. Supported employment services may be furnished by a coworker or other job-site personnel under the following circumstances:

1. the services furnished are not part of the normal duties of the coworker or other job-site personnel; and

2. these individuals meet the pertinent qualifications for the providers of service.

G. Service Limitations

1. Services for job assessment, discovery and development in individual jobs and self-employment shall not exceed 120 units of service in a Comprehensive Plan of Care year.

2. Services for job assessment, discovery and development in group employment shall not exceed 20 units of service in a Comprehensive Plan of Care year.

3. Services for initial job support, job retention and follow-along shall not exceed 240 units of service in a Comprehensive Plan of Care year.

H. Restrictions. Recipients receiving supported employment services may also receive prevocational or day habilitation services. However, these services cannot be provided in the same service day.

I. Choice of this service and staff ratio needed to support the recipient must be documented on the Comprehensive Plan of Care.

J. There must be documentation in the recipient's file that these services are not available from programs funded under Section 110 of the Rehabilitation Act of 1973 or Sections 602(16) or (17) of the Individuals with Disabilities Education Act [230 U.S.C. 1401 (16 and 71)] and those covered under the 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, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

§5703. Day Habilitation

A. Day habilitation is services that assist the recipient to gain desired community living experience, including the acquisition, retention or improvement in self-help, socialization and adaptive skills, and/or to provide the recipient an opportunity to contribute to his or her community. These services focus on enabling the recipient to attain or maintain his/her maximum functional level and shall be coordinated with any physical, occupational, or speech therapies identified in the individualized Comprehensive Plan of Care. Day habilitation services may serve to reinforce skills or lessons taught in other settings.

B. Day habilitation services are provided on a regularly scheduled basis for one or more days per week, five or more hours per day in a setting separate from the recipient's private residence. Activities and environments are designed to foster the acquisition of skills, appropriate behavior, greater independence, and personal choice.

C. Day habilitation provides services in the following areas:

1. volunteer activities;
2. community inclusion; and
3. facility-based activities.

D. Day habilitation includes assistance in personal care with activities of daily living in the day habilitation setting.

E. All transportation costs are included in the reimbursement for day habilitation services. The recipient must be present to receive this service. If a recipient needs transportation, the provider must physically provide, arrange

for, or pay for appropriate transport to and from a central location that is convenient for the recipient and agreed upon by the team. The recipient's transportation needs and this central location shall be documented in the Comprehensive Plan of Care.

F. Service Limitations. Services shall not exceed 240 units of service in a Comprehensive Plan of Care.

G. Restrictions. Recipients receiving day habilitation services may also receive prevocational or supported employment services, but these services cannot be provided in the same service day.

H. Choice of this service and staff ratio needed to support the recipient must be documented on the Comprehensive Plan of Care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

§5705. Prevocational Services

A. Prevocational services prepare a recipient for paid or unpaid employment in the community and include teaching concepts such as compliance, attendance, task completion, problem solving and safety that are associated with performing compensated work. Services are aimed at a generalized result, not job task oriented, and are directed to habilitative, rather than explicit employment objectives.

B. Prevocational services are provided in a supervised facility-based setting where more than 25 percent of the persons employed are individuals with a developmental disability. These services are operated through a provider agency that is licensed by the appropriate state licensing agency. Services are furnished five or more hours per day on a regularly scheduled basis for one or more days per week.

C. Prevocational services are provided to persons not expected to join the general work force within one year of service initiation. If compensated, pay must be in accordance with United States Department of Labor's Fair Labor Standards Act.

D. Prevocational services reimbursement includes assistance in personal care with activities of daily living in the facility-based setting. Choice of this service and staff ratio needed to support the recipient must be documented on the Comprehensive Plan of Care.

E. All transportation costs are included in the reimbursement for prevocational services. The recipient must be present to receive this service. If a recipient needs transportation, the provider must physically provide, arrange, or pay for appropriate transport to and from a central location that is convenient for the recipient and agreed upon by the team. The recipient's transportation needs and this central location shall be documented in the Comprehensive Plan of Care.

F. Service Limitations. Services shall not exceed 240 units of service in a Comprehensive Plan of Care.

G. Restrictions. Recipients receiving prevocational services may also receive day habilitation or supported employment services, but these services cannot be provided in the same service day.

H. There must be documentation in the recipient's file that this service is not available from programs funded under Section 110 of the Rehabilitation Act of 1973 or Sections

602(16) or (17) of the Individuals with Disabilities Education Act [230 U.S.C. 1401 (16 and 71)] and those covered under the 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, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

§5707. Respite

A. Respite care is a service provided on a short-term basis to a recipient who is unable to care for himself/herself because the unpaid caregiver is absent or needs relief.

B. Respite may be provided in:

1. the recipient's home or private place of residence;
2. the private residence of a respite care provider; or
3. a licensed respite care facility determined appropriate by the recipient or responsible party.

C. Service Limitations. Services shall not exceed 428 units of service in a Comprehensive Plan of Care year.

D. Choice and need for this service must be documented on the Comprehensive Plan of Care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

§5709. Habilitation

A. Habilitation offers services designed to assist recipients in acquiring, retaining and improving the self-help, socialization and adaptive skills necessary to reside successfully in home and community settings.

B. Habilitation is provided in the home or community, includes necessary transportation as part of the reimbursement rate and is based on need with a specified number of hours weekly as outlined in the approved Comprehensive Plan of Care.

C. Habilitation services include, but are not limited to:

1. acquisition of skills needed to do household tasks such as laundry, dishwashing and housekeeping, grocery shopping in the community; and
2. travel training to community sites other than supported employment, day habilitation, or prevocational sites where life activities take place.

D. Service Limitations. Services shall not exceed 285 units of service in a Comprehensive Plan of Care year.

E. Choice and need for this service must be documented on the Comprehensive Plan of Care.

F. Recipients receiving habilitation may use this service in conjunction with other Support Waiver services, as long as other services are not provided during the same period in a 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, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

§5711. Individual Goods and Services

A. Individual goods and services allow the recipient access to goods and services necessary to ensure health and safety, which are essential to his/her independence in the community and are not otherwise covered in Medicaid State Plan services.

NOTE: Goods and services must be clearly linked to an assessed recipient's need established in the Comprehensive Plan of Care. Experimental or prohibited treatments are excluded.

B. Adult incontinence care products are available to all recipients through the Supports Waiver. Individuals, who are 18 to 21 years old, must access incontinence care products through the EPSDT State Plan services.

NOTE: These services must be prior authorized, be in accordance with the Comprehensive Plan of Care, and not otherwise available through any other funding source or community resource.

C. The following services are available for recipients who are age 21 or older:

1. eyeglasses and routine eye examinations not otherwise covered;
2. dental care not related to dentures and not otherwise covered; and
3. hearing aids and other durable medical equipment not otherwise covered.

NOTE: Recipients who are age 18 through 21 may receive these services as outlined on their Comprehensive Plan of Care through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) 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, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

§5713. Personal Emergency Response System

A. A personal emergency response system (PERS) is an electronic device connected to the recipient's phone which enables a recipient to secure help in the community. The system is programmed to signal a response center staffed by trained professionals once a "help" button is activated.

B. This service must be prior authorized and be in accordance with the Comprehensive Plan of Care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

Chapter 59. Provider Participation

§5901. General Provisions

A. In order to participate in the Medicaid Program as a provider of Supports Waiver services, a provider must meet all qualifications outlined in LAC 50.XXI, Subpart 1, Chapter 1 and all applicable amendments.

B. If transportation is provided as part of a service, the provider must have \$1,000,000 liability insurance coverage on any vehicles used in transporting a recipient.

C. In addition to meeting the requirements cited in this §5901.A and B, providers must meet the following requirements for the provision of designated services.

1. Supported Employment. The provider must be a community rehabilitation provider certified through Louisiana Rehabilitation Services in order to provide this service.

2. Day Habilitation. The provider must possess a current, valid license as an Adult Day Care Center in order to provide this service.

3. Pre-Vocational Services. The provider must possess a current, valid license as an Adult Day Care Center or be a

community rehabilitation provider certified through Louisiana Rehabilitation Services in order to provide this service.

4. Respite and Habilitation Services. The provider must possess a current, valid license as a Personal Care Attendant agency or a Respite Care Center in order to provide these services.

5. Individual Goods and Services. The provider must comply with the applicable state and local laws governing licensure and/or certification for the service being performed.

6. Personal Emergency Response System. The provider must be enrolled to participate in the Medicaid Program as a provider of personal emergency response systems.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

Chapter 61. Reimbursement

§6101. Reimbursement Methodology

A. The reimbursement for all services will be paid on a per claim basis, based on established rates determined through consultation with stakeholders, review of current rates and costs for similar services and available funding. The reimbursement rate covers both service provision and administration.

B. Supported Employment Services. Reimbursement shall be a prospective flat rate for each approved unit of service provided to the recipient. A standard unit of service in job assessment, discovery and development is six hours or more per day. A standard unit of service in initial job support, job retention and follow-along is one hour or more per day.

C. Day Habilitation. Reimbursement shall be a prospective flat rate for each approved unit of service provided to the recipient. A standard unit of service is one day, consisting of five or more hours, excluding time spent in transportation.

D. Prevocational Services. Reimbursement shall be a prospective flat rate for each approved unit of service provided to the recipient. A standard unit of service is one day, consisting of five or more hours, excluding time spent in transportation.

E. Respite. Reimbursement shall be a prospective flat rate for each approved unit of service provided to the recipient. One-quarter hour (15 minutes) is the standard unit of service.

F. Habilitation. Reimbursement shall be a prospective flat rate for each approved unit of service provided to the recipient. One-quarter hour (15 minutes) is the standard unit of service.

G. Individual Goods and Services. Reimbursement will be paid at cost, based on the recipient's need, but shall not exceed \$500 in a Comprehensive Plan of Care year.

H. Personal Emergency Response System (PERS). Reimbursement for the maintenance of the PERS is paid through a monthly rate. Installation of the device is paid through a one time fixed cost.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is the person 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0606#067

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Targeted Case Management
Individuals with Developmental Disabilities
(LAC 50:XV.10101, 10501, 10505, and 11701)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends LAC 50:XV.10101, 10501, 10505, and 11701 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 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 case management services provided to targeted population groups and certain home and community-based services waiver recipients (*Louisiana Register*, Volume 25, Number 7). In May 2004, the Bureau promulgated the July 1999 Rule in a codified format in Title 50 of the *Louisiana Administrative Code* (*Louisiana Register*, Volume 30, Number 5).

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities proposes to implement a new home and community-based services waiver for persons with developmental disabilities, under the authority of §1915(c) of the Social Security Act, called the Supports Waiver. In accordance with the requirements for §1915(c) waivers, the targeted population served in the Supports Waiver will receive an offer of case management services. The department now proposes to amend the provisions governing Targeted Case Management in LAC 50:XV to include recipients receiving services in the Supports Waiver and to change the name of the Mentally Retarded/Developmentally Disabled Waiver.

This action is being taken to secure enhanced federal funding. It is estimated that the increase in expenditures due to implementation of this Emergency Rule will be approximately \$3,083,190 for state fiscal year 2006-2007.

Effective June 1, 2006, the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amends the provisions governing Targeted Case Management to include the Supports Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 101. General Provisions

§10101. Program Description

A. - D.2. ...

E. Recipients who are being transitioned from a developmental center into the New Opportunities Waiver (NOW) may receive their case management services through the Office for Citizens with Developmental Disabilities (OCDD).

F. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1036 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

Chapter 105. Provider Participation

§10501. Participation Requirements

A. - D.7. ...

8. assure the recipient's right to elect to receive or terminate case management services (except for recipients in the New Opportunities Waiver, Elderly and Disabled Adult Waiver, Children's Choice and Supports Waiver programs). Assure that each recipient has freedom of choice in the selection of an available case management agency (every six months), a qualified case manager or other service providers and the right to change providers or case managers;

D.9. - D.12. ...

AUTHORITY NOTE: Promulgated in 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 30:1037 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

§10505. Staff Education and Experience

A. - D.2. ...

E. Case Manager Trainee

1. The case management agency must obtain prior approval from the Bureau before a case management trainee can be hired. The maximum allowable caseload for a case manager trainee is 20 recipients. The case management trainee position may be utilized to provide services to the following target populations:

- a. Infants and Toddlers;
- b. HIV;
- c. New Opportunities Waiver;
- d. Elderly and Disabled Adult Waiver;
- e. Targeted EPSDT;
- f. Children's Choice Waiver; and
- g. Supports Waiver.

E.2a. - 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 of the Secretary, Bureau of Health Services Financing, LR 30:1038 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

Chapter 117. Individuals with Developmental Disabilities

§11701. Introduction

A. The targeted population for case management services shall consist of individuals with developmental disabilities who are participants in the NOW or Supports Waiver Programs.

B. - C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1043 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is the person 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0606#009

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

CCAP—Job Search and Repair and Improvement Grants
(LAC 67:III.Chapter 51)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III.5102, 5103, 5104, 5107, and 5109 in the Child Care Assistance Program (CCAP) effective June 1, 2006, pursuant to ACF Guidance, ACYF-IM-CC-05-03, Flexibility in Spending CCDF Funds in Response to Federal or State Declared Emergency Situations. This Rule shall remain in effect for a period of 120 days.

Through a Declaration of Emergency signed February 1, 2006, the agency expanded the eligibility criteria at §§5102, 5103, 5104, and 5109 to include Job Search as a qualifying activity for child care assistance. The number of months that participation in Job Search could be used as a countable Training or Employment Mandatory Participant (TEMP) activity was originally set at three months (§5103.B.4.e). This Emergency Rule increases the number of months to

four months. It was the agency's decision to allow this extra month of child care assistance for participants of Job Search so that those victims of Hurricanes Katrina and Rita might have adequate child care while searching for employment.

A Notice of Intent containing these amendments was published in the May issue of the Louisiana Register.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 12. Child Care Assistance Program

Chapter 51. Child Care Assistance Program

Subchapter A. Administration, Conditions of Eligibility, and Funding

§5102. Definitions

* * *

Training or Employment Mandatory Participant (TEMP)—a household member who is required to meet criteria described in §5103.B.4 (effective June 1, 2006), including the head of household, the head of household's legal spouse or non-legal spouse, the MUP age 16 or older whose child(ren) need child care assistance, and the MUP under age 16 whose child(ren) live with the MUP and the MUP's disabled parent/guardian who is unable to care for the MUP's child(ren) while the MUP goes to school/work.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:1484 (July 2004), LR 31:2262 (September 2005), LR 32:

§5103. Conditions of Eligibility

A. - A.1. ...

B. Low-income families not receiving FITAP cash assistance, including former FITAP recipients who are given priority consideration, must meet the following eligibility criteria:

1. - 3. ...

4. Effective September 1, 2002, unless disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, Veterans' Administration Disability benefits for a disability of at least 70 percent, or unless disabled and unable to care for his/her child(ren) as verified by a doctor's statement or by worker determination, the TEMP must be:

a. employed or effective June 1, 2006, conducting Job Search for a minimum average of 25 hours per week effective April 1, 2003, and all countable employment hours must be paid at least at the federal minimum hourly wage; or

b. ...

c. engaged in some combination of employment which is paid at least at the federal minimum hourly wage, or effective June 1, 2006, Job Search, or job training, or education as defined in §5103.B.4.b that averages, effective April 1, 2003, at least 25 hours per week;

d. ...

e. effective June 1, 2006, participation in Job Search as a countable TEMP activity can only be used for four calendar months per State Fiscal Year.

5. - 6. ...

7. The family requests child care services, provides the information and verification necessary for determining

eligibility and benefit amount, and meets appropriate application requirements established by the state. Required verification includes birth verification for all children under 18 years of age, proof of all countable household income, proof of the hours of all employment or education/training or, effective June 1, 2006, Job Search, and effective October 1, 2004, proof of immunization for each child in need of care.

B.8. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L.104-193, Act 58 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1106 (July 2003), LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:1487 (July 2004), LR 31:101 (January 2005), LR 31:2263 (September 2005), LR 32:

§5104. Reporting Requirements Effective February 1, 2004

A. ...

B. A Low Income Child Care household that is included in a Food Stamp semi-annual reporting household is subject to the semi-annual reporting requirements in accordance with §2013. In addition, these households must report the following changes within 10 days of the knowledge of the change:

1. ...

2. an interruption of at least three weeks or a termination of any TEMP's employment, or training ,or effective June 1, 2006, Job Search; or

3. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, 7 CFR Part 273, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:1487 (July 2004), amended LR 31:2263 (September 2005), LR 32:

Subchapter B. Child Care Providers

§5107. Child Care Provider

A. - H.2. ...

I. CCAP offers Repair and Improvement Grants to either licensed or registered providers, or to those who have applied to become licensed or registered, to assist with the cost of repairs and improvements necessary to comply with DSS licensing or registration requirements and/or to improve the quality of child care services.

1. - 1.c. ...

2.a. A provider can receive no more than one such grant for any state fiscal year. Exception: effective June 1, 2006, for the State Fiscal Year 2005/2006, providers in the following parishes will be eligible to receive two repair and improvement grants: Orleans, Plaquemines, Jefferson, St. Bernard, St. Tammany, Washington, Calcasieu, and Cameron.

b. To apply, the provider must submit an application form indicating that the repair or improvement is needed to meet DSS licensing or registration requirements, or to improve the quality of child care services. Two written estimates of the cost of the repair or improvement must be provided and the provider must certify that the funds will be used for the requested purpose. If the provider has already

paid for the repair or improvement, verification of the cost in the form of an invoice or cash register receipt must be submitted. Reimbursement can be made only for eligible expenses incurred no earlier than six months prior to the application. If a provider furnishes estimates to receive a grant, the grant must be spent for the requested purpose within three months of the date the grant is issued.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session, Act 58, 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:1484, 1487 (July 2004), LR 31:102 (January 2005), LR 31:2263 (September 2005), LR 32:

§5109. Payment

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

3. The number of hours authorized for payment is based on the lesser of the following:

a. ...

b. the number of hours per week the head of household, the head of household's spouse or non-legal spouse, or the minor unmarried parent is working and/or attending a job training or educational program and/or effective June 1, 2006, conducting Job Search, plus one hour per day for travel to and from such activity; or

B.3.c. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), LR 30:1485 (July 2004), LR 30:2078 (September 2004), LR 31:2265 (September 2005), LR 32:

Ann S. Williamson
Secretary

0606#016

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

FITAP/KCSP/STEP—Parenting Skills Education and Eligibility Factors

(LAC 67:III.1209, 1223, 1225, 1229, 1245, 1291, 5307, 5321, 5323, 5329, 5339, 5341, 5391, and 5711)

The following Emergency Rule is being repromulgated to correct codification errors. The original Emergency Rule may be viewed on pages 788-791 of the May 20, 2006 edition of the *Louisiana Register*.

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III, Subpart 2, Subpart 13, and Subpart 16 effective

May 1, 2006. This Rule shall remain in effect for a period of 120 days.

Pursuant to the authority granted to the Department by Louisiana's Temporary Assistance to Needy Families Block Grant, the agency will amend §1209, §1223, §1225, §1229, §1245, and §1291 in the Family Independence Temporary Assistance Program (FITAP); §5307, §5321, §5323, §5329, §5339, §5341, and §5391 in the Kinship Care Subsidy Program (KCSP) and §5711 in the Strategies to Empower People (STEP) Program. Section 1209 is amended to align with policy the need for a concurrent notice; §1223 is amended to expand the definition of a qualified alien; §1225 is amended to provide good cause for the requirement of enumeration; §1229 is amended regarding deductions for dependent care; §1245 is amended for consistency with KCSP and the STEP Program regarding Parenting Skills Education; §1291 is amended to clarify and correct procedures regarding failure to cooperate in substance abuse screening, testing, or participation. The Kinship Care Subsidy Program is being amended at: §5307 to send a concurrent notice when a child has been certified for Supplemental Security Income; §5321 to define the age limit for KCSP benefits; §5323 to expand the definition of a qualified alien; §5329 to exempt the receipt of Supplemental Security Income in determining eligibility and to exempt at pretest income for children receiving foster care payments and SSI; §5339 to address the age requirement regarding Parenting Skills Education; §5341 and §5391 are repealed as Drug Screening, Testing, Education, and Rehabilitation and the Substance Abuse Treatment Program do not apply to recipients of KCSP benefits. §5711 in the STEP Program is being amended to address FITAP and KCSP recipients who must participate in Parenting Skills Education and to clarify the scope of Parenting Skills Education.

The authorization for emergency action in this matter is contained in Act 16 of the 2005 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 2. Family Independence Temporary Assistance Program

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§1209. Notices of Adverse Action

A. A notice of adverse action shall be sent at least 13 days prior to taking action to reduce or terminate benefits. In some circumstances advance notice is not required. A concurrent notice shall be sent to the client at the time of action in the following situations:

1. - 9. ...

10. Repealed

11. - 16. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B. and R.S. 46:237; Act 58, 2003 Reg. Session, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), amended LR 26:349 (February 2000), LR 29:2565 (December 2002), LR 30:493 (March 2004), LR 32:

Subchapter B. Conditions of Eligibility

§1223. Citizenship

A. Each FITAP recipient must be a United States Citizen, a non-citizen national, or a qualified alien. A non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals. A qualified alien is:

1. - 9. ...

10. an alien who is a victim of a severe form of trafficking in persons, or effective May 1, 2006, an eligible relative of a victim of a severe form of trafficking in persons.

B. - B.8. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., P.L. 106-386, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2448 (December 1999), amended LR 26:1342 (June 2000), LR 27:2263 (December 2001), LR 28:1599 (July 2002), LR 32:

§1225. Enumeration

A. Each applicant for, or recipient of, FITAP is required to furnish a Social Security number or to apply for a Social Security number if such a number has not been issued or is not known, unless, effective May 1, 2006, good cause has been established.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B., Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:1342 (June 2000), LR 32:

§1229. Income

A. - B.2. ...

C. Earned Income Deductions. Each individual in the income unit who has earned income is entitled to the following deductions only.

1. Standard Deduction of \$120

2. \$900 Time-Limited Deduction. This deduction is applied for six months when a recipient's earnings exceed the \$120 standard deduction. The months need not be consecutive nor within the same certification periods. The deduction is applicable for a six-month lifetime limit for the individual.

3. Dependent Care Deduction. Recipients may be entitled to a deduction for dependent care for:

a. an incapacitated adult;

b. effective May 1, 2006, a child age 13 or older who is not receiving CCAP; or

c. effective May 1, 2006, the amount charged by a child care provider that exceeds the CCAP maximum for a child in care.

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2, P.L. 108-447, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:1342 (June 2000), LR 26:2831 (December 2000), LR 31:2956 (November 2005), LR 32:

§1245. Parenting Skills Education

A. Effective May 1, 2006, recipients who are pregnant or have a child under age one shall participate in parenting

skills education as outlined in LAC 67:III.Chapter 57, §5711.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.5; Act 58, 2003 Reg. Session. Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR 30:494 (March 2004), LR 32:

Subchapter D. Special Initiatives

§1291. Substance Abuse Treatment Program

A. - E.4. ...

5. Failure to Cooperate. Failure or refusal of a recipient to participate in substance abuse screening, testing, or participation in the education and rehabilitation program, without good cause, will result in the following actions effective May 1, 2006.

a. At application, the application is rejected, unless the person is an 18-year-old dependent child. Exclude any 18-year old dependent child that fails to cooperate until they participate.

b. For certified cases in which the family is not work-eligible, the case will be closed for at least one month and until the client complies with this requirement, whichever is later.

c. For certified cases in which the family is work-eligible, a STEP sanction will be imposed with the appropriate occurrence and reason. The case must remain closed for the duration of the sanction period and until the client complies with this requirement, whichever is later.

d. For certified cases in which an 18-year-old dependent child fails to cooperate, exclude him from the grant until he participates.

6. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:1492 (June 2002), amended LR 32:

Subpart 13. Kinship Care Subsidy Program (KCSP) Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§5307. Notices of Adverse Action

A. A notice of adverse action shall be sent at least 13 days prior to taking action to terminate benefits. In some circumstances advance notice is not required. A concurrent notice shall be sent to the client at the time of action in the following situations:

1. - 13. ...

14. effective May 1, 2006, the child has been certified for Supplemental Security Income and that fact has been established.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000), amended LR 29:2565 (December 2002), LR 32:

Subchapter B. Conditions of Eligibility

§5321. Age Limit

A. Effective May 1, 2006, a dependent child must be under 18 years of age.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B and R.S. 46:237; Act 58, 2003 Reg. Session, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:352 (February 2000), amended LR 30:496 (March 2004), LR 31:103 (January 2005), LR 32:

§5323. Citizenship

A. Each KCSP recipient must be a United States citizen, a non-citizen national, or a qualified alien. A non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals. A qualified alien is:

1. - 9. ...

10. an alien who is a victim of a severe form of trafficking in persons, or effective May 1, 2006, an eligible relative of a victim of a severe form of trafficking in persons.

B. - B.8. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, P.L. 106-386, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:352 (February 2000), amended LR 27:2264 (December 2001), LR 28:1600 (July 2002), LR 32:

§5329. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. - 28. ...

29. effective May 1, 2006, Supplemental Security Income (SSI).

B. - B.2.c. ...

3. For purposes of this pretest, income is defined as countable income belonging to any member of the KCSP income unit. Exception effective May 1, 2006: Income for children receiving foster care and Supplemental Security Income is not included in the income test.

C. Income after Pretest. The child is determined eligible for KCSP if the child's countable income is, effective July 1, 2006, less than \$280. If the child's countable income is, effective July 1, 2006, \$280 or more, the child is ineligible.

D. Payment Amount. Payment amount is, effective July 1, 2006, \$280 a month for each eligible child.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, and P.L. 108-447, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 26:2832 (December 2000), LR 31:2958 (November 2005), LR 32:

§5339. Parenting Skill Education

A. As a condition of eligibility for KCSP benefits, effective May 1, 2006, any child under age 18 who is pregnant or the parent of a child under the age of one must attend a parenting skills education program as outlined in LAC 67:III.Chapter 57, §5711. Failure to meet this requirement without good cause shall result in that minor's ineligibility. Ineligibility will continue until the child has complied.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, Act 58, 2003 Reg. Session, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:355 (February 2000), amended LR 30:496 (March 2004), LR 32:

§5341. Drug Screening, Testing, Education, and Rehabilitation Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237; Act 58, 2003 Reg. Session, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:355 (February 2000), amended LR 30:497 (March 2004), repealed LR 32:

Subchapter D. Special Initiatives

§5391. Substance Abuse Treatment Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:1493 (June 2002), repealed LR 32:

Subpart 16. Strategies to Empower People (STEP) Program

Chapter 57. Strategies to Empower People (STEP) Program

Subchapter B. Participation Requirements

§5711. Parenting Skills Education

A. Effective May 1, 2006, FITAP and KCSP recipients who are pregnant or have a child under age one shall participate in parenting skills education as the primary work activity under the Family Success Agreement. Parenting Skills Education consists of family strengthening, parenting information, and money management information. The lessons provide key parenting practices for parents to learn child nurturance that includes care, safety, and understanding child development. Applicable child care and transportation shall be provided to participants to enable their participation.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:498 (March 2004), amended LR 32:

Ann Silverberg Williamson
Secretary

0606#048

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Food Stamp/FITAP/KCSP—Interest Income
Exclusion and Student Status Changes
(LAC 67:III.1229, 1935, 1937, 1979, 1980, and 5329)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III, Subpart 2, Subpart 3, and Subpart 13 effective

June 29, 2006. This declaration is necessary to extend the original Emergency Rule effective January 10, 2006, since it is effective for a maximum of 120 days and will expire on June 28, 2006 before the final Rule takes effect. (The final Rule will be published in the September 2006 issue.)

Pursuant to the authority granted to the department by Louisiana's Temporary Assistance to Needy Families Block Grant, the agency will amend §1229 in the Family Independence Temporary Assistance Program (FITAP) and §5329 in the Kinship Care Subsidy Program to exclude interest and dividends from countable income with the exception of dividends received from a resource-exempt trust fund. Pursuant to P.L. 107-171, The Food Stamp Reauthorization Act of 2002 (also known as the Farm Bill), the agency will amend §1980 in the Food Stamp Program to exclude education assistance received by any household member and the interest and dividend income specified above from countable income. Section 4107 of the Farm Bill gives the state the option to exclude certain types of income that the state agency does not include for TANF purposes. Technical changes are being made to combine and amend §§1935 and 1937 to clarify student eligibility requirements and to change the obsolete term Job Training Partnership Act to Workforce Investment Act in §1979.

Emergency action in this matter is necessary as thousands of Louisiana citizens have suffered extensive damage to their home and/or business property due to Hurricanes Katrina and Rita and have incurred enormous expense. Many will receive insurance settlements that may be invested until property repairs can be completed. The interest or dividend income from these settlements may adversely impact household eligibility for FITAP, KCSP, or Food Stamp benefits, thereby creating imminent peril to public health and welfare. Therefore, it is the agency's intention to remove this barrier to FITAP, KCSP, and Food Stamp eligibility and benefits and exclude these payments from countable income.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 2. Family Independence Temporary Assistance Program

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1229. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. - 18. ...
19. loans;
20. - 29. ...
30. effective March 1, 2006, interest income;
31. effective March 1, 2006, dividend income.

Exception: Dividends received from a resource-exempt trust fund will not be excluded as income.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S.36:474, R.S. 46:231.1.B, R.S. 46:231.2, P.L. 108-447, P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999),

amended LR 26:1342 (June 2000), LR 26:2831 (December 2000) LR 31:2956 (November 2005), LR 32:

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter E. Students

§1935. Student Provisions (Effective March 1, 2006)

A. An individual enrolled at least half-time (as defined by the institution) in an institution of higher education is considered a student. A student is ineligible to receive Food Stamp benefits unless the individual meets at least one of the following conditions:

1. under age 18 or over age 49;
2. physically or mentally unfit;
3. receiving FITAP benefits;
4. employed an average of at least 20 hours per week, and be paid for such employment, or if self-employed, employed for an average of at least 20 hours per week and receives weekly earnings at least equal to the federal minimum hourly wage multiplied by 20 hours;
5. participating in a state or federally financed work-study program during the regular school year;
6. participating in an on-the-job training program;
7. responsible for, and physically providing, the care of a dependent household member who is:
 - a. under age 6; or
 - b. age 6 or over but under age 12 and adequate child care is not available;
8. is a single parent who is a full-time student (as defined by the institution) and who is responsible for, and physically providing, the care of a dependent child under age 12, regardless of the availability of adequate child care;
9. assigned to or placed in an institution of higher education through:
 - a. the work program under Title IV of the Social Security Act, which is the Strategies to Empower People (STEP) Program;
 - b. the Workforce Investment Act of 1998;
 - c. a Food Stamp employment and training program (LaJET);
 - d. a program under section 236 of the Trade Act of 1974; or
 - e. a state or local government employment and training program, as determined appropriate by FNS.

B. An institution of higher education is a:

1. business, technical, trade, or vocational school that normally requires a high school diploma or equivalency certificate (GED) for enrollment in the curriculum; or
2. college or university that offers degree programs regardless of whether a high school diploma or equivalency certificate (GED) is required.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security LR 9:131 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 24:1783 (September 1998), LR 32:

§1937. Student Related Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security LR 12:756 (November 1986), amended LR 13:91 (February 1987),

amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 19:885 (July 1993), LR 19:1436 (November 1993), repealed LR 32:

Subchapter I. Income and Deductions

§1979. Income

A. Earnings to individuals who are participating in on-the-job training programs under the Workforce Investment Act (formerly the Job Training Partnership Act) shall be counted as income. This provision does not apply to household members under 19 years of age who are under the parental control of another adult member.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.9, P. L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:657 (November 1987), amended by the Department of Social Services, Office of Family Support, LR 32:

§1980. Income Exclusions

A. In addition to those income exclusions previously adopted and codified in Chapter 19, Certification of Eligible Households, the following income types will be excluded from countable income for the Food Stamp Program:

1. - 22. ...
 23. loans;
 24. - 39.b. ...
 40. effective March 1, 2006, dividend income.
- Exception: Dividends received from a resource-exempt trust fund will not be excluded as income;
41. effective March 1, 2006, interest income;
 42. effective March 1, 2006, education assistance.

AUTHORITY NOTE: Promulgated in accordance with P.L. 103-66, 7 CFR 273.9(c)(11), P.L. 104-193, P.L. 107-171, P.L. 108-447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 21:188 (February 1995), amended LR 23:82 (January 1997), LR 29:607 (April 2003), LR 31:2956 (November 2005), LR 32:

Subpart 13. Kinship Care Subsidy Program

Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§5329. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. - 18. ...
19. loans;
20. - 28. ...
29. effective March 1, 2006, interest income;
30. effective March 1, 2006, dividend income.

Exception: Dividends received from a resource-exempt trust fund will not be excluded as income.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, P.L. 108-447, P. L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February

2000), amended LR 26:2832 (December 2000), LR 31:2958 (November 2005), LR 32:

Ann Silverberg Williamson
Secretary

0606#050

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF—Alternative to Abortion and Freedom Schools
(LAC 67:III.5549, 5569 and 5583)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt LAC 67:III, Subpart 15, Chapter 55, §5569, Alternatives to Abortion Services Program and §5583, Children's Defense Fund Freedom Schools as new TANF Initiatives and to amend §5549, OCS Child Welfare Programs. This Emergency Rule effective June 1, 2006, will remain in effect for a period of 120 days.

As a result of Act 1 of the 2004 Legislative Session, the agency repealed several TANF Initiatives including Alternatives to Abortion effective September 2004, as funding for the program was no longer available. Pursuant to Act 16 of the 2005 Regular Session of the Louisiana Legislature, the agency is adopting the Children's Defense Fund Freedom Schools and re-establishing Alternatives to Abortion Services Program as funds have once again been appropriated for this initiative. The agency is also amending §5549, OCS Child Welfare Programs to remove reference to Maintenance of Effort funds as monies for this program will now consist of federal funds only.

The authorization for emergency action in this matter is contained in Act 16 of the 2005 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5549. OCS Child Welfare Programs

Effective April 12, 2002

A. OFS shall enter into a Memorandum of Understanding with the Office of Community Services (OCS), the state child welfare agency, for collaboration in identifying and serving children in needy families who are at risk of abuse or neglect. The methods of collaboration include:

A.1. - B. ...

C. Financial eligibility is limited to needy families which include a minor child living with a custodial parent or an adult caretaker relative. A needy family is a family in which any member receives a Family Independence Temporary

Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), or Supplemental Security Income (SSI).

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR:2374 (November 2002), amended LR 31:486 (February 2005), LR 32:

§5569. Alternatives to Abortion Services Program

A. Effective June 1, 2006, the Office of Family Support shall enter into contracts with public agencies, non-profit organizations, or for-profit organizations to provide intervention services including crisis intervention, counseling, mentoring, support services, and pre-natal care information, in addition to information and referrals regarding healthy childbirth, adoption, and parenting to help ensure healthy and full-term pregnancies as an alternative to abortion.

B. These services meet the TANF goals to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives and to encourage the formation and maintenance of two-parent families by providing pregnancy and parenting support to low-income women, their male partners, and families who are experiencing an unplanned pregnancy.

C. Eligibility for services is limited to pregnant women, their male partners, and/or pregnant minors whose family's income is at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:

§5583. Children's Defense Fund Freedom Schools

A. Effective June 1, 2006, the agency shall enter into contracts to create supportive, nurturing, literature-rich environments for children ages 5 to 18 years of age by focusing on literacy, cultural heritage, parental involvement, servant-leadership, and social action. The Freedom Schools program connects the needs of children and their families with the resources of the community.

B. These services meet the TANF goal to prevent and reduce out-of-wedlock pregnancies.

C. Eligibility for services is not limited to needy families.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:

Ann Silverberg Williamson
Secretary

0606#017

Rules

RULE

Department of Agriculture and Forestry Horticulture Commission

Licenses (LAC 7:XXIX.117)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Horticulture Commission, has amended regulations regarding the required standards of practice for the landscape architect license.

The Department of Agriculture and Forestry, Horticulture Commission has amended these rules and regulations for the purpose of amending the landscape architect license requirements.

This Rule is enabled by R.S. 3:3801.

Title 7

AGRICULTURE AND ANIMALS

Part XXIX. Horticulture Commission

Chapter 1. Horticulture

§117. Required Standards of Practice

A. - B.4. ...

5. Continuing Education Requirements

a. Compliance with these continuing education requirements is necessary for a landscape architect, ("licensee"), to maintain a landscape architect license in this state.

b. The commission shall administer the continuing education requirements through a standing continuing education committee consisting of not more than two staff members and at least three licensed Louisiana landscape architects elected by mail ballot. The landscape architects on the committee will each serve a term of two years. The call for nominations and balloting for committee service will be conducted concurrent with annual balloting for members of the Louisiana Landscape Architects Selection Board.

c. A licensee shall attend, or complete an approved substitute for attendance, a minimum of 8 credit hours of continuing education within each calendar year. If more than 8 credit hours are obtained during a calendar year, a licensee may carry over a maximum of 4 credit hours from one calendar year to the next. Any credit hours carried over into a following calendar year shall apply to that year only and may not be carried forward into subsequent years. A credit hour must contain at least 50 minutes of actual instruction or education.

d. Activities that may be approved for continuing education credits must contain instructional or educational components. Such activities include annual professional meetings, lectures, seminars, workshops, conferences, university or college courses, in-house training, and self directed activities. The commission's staff shall make the initial determination as to whether an activity qualifies for continuing education credit. If the commission's staff determines that an activity may not qualify, that activity request will be automatically forwarded to the continuing

education committee for review and the committee's determination. Any licensee or other applicant for approval of an activity may appeal any committee rejection of an activity for continuing education credit to the commission. However, the commission retains the right to review and approve or disapprove any activity as a qualifying continuing education activity and the number of credit hours arising from such activity, even if there is no appeal. Any appeal from any decision of the commission shall be taken in accordance with the Administrative Procedure Act, (R.S. 49:950 et seq.).

e. A licensee shall keep all records showing attendance, or completions of an approved substitute for attendance, at continuing education activities for three years following the year in which attendance or completion was done.

f. Each licensee shall annually submit a written certification signed by the licensee that the licensee has, during that calendar year, attended, or completed an approved substitute for attendance, the number of credit hours stated in the certification. If credit hours carried over from the previous year are being used as a substitute for attendance then the certification shall state the number of carried over credit hours that are being used. The certifications shall be attached to the licensee's annual license renewal application. Any renewal application received without this certification shall not be processed for license renewal and the license fees submitted with the application shall be refunded to the licensee.

g. The commission shall cause an annual audit of licensees to be conducted. Licensees shall be selected for audit either by cross-section of licensees or by random audit. The provisions of this subsection notwithstanding, an investigation of a licensee for possible violation of these continuing education requirements may be conducted if there is reason to believe that a violation may have occurred. Licensees selected for audit will be required to provide documented proof of their having obtained the continuing education credits for the year being audited. A licensee's failure to provide documented proof of having attended, or completed an approved substitute for attendance, for each credit hours certified for the year being audited shall be a violation of this Part. In the event that a licensee provides documented proof of having attended, or undertaken an approved substitute for attendance, any credit hour certified for the year being audited and such credit hour is disallowed then the licensee shall have six months from date of notification of the disallowance to attend, or complete an approved substitute for attendance, a sufficient number of approved credit hours to make up for the disallowed credits. The credit hours attended to make up for any disallowed credit hours shall not count toward the minimum credit hours needed for any other year. Failure to timely make up for the disallowed credit hours shall be deemed a violation of this Part. An appeal from a disallowance of any credit hour may be taken as provided in Subparagraph d.

h. A licensee may submit a written request for an approved substitute for attendance or for a hardship exemption or extension of time in which to obtain the minimum credit hours for the year in which the request is made. The licensee must detail the reason for the request, such as the benefit of any substitution, any physical disability, illness, or extenuating circumstance, and a specification of the requested substitute for attendance, including number of credit hours, course of study, etc. The licensee must also provide any additional information asked for in consideration of the request.

C. - I.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3808 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:1832 (November 2001), LR 32:1010 (June 2006).

Bob Odom
Commissioner

0606#014

RULE

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences Advisory Commission on Pesticides

Commercial Applicators Certification (LAC 7:XXIII.125)

Editor's Note: This Rule is being repromulgated to correct errors in codification. The original Rule may be viewed on page 794 of the May 20, 2006 edition of the *Louisiana Register*.

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, adopts an existing regulation clarifying which commercial applicators may engage in antimicrobial pest control using restricted use pesticides. Confusion has arisen as to whether pest control operators licensed by the Structural Pest Control Commission are commercial applicators who may engage in antimicrobial pest control. The department has determined that these Rules are necessary to alleviate the confusion and to ensure that there are sufficient licensed commercial applicators to help reduce the health risk to the citizens of this state. The presence of adequate numbers of commercial applicators, including pest control operators, licensed by this state will help ensure that citizens requiring antimicrobial pest control will receive such services from reputable persons answerable to a state regulatory body. The presence of licensed commercial applicators will also help reduce the risk of Louisiana citizens being "ripped off" by sham operators, thereby reducing further economic loss to citizens who can least afford further economic loss.

This Rule complies with and is enabled by R.S. 3:3203.

Title 7 AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 1. Advisory Commission on Pesticides

Subchapter F. Certification

§125. Certification of Commercial Applicators

A. - B.2.h.iv. ...

v. Antimicrobial Pest Control (Subcategory 8e).

This Subcategory is for commercial applicators, including those in Subcategory 7(a) found at LAC 7:XXIII.125.B.2.g.i, engaged in antimicrobial pest control using restricted use pesticides.

B.2.h.vi. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:324.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:179 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18:953 (September 1992), LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998), LR 28:39 (January 2002), LR 32:794 (May 2006), LR 32:1011 (June 2006).

Bob Odom
Commissioner

0606#008

RULE

Department of Agriculture and Forestry Office of the Commissioner

Meat and Poultry Inspections (LAC 7:XXXIII.Chapter 1)

The Commissioner of the Department of Agriculture and Forestry has amended regulations regarding the Meat and Poultry Inspection Program, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The changes remove all references to the word *permit* and replace such references with the word *license*, and remove references to "USDA Handbook 191." The Rule change is a general cleanup of the existing Rules which corrects citation errors, redundancy and replaces references to Title 40 with Title 3.

This Rule is enabled by R.S. 3:4232.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIII. Meat and Poultry Inspections

Chapter 1. Meat and Poultry Inspection Program

§101. Applicability of Federal Laws and Regulations

A. Notwithstanding any other provision of this Chapter to the contrary no provision of any regulation in this Chapter shall exempt any person subject to the Louisiana Meat and Poultry Inspection Law, (R.S. 3:4201 et seq.), or participating in the Louisiana Cooperative Federal/State Meat and Poultry Inspections Program from any applicable

federal law or regulation, including but not limited to the following:

1. the Federal Food, Drug, and Cosmetic Act, (21 U.S.C. §301 et seq.), and regulations promulgated in the Code of Federal Regulations pursuant to the Act;

2. the Federal Meat Inspection Act, (21 U. S. C. §601 et seq.), and regulations promulgated in the Code of Federal Regulations pursuant to the Act;

3. the Federal Poultry Products Inspection Act, (21 U.S.C. §451 et seq.), and regulations promulgated in the Code of Federal Regulations pursuant to the Act;

4. the Federal Humane Methods of Livestock Slaughter Act, (7 U.S.C. §1901 et seq.) and regulations promulgated in the Code of Federal Regulations pursuant to the Act.

B. In respect to intrastate operations and commerce, notwithstanding any other provision of this Chapter to the contrary, no provision of any regulation in this Chapter shall be construed or interpreted as imposing, or requiring the enforcement of, any standards that are less than those imposed and enforced under the Federal Meat Inspection Act and the Federal Poultry Products Inspections Act and regulations promulgated pursuant to those Acts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:708 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 30:196 (February 2004), LR 32:1011 (June 2006).

§103. Definitions

A. As used in this Chapter, the words and terms defined in R.S. 3:4201 and the following words and terms shall have the meanings given to them except where the context expressly indicates otherwise.

Combination Custom Slaughterer and Processor—a person which provides both slaughter and processing services solely for the owners of animals.

Commissioner—Commissioner of Agriculture and Forestry.

Custom Processor—any person which prepares, processes, and/or transports intrastate the meat of animals slaughtered for the owners of such animals.

Custom Slaughterer—any person which offers to the public the service of slaughtering cattle, sheep, poultry, swine, goats, horses, mules or other equines for the owners thereof.

Department—the Louisiana Department of Agriculture and Forestry, Office of Animal Health Services, Division of Meat and Poultry Inspection, Grading and Certification.

Establishment—each place of business of a licensee, registrant, or a person whose business is subject to inspection.

Meat Jobber—a person engaged in the business of buying or selling carcasses, parts of carcasses, meat or meat food products of cattle, sheep, poultry, swine, goats, horses, mules or other equines at the wholesale level, but who does not subsequently change the form of the product in any manner.

Meat Processor—any person engaged in the business of buying or selling carcasses, parts of carcasses, meat or meat food products of cattle, sheep, poultry, swine, goats, horses or other equines at the wholesale level; who receives the

product in tact, and who changes the form of the product before shipping out again.

Normal Retail Quantities—sales to a single customer not exceeding the amounts shown below (see also 9 CFR 303.1.d.2.ii, Federal Meat and Poultry Inspection Regulations):

- a. cattle, 300 pounds;
- b. calves, 37.5 pounds;
- c. sheep, 27.5 pounds;
- d. swine, 100 pounds;
- e. goats, 25 pounds.

Person—an individual, company, corporation limited liability company, or firm as defined in R.S. 3:4201(2) and any other legal entity or other form of organization.

Prepared—slaughtered, canned, salted, rendered, boned, cut up or otherwise manufactured or processed.

Primal Cut—the first or main cut.

Restaurant—any place of business:

a. where products are prepared solely for sale or service, as meals or entrees, directly to individual consumers at such establishments; and

b. where only federally or state inspected and passed products or products prepared in a retail store or outlet are used.

Retail Outlet—any place of business operated in the traditional or usual manner of operation or a retail store, with sales across-the-counter only in normal retail quantities. The term *retail outlet* applies solely to businesses with a single location.

Traditional or Usual Manner of Operation—

a. cutting up, slicing and trimming carcasses, halves, quarters or wholesale cuts into retail cuts such as steaks, chops and roasts, and freezing such cuts;

b. grinding and freezing products made from meat;

c. curing, cooking, smoking, rendering or refining of livestock fat or other preparation of products, except slaughtering or retort processing of canned products;

d. breaking bulk shipments of products;

e. wrapping or re-wrapping of products.

USDA—the United States Department of Agriculture.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:709 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1012 (June 2006).

§105. Persons Required to Register

A. The following persons shall register with the department prior to conducting intrastate operations and commerce:

1. meat brokers, renderers and animal food manufacturers;

2. wholesalers of any carcasses or parts of carcasses of any cattle, sheep, poultry, swine, goats, horses, mules or other equines, whether the product is intended for human consumption or not;

3. public warehousemen who store carcasses or parts of carcasses of any cattle, sheep, poultry, swine, goats, horses, mules or other equines;

4. buyers, sellers, and transporters of any dead, dying, disabled or diseased animals or parts of carcasses of such animals;

5. meat brokers;

6. meat jobbers;
7. meat processors;
8. slaughters, including custom slaughters;
9. processors, including custom processors;
10. combination custom slaughterers and processors;
11. educational programs where carcasses or parts of carcasses are slaughtered, processed, or both;
12. any combination of the above.

B. All persons entering into any of the business activities listed in Subsection A shall apply for registration prior to engaging in such business. All persons shall be registered by category as shown in Subsection A above.

C. All registrants shall pay an initial registration fee of \$25 for each establishment at the time of application to cover the costs of processing of registrations and issuance of certificates of registration.

D. All persons must submit the following information in their applications for registration:

1. names and addresses of each establishment or place of business;
2. names and addresses of owner(s) and principal stockholder(s) and/ or names and addresses of members of boards of directors;
3. all trade names under which the person, firm, association, corporation or educational program conducts business.

E. All registrations must be renewed on or before April 1 of each year. The fee for renewal of registrations shall be the same as for the initial registration.

F. Each registrant shall receive a certificate of registration within 30 days after the application for registration is filed with the department if the registrant is in full compliance with applicable federal and state laws and regulations regarding slaughtering, processing, inspecting, packaging, handling, and transportation meat and poultry.

G. Penalties for failure to register or to annually renew a registration if the establishment is still in operation shall be assessed in accordance with R.S. 3:4233.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:709 (December 1980), amended LR 11:247 (March 1985) amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1012 (June 2006).

§107. Licenses for Establishments Coming under Inspection

A. All persons operating a slaughtering, processing, or combination slaughtering/processing establishment, or as a custom slaughterer, custom processor or a combination custom slaughterer and processor shall obtain a license from the department for each establishment prior to conducting intrastate operations or commerce.

B. All applications for licenses shall consist of a completed Form 401 submitted to the department at 5825 Florida Boulevard, Baton Rouge, LA 70806. Form AHS-09-54 is available on request from the department.

C. A license number shall be assigned to each establishment upon the department's approval of the application. The license shall be issued to the establishment within 30 days of final approval, in one of the following categories:

1. slaughter;
2. processing;
3. custom;
4. any combination of Paragraphs 1, 2 or 3 above.

D. All establishments receiving licenses shall display the license at a prominent location in the establishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:710 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1013 (June 2006).

§109. Change of Ownership of Licensed Establishments

A. Whenever the ownership or operation of a licensed establishment changes, the new owner or operator must submit an application for a license to the department at least 30 days prior to the date the change in ownership or operation is to take place.

B. Within 30 days of change of ownership or operation, the new owner or operator shall submit to the department a certified copy of the act of sale, lease agreement or other legal document showing change of ownership or operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:710 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1013 (June 2006).

§111. Exemption

A. No person or establishment shall be exempt, under the Louisiana Meat and Poultry Inspection Law, from the inspections of the slaughter of animals and the preparation of the carcasses, parts thereof, meat and meat food products at establishments conducting such operations except as provided in R.S. 3:4215 and 4216.

B. Establishment at which the slaughter of animals and the preparation of the carcasses, parts thereof, meat, poultry, and meat and poultry food products are exempt from inspection under R.S. 3:4215 and 4216 shall conduct slaughtering and processing operations under the same sanitary standards as are required of slaughter and processing establishments that engage in interstate operations or commerce.

C. No retail store, restaurant, or similar retail type establishment shall qualify for any exemption provided for in R.S. 3:4215 and 4216 unless the establishment otherwise qualifies as a retail store or restaurant under The Federal Meat Inspection Act and regulations promulgated pursuant to the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:710 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1013 (June 2006).

§113. Removal of Inspection Services

A. An assigned inspector may, upon proper justification, withhold inspection services for an inspected plant for a period not to exceed six hours, but may not withhold inspection services for a period longer than six hours. If for any reason the assigned inspector leaves the plant during the period when inspection services are withheld, he shall be

available to the plant within one hour of notification of correction of the situation justifying the withholding of inspection services.

B. An area supervisor may, upon proper justification, withhold inspection services for a period not to exceed a total of 12 hours from the time when inspection services were first withheld.

C. The state office of the meat and poultry inspection program may withhold inspection services for an indefinite period of time upon proper justification.

D. An informal public hearing shall be held on the next working day following the initial withholding of inspection services upon the request of the establishment.

E. Inspection services may not be permanently withdrawn by the department except following a public hearing on the matter conducted in accordance with §121 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1013 (June 2006).

§115. Inspection Brands; Hot Brands; Replacement Brands

A. The department shall furnish an appropriate number of inspection brands to the establishment upon initial approval for inspection.

B. The establishment shall furnish the required number of hot brands and the number provided shall be provided to the department.

C. The establishment shall notify the assigned inspector when replacement brands are needed, providing the following information to the assigned inspector:

1. the name and address of the brand manufacturer preferred by the establishment; and
2. the number and kind of brands needed.

D. Upon receipt of the information required in §121.C, the inspector shall immediately notify the state office, which shall place the official order with instructions for the brands to be shipped direct to the establishment.

E. Upon receipt of the replacement brands, the establishment must deliver all unserviceable brands to the assigned inspector for transmittal to the department for destruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980) amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1014 (June 2006).

§117. Stamping of Carcasses

A. All beef, calf and veal carcasses must be stamped with not less than two stamps per side. At least one stamp shall be affixed, on each side, in each of the numbered portions illustrated in Figure 7 in Appendices (§137.A and §139) attached immediately following.

B. All swine carcasses must be stamped with not less than two stamps per side. At least one stamp shall be affixed, on each side, in each of the numbered portions illustrated in Figure 8 in Appendices (§141).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Certification, LR 32:1014 (June 2006).

§119. Inspection upon Movement of Meat and Meat Products

A. All carcasses, parts of carcasses, meat and meat products brought into any slaughtering, meat canning, salting, packing, rendering or similar establishment must originate from an establishment under inspection.

B. All carcasses, parts of carcasses, meat or meat products which are inspected and passed at any slaughtering, meat canning, salting, packing, rendering or similar establishment before movement there from, which is later returned to the same establishment, must be re-inspected upon return before further treatment or processing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1014 (June 2006).

§121. Appeals from Decisions of the Cooperative Federal/State Meat and Poultry Inspection Program

A. Any person owning or operating an establishment that is subject to inspection or these rules and regulations may appeal any dispute of any decision made by an inspector in accordance with the procedures set forth in this rule.

B. If the person disputes the methods used by any inspector in the program, such person shall first make his objections known to the inspector.

C. If the person objecting and the inspector cannot resolve the dispute, the person objecting shall immediately notify the area supervisor of the dispute and the basis for the dispute.

D. If the dispute cannot be resolved by conference with the area supervisor, the person objecting shall then notify the department's program manager of the meat and poultry inspection program within three business days after the conference. Such notification may be verbal but shall be confirmed in writing within three days after the verbal notification.

E. If the person objecting and the program manager cannot resolve the dispute the person objecting may petition the commissioner, in writing, for a resolution of the dispute within three business days after the program manager makes his decision.

F. The commissioner may appoint a designee who does not work in the meat and poultry inspection program mediate the dispute. If the mediation is unsuccessful or the commissioner determines that a public hearing is necessary to resolve the dispute then the commissioner may set a public hearing to resolve the dispute. Any public hearing shall be conducted in accordance with the Administrative Procedure Act.

G. No license shall be suspended or revoked from any establishment without a full hearing on the matter in accordance with R.S. 3:4233 and the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1014 (June 2006).

§123. Taking of Blood Samples

A. A slaughter establishment under inspection shall be responsible for the identification of animals and the maintenance of records as provided in this rule.

B. Any cattle that are not officially backtagged upon receipt shall be identified by an official backtag, properly placed.

C. The name and address of the consignor and the name and address of the owner of the herd of origin, if different from the consignor, shall be recorded on forms provided by the department, the original of which shall be transmitted to the department and the copy of which shall be maintained in the establishment's files.

D. The assigned inspector shall take a blood sample from all cattle received at the establishment.

E. The assigned inspector shall be responsible for collection and identification of all blood samples, and for packaging and transmission of blood samples, corresponding backtags and forms to the diagnostic laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:713 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1015 (June 2006).

§125. Overtime and Holiday Inspection Service

A. The Department of Agriculture and Forestry shall perform inspection services for official establishments, without charge, up to a 40 hours workweek Monday through Friday.

B. The department shall charge to and be reimbursed by official establishments an hourly overtime rate per department employee providing overtime inspection services to the official establishment. The overtime periods and rate per period are as follows:

1. \$25 per hour for inspection services provided for more than 40 hours in any workweek Monday through Friday;

2. \$30 per hour for inspection services provided on a Saturday or Sunday that is not otherwise a legal holiday established by R.S. 1:55;

3. \$35 per hour for inspection services provided on days of public rest and legal holidays, other than Saturdays and Sundays, observed by the departments of the state in accordance with R.S. 1:55;

4. overtime inspection services shall be billed at a minimum of two hours at the appropriate rate. Time spent providing inspection services in excess of two hours shall be billed in increments of quarter hours, with the time being rounded up to the next quarter hour.

C. Bills are payable upon receipt and become delinquent 30 days from the date of the bill. Overtime inspections will not be performed for official establishments having a delinquent account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:247 (March 1985), amended by the Department

of Agriculture and Forestry, Office of the Commissioner, LR 31:1055 (May 2005), LR 32:1015 (June 2006).

Bob Odom
Commissioner

0606#013

RULE

**Department of Agriculture and Forestry
Structural Pest Control Commission**

Termite Control Licensing
(LAC 7:XXV.101, 107, 113, 115 and 121)

Editor's Note: This Rule is being repromulgated to correct errors in codification. The original Rule may be viewed on pages 796-797 of the May 20, 2006 edition of the *Louisiana Register*.

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, adopts regulations combining the license phases of Termite Control and Wood Destroying Insect Report Inspector, creating a phase for certified technicians, definition of terms and adding to the requirements of obtaining a termite control license.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to insure that those persons with a Termite Control License and certified technicians can properly treat and inspect for termites. This Rule allows the department to better regulate the pest control industry by insuring that they are better trained to conduct wood destroying insect inspections.

This Rule complies with and is enabled by R.S. 3:3203.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§101. Definitions

License—a document issued by the commission which authorizes the practice and/or supervision of one or more phases of structural pest control work as follows.

1. *General Pest Control*—the application of remedial or preventive measures to control, prevent or eradicate household pests by use of pesticides used as sprays, dusts, aerosols, thermal fogs, barriers, traps and baits. Residential rodent control will be limited to the use of anticoagulant rodenticide and traps.

2. *Commercial Vertebrate Control*—the application of remedial or preventive measures to control, prevent or eradicate vertebrates, including baits, chemicals, barriers, gases and traps, in nonresidential establishments, but not including tarpaulin fumigation.

3. *Termite Control*—the application of remedial or preventive measures for the control, prevention or eradication of termites and other wood-destroying insects and the inspection of structures for wood-destroying insects.

4. *Fumigation*—the use of lethal gases and/or rodenticides in a gaseous form for the control, prevention or

eradication of insect pests, rodents, or other pests in a sealed enclosure with or without a tarpaulin.

* * *

Wood Destroying Insect—subterranean termites, drywood termites, powder post beetles, old house borers, carpenter ants, and carpenter bees.

Wood Destroying Insect Report—any document approved by the Structural Pest Control Commission issued by a pest control operator which pertains to wood-destroying insects, but not including a bid, a proposal or a contract for any structural pest control services.

Wood-Destroying Organisms—repealed.

Wood-Infestation Report—repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3362 and R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission LR 15:954 (November 1989), 17:251 (March 1991), LR 23:855 (July 1997), LR 30:1143 (June 2004), LR 31:26 (January 2005), LR 32:796 (May 2006), LR 32:1015 (June 2006).

§107. License to Engage in Structural Pest Control Work Required; Qualifications of Applicant; Requirements for Licensure; Phases of Structural Pest Control License; Conditions of the License

A. No person may perform structural pest control work of any kind, or advertise to provide structural pest control services, until licensed to do so by the commission.

B. Each applicant for license must possess one of the following qualifications in order to take the examination(s).

1. General Pest Control, Commercial Vertebrate Control and Fumigation:

a. a degree from an accredited four-year college or university with a major in entomology; or

b. a degree from an accredited four-year college or university with at least 12 semester hours or the equivalent in quarter hours of course work in entomology and at least one year of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination; or

c. four years of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination; or

d. four years of experience as a technician under the supervision of a structural pest control operator in another state in the licensee phase for which the individual desires to take the examinations. Experience with an out-of-state structural pest control operator shall be substantiated by evidence acceptable to the commission.

2. Termite Control:

a. a degree from an accredited four-year college or university with a major in entomology and complete a commission approved comprehensive termite program; or

b. a degree from an accredited four-year college or university with at least 12 semester hours or the equivalent in quarter hours of course work in entomology and at least one year of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination and complete a Commission approved comprehensive termite program; or

c. four years of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination and complete a commission approved comprehensive termite program; or

d. four years of experience as a technician under the supervision of a structural pest control operator in another state in the licensee phase for which the individual desires to take the examinations and complete a commission approved comprehensive termite program. Experience with an out-of-state structural pest control operator shall be substantiated by evidence acceptable to the commission.

C. - H. ...

I. All applicants who are approved by the commission will, upon successfully completing the examination for licensure as set forth in §109 hereof, receive a single license to engage in structural pest control work, which license shall specify on the face thereof the specific phase or phases of structural pest control work for which the license is issued, as follows:

1. general pest control;
2. commercial vertebrate control;
3. termite control;
4. structural fumigation;
5. ship fumigation;
6. commodity fumigation.

J. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3308 and R.S. 3:3306 (redesignated R.S. 3:3366 and 3:3368).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:326 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:955 (November 1989), LR 19:1009 (August 1993), LR 23:855 (July 1997), LR 23:1493 (November 1997), LR 32:796 (May 2006), LR 32:1016 (June 2006).

§113. Registration of Employees; Duties of Licensee and Registered Employee with Respect to Registration

A. Each licensee must register every employee under his supervision with the commission within 30 days after the commencement of the employee's employment and shall test as required by R.S. 3:3369.H.

B. - Q.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 32:797 (May 2006), LR 32:1016 (June 2006).

§115. Certified WDIR Technician

A. Requirements of a Certified WDIR technician, prior to conducting WDIR inspections, are as follows:

1. shall be registered as a termite technician, and
2. complete department approved WDIR training, and
3. pass WDIR technician test with a score of 70 or greater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:855 (July 1997), amended LR 32:797 (May 2006), LR 32:1016 (June 2006).

§121. Wood Destroying Insect Report

A. A wood infestation report approved by the Structural Pest Control Commission shall be issued when any inspection is made to determine the presence of wood destroying insects, specifically for acts of sale of structures, but not limited for this purpose.

B. Any wood infestation report or written instrument issued for the transfer of real property shall be issued by a person who is licensed by the Structural Pest Control Commission in Termite Control or certified WDIR technician, and is working under the supervision of a person who is licensed by the Structural Pest Control Commission in Termite Control. This instrument shall carry a guarantee that the property will be treated without charge should live wood destroying insects with the exception, the presence of frass will be acceptable as evidence of a live infestation of Power Post Beetles; however, frass must be exuding or streaming from the holes on the outside of the wood, covered by this report, and be found within 90 days from date of inspection.

B.1. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:856 (July 1997), LR 24:631 (April 1998), LR 25:235 (February 1999), LR 25:829 (May 1999), LR 31:26 (January 2005), LR 32:197 (May 2006), LR 32:1017 (June 2006).

Bob Odom
Commissioner

0606#011

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School,
District, and State Accountability System
(LAC 28:LXXXIII.Chapters 3, 4, 5, 6, 7,
14, 15, 17, 21, 24, 35, 41, 43, and 45)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC 28:LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's Accountability System is an evolving system with different components.

The changes define/outline/clarify the following: school performance score goals; calculating the SPS component; incentive points; calculating a K-8 assessment index; calculating a 9-12 assessment index; state assessments and accountability; pairing/sharing of schools with insufficient test data; inclusion of schools; growth targets; defining a graduation index; determining a cohort for a graduation index; documenting a graduation index; calculating a graduation index; subgroup component indicators; safe

harbor; calculating a graduation rate; failing the subgroup component; levels of academic assistance; levels of school improvement; entry into school improvement; exit from school improvement; school improvement requirements and state support at each level; recovery school district; inclusion of alternative education students; option considerations; valid data considerations; NRT and CRT data; attendance and dropout/exit data; and subgroup component adequate yearly progress. Chapter 45, Disaster Consideration for School and District Accountability, is a proposed amendment to existing policy. It is designed to address the impacts of Hurricane Katrina and Rita and other disaster scenarios that may occur.

**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. ...
B. Through 2005, the school performance score shall be determined using a weighted composite index derived from; three or four indicators: criterion-referenced tests (CRT), norm-referenced tests (NRT), student attendance for grades K-12, dropout rates for grades 7-12.

Through 2005, K-12 Indicators and Weighting	
CRT (60% K-12)	Grades 4, 8, 10, 11
NRT (30% K-12)	Grades 3, 5, 6, 7, 9
Attendance (10% K-6; 5% 7-12)	Grades K-12
Dropout Rate (5% 7-12)	Grades 7-12

1. In 2005-2006, the NRT (Iowa) tests administered in grades 3, 5, 6, 7, and 9 will be replaced with the iLEAP tests. Changes in SPS calculations are described below (Paragraph H.4).

2. In 2006-2007, the attendance and dropout rate calculations for grades 9-12 will end. A Graduation Index will replace these indicators in schools with a 12th grade as described below (Paragraph I.6).

C. - D. ...
E. Beginning in 2004, preliminary accountability results issued each summer shall include both preliminary school performance scores and subgroup component analyses for those schools on the academic watch list, or in School Improvement 2 or higher, or who have failed the subgroup component the prior year. Beginning in 2007, preliminary accountability results each summer shall include any schools determined to be entering into or remaining in School Improvement 2 or higher, exiting School Improvement 2 or higher, and who have failed the Subgroup Component the prior year. Final accountability results shall be issued during the fall semester of each year.

1. Preliminary accountability results shall not be released in the summer of 2006.

a. School Improvement status from the fall release of the 2005 final accountability results shall continue to apply through the first semester of academic year 2006-2007.

b. Schools identified as entering SI2 at the release of the 2006 final accountability results must offer school choice or Supplemental Educational Services beginning in

January and continuing for the remainder of the academic year.

F. In the fall of 2004, schools shall receive two SPS:

1. a Growth SPS, which shall consist of the CRT, NRT, and LAA data from the prior school year and the attendance and/or dropout data from the school year two years prior (example: fall 2004 Growth SPS will include spring 2004 CRT, NRT and LAA data and 2002-2003 attendance and/or dropout data):

a. the Growth SPS shall be used to determine growth labels, rewards status and academic assistance status for the SPS component;

b. beginning in 2006, LEAP Alternate Assessment (LAA) will consist of Levels 1 and 2 (LAA 1 and LAA 2). LAA 2 will be administered in grades 4, 8, and 10 in ELA and math and grade 11 in science and social studies in 2006. Additionally, LAA 2 will be administered in grades 5, 6, 7, and 9 in ELA and math in 2007. LAA 2 will be fully implemented with science and social studies added to grades 4-8 in 2008;

2. a Baseline SPS, which shall consist of the two prior school years' CRT, NRT, and LAA data and attendance and/or dropout data from two years' prior to the most recent assessment results (Example: fall 2004 Baseline SPS will include spring 2003 and 2004 CRT, NRT, and LAA data and 2001-02 and 2002-03 attendance and/or dropout data):

a. the Baseline SPS shall be used to determine performance labels and academically unacceptable schools;

b. beginning in 2006, LEAP Alternate Assessment will consist of two levels as described above in Subparagraph F.1.b.

G. In the fall of 2005, schools shall receive three SPS.

1. Two will be those described above (Paragraphs F.1 and 2).

2. Schools will also receive a Transition Baseline SPS which will determine the Growth Target for 2006.

3. The 2005 Transition Baseline SPS will consist of the following indicators and weighting with the test data collected in spring 2004 and 2005, and attendance and dropout data collected in academic years 2002-2003 and 2003-2004.

2005 Transition Baseline SPS K-12 Indicators and Weighting	
LEAP/GEE, LAA (90% K-12)	Grades 4, 8, 10, 11
Attendance (10% K-6; 5% 7-12)	Grades K-12
Dropout Rate (5% 7-12)	Grades 7-12

H. In the fall of 2006, schools will receive two SPS.

1. The Growth SPS will determine Growth Labels, rewards status, and academic assistance status for the SPS component.

2. The Growth SPS will consist of the indicators and weighting in the table above (Paragraph G.3), with the test data collected in spring 2006, and attendance and dropout data collected in the academic year 2004-2005.

3. The Baseline SPS will determine Performance Labels and Academically Unacceptable schools.

a. Schools that were not labeled Academically Unacceptable in 2005 and that have a 2006 Baseline SPS of less than 60, shall be labeled Academically Unacceptable in 2006 but shall have SI status waived.

4. The Baseline SPS will consist of the indicators and weighting in the table below, with the test data collected in spring 2006 and attendance and dropout data collected in academic years 2003-2004 and 2004-2005.

2006 Baseline SPS K-12 Indicators and Weighting	
LEAP/GEE, iLEAP, LAA-1 and 2 (90% K-12)	Grades 3-11
Attendance (10% K-6; 5% 7-12)	Grades K-12
Dropout Rate (5% 7-12)	Grades 7-12

I. In the fall of 2007, schools will receive two SPS.

1. The Growth SPS will determine Growth Labels, rewards status and academic assistance status for the SPS component.

2. The Growth SPS will consist of the indicators and weighting in the table above, with the test data collected in spring 2007, and attendance and dropout data collected in the academic year 2005-2006.

3. The Baseline SPS will determine Performance Labels and Academically Unacceptable schools.

4. For K-8 schools in 2007, the Baseline SPS will consist of the indicators and weighting in the table below, with the test data collected in spring 2006 and 2007, and attendance and dropout data collected in the academic years 2003-2004 and 2004-2005.

2007 (and beyond) Baseline SPS K-8 Indicators and Weighting	
LEAP, iLEAP, LAA-1 and 2 (90% K-8)	Grades 3-8
Attendance (10% K-6; 5% 7-8)	Grades K-8
Dropout Rate (5% 7-8)	Grades 7-8

5. For 9-12 schools in 2007, the Baseline SPS will determine Performance Labels and Academically Unacceptable schools.

a. 9-12 schools that were not labeled Academically Unacceptable in 2006 and whose 2007 baseline SPS are below 60, are labeled Academically Unacceptable in 2007, but if their 2007 Growth SPS are 60 or greater shall have SI requirements waived.

6. For 9-12 schools in 2007, the Baseline SPS will consist of the indicators and weighting in the table below, with the test data collected in spring 2006 and 2007, and graduation data collected in the academic year 2005-2006.

2007 (and beyond) Baseline SPS 9-12 Indicators and Weighting	
LEAP, iLEAP, LAA-1 and 2 (70%)	Grades 9-11
Cohort Graduation Index (30%)	Grade 12

J. In 2008 and beyond, schools will continue to receive two SPS.

1. A Growth SPS will be calculated using the indicators and weighting from the tables above (Paragraphs I.4 and I.6).

2. The Growth SPS will continue to determine Growth Labels, rewards status and academic assistance status for the SPS component.

a. The Growth SPS will include test data from the most recent spring administration (in the prior academic year) and attendance/dropout or graduation data from two years prior.

3. A Baseline SPS will continue to determine Performance Labels and Academically Unacceptable schools.

4. The indicators and weighting for both SPS will consist of that used for the 2007 Baseline SPS.

a. The Baseline SPS will include test data from the two most recent spring administrations and attendance/dropout or graduation data from two and three years prior.

K. 2005-2006 K-8 Transitions

2005-2006 K-8 Transitions			
2005			
	Years of Data	Indicators/Weights	Generates
Growth SPS	2005	LEAP (60%), Iowa (30%), Attendance (5%), Drop (5%)	Growth Label, Rewards for 2005
Baseline SPS	2004 & 2005	LEAP (60%), Iowa (30%), Attendance (5%), Drop (5%)	Performance Label, SI Status, SPS AYP
Transition Baseline SPS	2004 & 2005	LEAP (90%), Attendance (5%), Drop (5%)	Growth Target, Growth Goal for 2006
2006			
	Years of Data	Indicators/Weights	Generates
Growth SPS	2006	LEAP (90%), Attendance (5%), Drop (5%)	Growth Label, Rewards for 2006
Baseline SPS	2006	LEAP/iLEAP (90%), Attendance (5%), Drop (5%)	Performance Label, SI Status (refer to H.3.a. above), SPS AYP, Growth Target and Goal for 2007

L. 2005-2007 High School Transition

2005-2007 High School Transition			
2005			
	Years of Data	Indicators/Weights	Generates
Growth SPS	2005	GEE (60%), Iowa (30%), Attendance (5%), Drop (5%)	Growth Label, Rewards for 2005
Baseline SPS	2004 & 2005	GEE (60%), Iowa (30%), Attendance (5%), Drop (5%)	Performance Label, SI Status, SPS AYP for 2005
Transition Baseline SPS	2004 & 2005	GEE (90%), Attendance (5%), Drop (5%)	Growth Target, Growth Goal for 2006
2006			
	Years of Data	Indicators/Weights	Generates
Growth SPS	2006	GEE (90%), Attendance (5%), Drop (5%)	Growth Label, Rewards for 2006
Baseline SPS	2006	GEE/iLEAP (90%), Attendance (5%), Drop (5%)	Performance Label, SI Status refer to H.3.a. above), SPS AYP for 2006; Growth Target and Goal for 2007
2007			
	Years of Data	Indicators/Weights	Generates
Growth SPS	2007	GEE/iLEAP (90%), Attendance (5%), Drop (5%)	Growth Label, Rewards for 2007
Baseline SPS	2007	GEE/iLEAP (70%), Graduation Index (30%)	Performance Label, SI Status, SPS AYP for 2007; Growth Target and Goal for 2008 (refer to I.5.a. above)

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).

§303. Calculating the SPS Component

A. ...

B. Formula for Calculating an SPS [K-6] (Academic Year 2004/2005)

The SPS for a K-6 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example:
 $[(66.0 * 60\%) + (75.0 * 30\%) + (50.0 * 10\%)] = 67.1$

Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
			SPS = 67.1

C. The 2005 Transition Baseline SPS and the 2006 Growth SPS will be calculated for all schools using a 90 percent weight for the CRT

D. Beginning in 2006, the K-6 Baseline SPS will be calculated using the following formula. Beginning in 2007, both Baseline and Growth SPS will use this formula.

The SPS for a K-6 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example:
 $[(87.8 * 90\%) + (110.9 * 10\%)] = 90.1$

Indicator	Index Value	Weight	Indicator Score
Assessment Index (Grades 3-6)	87.8	90%	79.0
Attendance (K-6)	110.9	10%	11.1
			SPS = 90.1

1. Any K-6 school with at least one grade that is assessed (3-6) will receive an SPS based only on its own student data.

2. Any configuration that has no assessed grades will be paired/shared as described in §521.

E. Formula for Calculating an SPS [K-8] (Academic Year 2004/2005)

The SPS for a K-8 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example:
 $[(71.2 * 60\%) + (76.1 * 30\%) + (87.7 * 5\%) + (90.4 * 5\%)] = 74.4$

Indicator	Index Value	Weight	Indicator Score
CRT	71.2	60%	42.7
NRT	76.1	30%	22.8
Attendance	87.7	5%	4.4
Dropout	90.4	5%	4.5
			SPS = 74.4

F. Beginning in 2006, the K-8 Baseline SPS will be calculated using the following formula. Beginning in 2007, both Baseline and Growth SPS will use this formula.

The SPS for a K-8 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example:
 $[(87.8 * 90\%) + (95.2 * 5\%) + (102.7 * 5\%)] = 88.9$

Indicator	Index Value	Weight	Indicator Score
Assessment Index (Grades 3-8)	87.8	90%	79.0
Attendance (K-8)	95.2	5%	4.8
Dropout (7-8)	102.7	5%	5.1
			SPS = 88.9

1. Any K-8 school with at least one grade that is assessed (3-8) will receive an SPS based only on its own student data.

G. Formula for Calculating an SPS for 9-12 and Combination Schools (Academic Year 2004/2005)

Combination schools (through 2005) are schools that contain a 10th and/or 11th grade and that also contain a 4th and/or 8th grade. The SPS for a 9-12 school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is:
 $SPS = (.60 * CRT \text{ Adjusted Achievement Index}) + (.30 * NRT \text{ Adjusted Achievement Index}) + (.05 * Dropout \text{ Index}) + (.05 * Attendance \text{ Index})$
 The following is an example of how this calculation shall be made:
 $[(.60 * 66.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 69.0$

Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
			SPS = 69.0

H. In 2006, the 9-12 Baseline SPS will be calculated using the following formula.

The SPS for a 9-12 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example:
 $[(85.5 * 90\%) + (92.3 * 5\%) + (89.9 * 5\%)] = 86.1$

Indicator	Index Value	Weight	Indicator Score
Assessment Index (Grades 9-11)	85.5	90%	77.0
Attendance (9-12)	92.3	5%	4.6
Dropout (9-12)	89.9	5%	4.5
			SPS = 86.1

I. In 2007 and future years, the 9-12 SPS will be calculated using the following formula.

The SPS for a 9-12 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example:
 $[(92.1 * 70\%) + (83.3 * 30\%)] = 89.5$

Indicator	Index Value	Weight	Indicator Score
Assessment Index (Grades 9-11)	92.1	70%	64.5
Graduation Index (Grade 12)	83.3	30%	25.0
			SPS = 89.5

J. Beginning in 2006, a school with a grade configuration that includes a combination from both categories of schools, K-8 and 9-12, will receive a score from a weighted average of the SPS from the K-8 grades and the SPS from the 9-12 grades.

1. The K-8 SPS will be weighted by the number of students eligible to test during the spring test administration.

2. The 9-12 SPS will be weighted by the sum of:

a. the students eligible to test during the spring test administration, and:

i. in 2006, the average number of students per grade level in grades 9-11;

ii. beginning in 2007, the number of members of the cohort used as the denominator in the graduation index calculation.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2738 (December 2003), amended LR 31:763 (April 2004), LR 32:1020 (June 2006).

§307. Incentive Points

A. ...

B. If, during spring testing, a repeating 4th or 8th grade student scores at a higher achievement level on a LEAP test of mathematics, English language arts, science or social studies than the previous spring, the retaining school shall receive 50 incentive points per improved subject in its accountability index. A student may earn a maximum of 50 points per subject for a total of 200 incentive points for his/her school (before weighting). Incentive points will not be awarded for a student's improved performance in the same subject for both the spring retest and summer school improvement (as described in Subsection C below). Students retained a second year may again earn 50 incentive points per subject.

C. ...

D. Option II 8th grade students (students passing one part of the LEAP that have been placed on a high school campus) must retake the part of the LEAP exam they failed.

1. If, during spring testing, an Option II 8th grade student receives a score of approaching basic or above on the LEAP test for which he/she received a score of unsatisfactory the previous spring, the high school in which the Option II 8th grader is enrolled, shall earn 50 incentive points in its 9th grade NRT index through 2005 and in its assessment index in 2006.

2. Due to changes in high-stakes testing policy, fall 2005 will be the last year students will be newly labeled as Option II 8th graders. Option II 8th graders will participate in 9th grade iLEAP beginning in 2006. They will repeat the subject test of the 8th grade LEAP that they failed. The category "Option II 8th graders" will cease to exist after spring testing 2006.

E. Students repeating the GEE ELA, math, science, and/or social studies tests shall not earn incentive points.

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

H. Example of K-8 Assessment Index Calculation

Grade	Subject	Subject-Test Index Score	Incentive Points (Spring Retest)	Unit Weight	Weighted Subject-Test Index Score
3	ELA	100		2	200
3	MTH	50		1	50
3	SCI	50		0.5	25
3	SS	100		0.5	50
4	ELA	100	50	2	300
4	MTH	50		2	100
4	SCI	50	50	1	100
4	SS	50		1	50
5	ELA	150		1	150
5	MTH	150		1	150
5	SCI	100		1	100
5	SS	150		1	150
6	ELA	100		1	100
6	MTH	100		1	100
6	SCI	100		1	100
6	SS	50		1	50
7	ELA	0		1	0
7	MTH	50		1	50

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2739 (December 2003), amended LR 31:2422 (October 2005), LR 32:1021 (June 2006).

Chapter 4. Assessment Index Calculations

§405. Calculating a K-8 Assessment Index

A. For all grades 3 - 8 use the values from the following table.

iLEAP, LEAP and GEE Index Points	
Label	Subject-Test Index Points
Advanced =	200
Mastery (Exceeding the Standard) =	150
Basic (Meeting the Standard) =	100
Approaching Basic (Approaching the Standard) =	50
Unsatisfactory =	0

1. Add any incentive points earned by repeating 4th or 8th graders to their subject-test index points (a student scoring Basic in 06 in ELA, who scored Unsatisfactory in 05 in ELA, is recorded as earning 150 points in 06 in ELA).

B. Weight each subject-test index score by the corresponding value from the table below.

Unit Weights for K-8 Assessment Index				
Grade	ELA	Math	Science	Social Studies
3rd	2	1	1/2	1/2
4th	2	2	1	1
5th	1	1	1	1
6th	1	1	1	1
7th	1	1	1	1
8th	2	2	1	1

C. Sum all weighted subject-test index scores.

D. Sum all weights applied to subject-test index scores from the table above (in Subsection B).

E. Weight the sum of all summer school incentive points (from the prior summer as described in §307) by 2.

F. Add the value from Step (Subsection) E to the value from Step (Subsection) C.

G. Divide the sum from Step (Subsection) F by the sum from Step (Subsection) D. This quotient is the K-8 Assessment Index.

Grade	Subject	Subject-Test Index Score	Incentive Points (Spring Retest)	Unit Weight	Weighted Subject-Test Index Score
7	SCI	0		1	0
7	SS	0		1	0
8	ELA	150		2	300
8	MTH	100		2	200
8	SCI	100		1	100
8	SS	150		1	150
Sums				28	2575
K-8 Assessment Index				2575 ÷ 28 = 92.0	

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006).

§409. Calculating a 9-12 Assessment Index

A. For all grades 9-11, use the values from the table in §405.A, above.

B. Adjust each subject-test index by the corresponding dropout adjustment factor.

1. The 9th grade dropout adjustment factor is the previous year's 9th grade non-dropout rate plus 7 percent $[(100.0 \text{ percent} - 9\text{th grade DO rate} + 7.0 \text{ percent})]$

2. The 10th grade dropout adjustment factor is the product of the previous year's 9th grade non-dropout rate plus 7 percent and the 10th grade non-dropout rate plus 7 percent $[(100.0 \text{ percent} - 9\text{th grade DO rate} + 7.0 \text{ percent}) \times (100.0 \text{ percent} - 10\text{th grade DO rate} + 7.0 \text{ percent})]$

3. The 11th grade dropout adjustment factor is the product of the previous year's 9th grade non-dropout rate plus 7 percent and the 10th grade non-dropout rate plus 7 percent and the 11th grade non-dropout rate plus 7 percent $[(100.0 \text{ percent} - 9\text{th grade DO rate} + 7.0 \text{ percent}) \times$

$(100.0 \text{ percent} - 10\text{th grade DO rate} + 7.0 \text{ percent}) \times (100.0 \text{ percent} - 11\text{th grade DO rate} + 7.0 \text{ percent})]$

C. Weight each adjusted subject-test index score by the corresponding value from the table below.

Unit Weights for 9-12 Assessment Index					
Grade	ELA	Math	Science	Social Studies	Total
9th Grade	1	1			2
10th Grade	1.25	1.25			2.5
11th Grade			1.25	1.25	2.5

D. Sum all weighted values from Step (Subsection) C, above.

E. Divide the sum from Step (Subsection) D, above, by the sum of all weights applied to subject-test index scores from the table above (in Subsection C). This quotient is the 9-12 Assessment Index.

F. Example of 9-12 Assessment Index Calculation

1. Non-dropout rates in this example are: 9th - 92.0 percent, 10th - 95.0 percent, and 11th - 96.0 percent.

Grade	Subject	Subject-Test Index Score	Dropout Adjustment	Adjusted Subject-Test Index Score	Unit Weight	Weighted Adjusted Subject-Test Index Score
9	ELA	100	.990	99.0	1	99.0
9	MTH	50	.990	49.5	1	49.5
10	ELA	100	1.010	101.0	1.25	126.3
10	MTH	150	1.010	151.5	1.25	189.4
11	SCI	50	1.040	52.0	1.25	65.0
11	SS	50	1.040	52.0	1.25	65.0
Sums					7	594.2
9-12 Assessment Index				594.2 ÷ 7 = 84.9		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1022 (June 2006).

Chapter 5. Calculating the NRT Index

§515. State Assessments and Accountability

A. With the exception of grade 8 Option II students (ends after 2006 testing), Louisiana students in grades 3 through 11 will participate in only one of the following state assessments on an annual basis:

1. LEAP, or;
2. GEE, or;
3. Iowa On-Level replaced with iLEAP in 2006, or;
4. LEAP Alternate Assessment Level 1 (LAA 1), or;
5. LEAP Alternate Assessment Level 2 (LAA 2).

B. - G. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:2422 (October 2005), LR 32:1022 (June 2006).

§519. Inclusion of Schools

A. - B.2. ...

C. Beginning in 2006 for the Baseline SPS, all K-8 schools shall have a minimum number of 80 testing units in any combination of LEAP, iLEAP, and LAA 1 or 2.

D. Beginning in 2007 for the Growth SPS, all K-8 schools shall have a minimum number of 40 testing units in any combination of LEAP, iLEAP, and LAA 1 or 2.

E. In 2006 for the Baseline SPS, all 9-12 and combination schools shall have a minimum number of 80 testing units in any combination of LEAP, iLEAP, and LAA 1 or 2.

F. In 2006 for the Growth SPS, all 9-12 and combination schools shall have a minimum number of 40 testing units in any combination of LEAP, and LAA 1 or 2.

G. In 2007 for the Growth SPS, all 9-12 and combination schools shall have a minimum number of 40 testing units in any combination of LEAP, iLEAP, and LAA 1 or 2.

H. Beginning in 2007 for the Baseline SPS, all 9-12 and combination schools shall have a minimum number of 80 units in any combination of graduation cohort membership and LEAP, iLEAP, and LAA 1 or 2.

I. Each member of a cohort used to calculate a graduation index shall be counted as 4 units when determining the minimum number of units required calculating an SPS.

J. Beginning in 2008 for the Growth SPS, all 9-12 and combination schools shall have a minimum number of 40 units in any combination of graduation cohort membership and LEAP, iLEAP, and LAA 1 or 2.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:1512 (July 2005), LR 32:1022 (June 2006).

§521. Pairing/Sharing of Schools with Insufficient Test Data

A. In order to receive an SPS through 2005, a given school must have at least one grade level of CRT testing and at least one grade level of NRT testing. A school that does not meet this requirement must be either "paired or shared" with another school in the district as described below. For the purpose of the Louisiana Accountability System, such a school shall be defined as a "non-standard school."

1. Beginning in 2006, any school with at least one testing grade (3-11) will receive its Baseline SPS based only on its own student data provided it meets the requirements of §519.

B. Through 2005, a school with a grade-level configuration such that it participates in neither the CRT nor the NRT (e.g., a K, K-1, K-2 school) must be "paired" with another school that has at least one grade level of CRT testing and one grade level of NRT testing. This "pairing" means that a single SPS shall be calculated for both schools by averaging both schools' attendance and/or dropout data and using the test score data derived from the school that has at least two grade levels of testing.

1. For the Transition Baseline SPS in 2005 and the 2006 Growth SPS, any school that does not include 4th, 8th, 10th or 11th will share CRT test data from another school. The school sharing the CRT data will provide its own attendance and/or dropout data to its own SPS.

2. Beginning with the Baseline SPS in 2006, any K-2 school will share 3rd-grade test data from another school. The K-2 school will provide its own attendance data to its own SPS.

3. Beginning in 2007, any school enrolling only 12th grade students will share data with a school or schools containing grades 9-11 that send it the majority of its students. This sharing relationship is to define the cohort that will provide the starting roster on which its graduation index will be based. The 12th grade school will receive an SPS based solely on the graduation index.

4. Beginning in 2007, any K-2, 9-12 configuration shall receive an SPS based solely on the 9-12 data.

C. Through 2005, a school with a grade-level configuration in which students participate in either CRT or NRT testing, but not both (e.g., a K-3, 5-6 school) must "share" with another school that has at least one grade level of the type of testing missing. Both schools shall "share" the missing grade level of test data. This shared test data must come from the grade level closest to the last grade level in the non-standard school. The non-standard school's SPS shall be calculated by using the school's own attendance, dropout, and testing data and the test scores for just one grade from the other school.

D. ...

E. If a school is not paired/shared at the beginning of the school year for the baseline SPS, it shall not be paired/shared at the end of the school year for the growth SPS. A school's sharing/pairing status at the beginning of the school year for the baseline SPS shall be its status at the end of the school year for the growth SPS.

F. Requirements for the number of test/graduation index units shall be the sum of the units used to calculate the school's SPS (see §519).

G. - I. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 30:1445 (July 2004), LR 32:1023 (June 2006).

§523. Growth Targets

A. - B. ...

C. The percentage of LEP students and students with disabilities varies significantly across schools, and the rate of growth for such students, when compared to regular education students, may be different. Therefore, the proportion of such students eligible to participate in the CRT, NRT, LAA 1 or 2 in each school will be a factor in determining the growth target for each school.

$$\text{PropRE} * (120 - \text{SPS}/N) + [\text{PropSE} * (120 - \text{SPS}) / (2N)] + [\text{PropLEP} * (120 - \text{SPS}) / (2N)] \text{ or } 2.0 \text{ points, whichever is greater.}$$

PropRE (Proportion Regular Education Students) = the number of students not in special education or LEP divided by the total number of students in the school eligible to participate in the NRT, CRT, LAA 1, or 2.

PropSE (Proportion Special Education Students) = the number of special education students in the school who are eligible to participate in the NRT, CRT, LAA 1, or 2 and who are not defined as LEP students divided by the total number of students in the school who are eligible to participate in the NRT, CRT, or LAA. For purposes of this calculation, gifted, talented, and 504 students shall not be counted as special education students, but shall be included in the calculations as regular education students

Prop LEP (Proportion Limited English Proficient Students) = the number of limited English proficient students in the school participating in the NRT, CRT LAA 1, or 2 divided by the total number of students in the school who are eligible to participate in the NRT, CRT LAA 1, or 2.

SPS = Baseline School Performance Score.

N = Number of remaining years until 2014.

D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2742 (December 2003), amended LR 32:1023 (June 2006).

Chapter 6. Graduation Index

§601. Defining a Graduation Index

A. Beginning in 2007, the Louisiana Department of Education (LDE) will calculate a Graduation Index based on a cohort of students for use in the School Performance Score of each school with students in grade 12.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006).

§603. Determining a Cohort for a Graduation Index

A. A cohort of students is all students who entered 9th grade at a given school in a given academic year.

B. Each cohort of students will be tracked for four years, from entry as first time 9th-graders through 12th grade.

C. Students who exit a cohort in less than four years for legitimate reasons shall not be counted as dropouts in the cohort's graduation index calculations.

1. Exit Codes 7, 8, 9, 10, 12, 14, 16, 20, 21, 27, 28, 29, and 30 from §611 are legitimate.

D. Students who exit a cohort for other than legitimate reasons will be considered dropouts in graduation index calculations.

E. Students who transfer from another LEA, home school, non-public school, or state into a school on or before October 1 of a cohort's 11th grade year will enter the cohort at the students' assigned grade level.

F. Students transferring within an LEA will remain in their same grade-level cohort.

1. Students transferring within an LEA on or before October 1 of their cohort's 12th grade year will be included in the calculation of the graduation index at the school into which they transfer and complete their 4th year of high school.

G. Students who graduate or complete high school in less than 4 years will be included in the cohort in which they started 9th grade.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006).

§611. Documenting a Graduation Index

A. Beginning with academic year 2005-2006, all schools are required to maintain the following documentation if the corresponding exit code is used.

Exit Code Documentation		
Code	Descriptions	Required Documentation
01	Expelled	Due process documentation supporting expulsion
03	Illness	Letter from a physician stating the student's date(s) of care written on the doctor office's letterhead with the doctor's original signature
04	Graduate with Diploma	Official transcript showing successful completion of requirements
05	GED only	LDE confirmation document
06	Certificate of Achievement (Special Education)	Official transcript showing successful completion of requirements
07	Death (of student) or permanent incapacitation	Death Certificate, obituary, or similar form. Signed statement by a physician indicating student's inability to return.
08	Transferred to another public school within district	Request for records from the receiving school
09	Transferred to another public school within Louisiana	Request for records from the receiving school
10	Transferred out of state or country	Request for records from the receiving school (or similar form located in the student's cumulative records, signed and dated by the parent/guardian or adult student and an authorized representative of the school). Documentation proving a student was a foreign exchange student.
12	Transferred to Correctional Institution	A signed statement from the sentencing judge, Office of Youth Development, or representative of the correctional facility.
14	Transferred to non-public school	Request for records from the receiving school
15	Exit from grade for reassignment to another grade	Test results, summer school grades or similar forms located in the student's cumulative records supporting the grade change
16	Transferred to home study/in-school Private Schooling	LDE Approval letter
17	Completed all Carnegie unit requirements but not the GEE	Official transcript showing successful completion of requirements
20	Transferred to Early College Admissions Program	School withdrawal form and request for records from the College or University and proof of full-time enrollment in an academic program.
21	Transferred to State school	Request for records from the receiving school
22	Options Program Completer: GED & Industry Based Certificate	Official transcript showing successful completion of requirements
23	Options Program Completer: GED & Locally Designed Skills Certificate	Official transcript showing successful completion of requirements
24	Options Program Completer: Industry Based Certification	Official transcript showing successful completion of requirements
25	Options Program Completer: Local Skills Certificate Only	Official transcript showing successful completion of requirements
26	Options Program Completer: Certificate of Completion	Official transcript showing successful completion of requirements
27	Exit under SBESE Academic School Choice Policy	Request for records from the receiving school
28	Exit under SBESE Unsafe School Choice Policy	Request for records from the receiving school
29	Exit due to Hurricane Katrina	Used only by specific districts as defined in Chapter 45. Entry into SIS is sufficient documentation
30	Exit due to Hurricane Rita	Used only by specific districts as defined in Chapter 45. Entry into SIS is sufficient documentation

B. Valid alternate documentation that provides sufficient justification for the use of an exit code is allowable.

C. Schools without sufficient documentation to support exit codes are subject to the actions described in Chapter 41.

D. Schools shall maintain documentation that supports exit codes for at least four years after the data has been used in School Performance Scores.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006).

§613. Calculating a Graduation Index

A. Points shall be assigned for each member of a cohort during the cohort's 4th year of high school according to the following table.

1. Students who do not earn a diploma, a GED, a Skills Certificate, or a Certificate of Achievement after four years of high school are defined as attendees.

Student Result	Points
Regular Diploma w/Academic and Career/Technical Endorsement	240
Regular Diploma w/Academic or Career/Technical Endorsement	180
Regular Diploma	120
GED	90
Skills Certificate or Certificate of Achievement	60
Attendee	30
Dropout	0

B. The graduation index of a school shall be the average number of points earned by cohort members.

C. Students who complete/exit high school in more than four years may earn incentive points for their school provided they are no older than 21 at the beginning of the academic year in which they exit.

1. The incentive points earned is the difference between those a student earned in the 4th year of high school and the points corresponding to the higher level at which the student exits high school in a subsequent year.

a. Students shall not be considered dropouts if they exit the school after earning points for their cohort.

D. Schools that re-enroll students who dropped out of school will earn incentive points if the "reclaimed" students:

1. were considered dropouts and were included as such in schools' accountability scores; and

2. are no older than 21 at the beginning of the academic year in which they are re-enrolled; and

3. complete/exit a second time with a GED or higher:

a. these "reclaimed" students shall not be considered dropouts a second time.

E. To insure the accuracy of data used to calculate the graduation index, the calculation shall lag one year behind the collection of the data (the index earned by the graduating class of 2006 will be used for 2007 accountability calculations).

Sample Graduation Index Calculation			
Student Count	Result	Points Per	Points
4	Attendee	30	120
15	Dropout	0	0
80 Total Students			7500
Attendee from prior year earned GED (90-30)			60
Attendee from prior year earned Skills Cert. (60-30)			30
Dropout from prior year earned Reg. Diploma (120-0)			120
Total Incentive Points			210
Total Points			7710
7710 ÷ 80 =		Graduation Index	96.4

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1025 (June 2006).

Chapter 7. Subgroup Component

§701. Subgroup Component Indicators

A. - A.1.c.i. ...

ii. The subgroup improved or met the criterion on the additional academic indicator (attendance rate for-K-11 schools, and non-dropout rate through 2006 and graduation rate beginning in 2007 for schools with a 12th grade).

2. - 3. ...

4. For the non-proficient reduction portion of the safe harbor test, a comparison of current year assessment data to the previous year assessment data shall be used. For the additional academic indicator check for the safe harbor test and for the whole school check, attendance and dropout data from two years prior will be compared to data from three years prior. Beginning in 2007, a graduation rate shall replace use of the dropout data for the additional academic indicator.

5. To ensure high levels of reliability, Louisiana will apply a 99 percent confidence interval to the calculations of subgroup component determinations for the:

a. AMO status test;

b. reduction of non-proficient students (safe harbor test); and

c. additional academic indicator status analyses.

6. Louisiana will not apply a confidence interval to improvement analyses for the additional academic indicator.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2742 (December 2003), amended LR 30:2445 (November 2004), LR 32:1025 (June 2006).

§707. Safe Harbor

A. - B.2.a. ...

b. makes at least 0.1 percent improvement in attendance rate (for schools without a 12th grade) or non-dropout rate (through 2006 for schools with a 12th grade) from the previous year;

c. for schools with a 12th grade, the non-dropout rate shall be evaluated for students in grade 9 and above.

C. Beginning in 2007, a graduation rate shall replace the non-dropout rate for schools with a 12th grade. It will be calculated as described in §708.

D. ...

Sample Graduation Index Calculation			
Student Count	Result	Points Per	Points
2	Regular Diploma w/2 Endorsements	240	480
8	Regular Diploma w/ Endorsement	180	1440
35	Regular Diploma	120	4200
10	GED	90	900
6	Skills Certificate or Certificate of Achievement	60	360

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 32:1025 (June 2006).

§708. Calculating a Graduation Rate

A. As required by the *No Child Left Behind Act of 2001*, Louisiana shall calculate a graduation rate based on a panel of students beginning in 2007.

B. A panel of students is all first-time 9th graders in a given school in a specific year.

C. The percentage of students in a panel who graduate within four years with a standard diploma shall be the graduation rate used for the subgroup component.

1. Students leaving a panel for legitimate reasons shall be exited from the panel (Exit Codes 7, 8, 9, 10, 12, 14, 16, 20, 21, 27, 28, 29, and 30 from §611 are legitimate).

2. Students with disabilities whose IEPs state that they will take longer than four years to earn a standard diploma shall be added to the panel with which they graduate provided they are less than 22 years of age at the beginning of the academic year.

D. The 2007 graduation rate shall be calculated using the first-time 9th grade students from fall 2002. The results from this 2002 panel will be evaluated to establish a baseline graduation rate for the subgroup component.

E. Schools with a 12th grade will be evaluated for the first time for their graduation rate in the fall of 2007.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1026 (June 2006).

§709. Failing the Subgroup Component

A. ...

B. A school in which all subgroups have passed the subgroup component must also have the school pass the additional academic indicator (AAI). A school passes the AAI when it has:

1. achieved a 90 percent attendance rate (for schools without a 12th grade)/90 percent non-dropout rate (through 2006 for schools with a 12th grade). (A 99 percent confidence interval is applied to the 90 percent attendance rate and 90 percent non-dropout rate check.); or

2. made at least 0.1 percent improvement in attendance rate (for schools without a 12th grade) or non-

dropout rate (for schools with a 12th grade) from the previous year. Schools with a 12th grade will use a non-dropout rate through 2006;

3. beginning in 2007 for schools with a 12th grade, earned a sufficient graduation rate as described in §708 or improved the graduation rate by at least 0.1 percent.

NOTE: If a school in which all subgroups have passed the subgroup component does not pass the additional academic indicator, it shall not pass the subgroup component.

C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2744 (December 2003), amended LR 30:2256 (October 2004), LR 32:1026 (June 2006).

Chapter 14. Academic Assistance (formerly School Improvement 1)

§1401. Levels of Academic Assistance

A. ...

B. Remedies Requires for Levels of Academic Assistance

Academic Assistance Level	Remedy
1	If SPS < 80.0 the district will assist the school with a needs assessment and in analyzing the data to determine strengths, weaknesses, goals, and objectives. Revised School Improvement Plan
2	District Assistance Team
3	Scholastic Audit (Year 1)
4	Add from Corrective Action List Scholastic Audit (Year 2)
5	Develop Reconstitution "light" plan
6	Implement Reconstitution "light" - Substantial school reform aimed at increasing the academic performance of low achieving subgroups.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1513 (July 2005), amended LR 32:1026 (June 2006).

Chapter 15. School Improvement (formerly called Corrective Actions)

§1501. Levels of School Improvement

A. - C. ...

SI Level	Remedy	SPS Component Academically Unacceptable Schools		Subgroup Component AYP Analysis	
		Title I	Non-Title I	Title I	Non-Title I
SI 2	Revised School Improvement Plan	X	X	X	X
	School Choice	X	X	X	-
	District Assistance Team	X	X	X	X
SI 3	Supplemental Educational Services (SES)	X	-	X	-
	Schools are eligible for DE	X	X	-	-
	Scholastic Audit (Year 1)	X	X	X	X
SI 4	Add from Corrective Action List	X	X	X	X
	Scholastic Audit (Year 2)	X	X	X	X
	Develop reconstitution plan (eligible for DE Partnership)	X	X	-	-

SI Level	Remedy	SPS Component Academically Unacceptable Schools		Subgroup Component AYP Analysis	
		Title I	Non-Title I	Title I	Non-Title I
SI 5	Implement reconstitution plan or lose school approval	X	X	-	-
	Develop Alternate Governance plan	-	-	X	-
	Develop Reconstitution "light" plan	-	-	-	X
SI 6	Alternate Governance	X	X	X	-
	Implement Reconstitution "light" - Substantial school reform aimed at increasing the academic performance of low achieving subgroups.	-	-	-	X

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2745 (December 2003), amended LR 30:2744 (December 2004), LR 31:1513 (July 2005), LR 31:2764 (November 2005), LR 32:1026 (June 2006).

§1503. Entry into School Improvement

A. Schools shall enter school improvement by two methods of identification.

1. Any Academically Unacceptable school enters school improvement 2.

a. Beginning in 2005, schools with a Baseline SPS below 60.0 shall be considered Academically Unacceptable.

b. For 2006 only, schools with an SPS below 60, whose SPS was 60 or above in 2005, shall have SI requirements waived.

c. For 2007 only, 9-12 and combination schools that are Academically Unacceptable shall have SI requirements waived if their 2006 Baseline SPS was 60 or above and their 2007 Growth SPS is 60 or above.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2745 (December 2003), amended LR 30:2257 (October 2004), LR 30:2445 (November 2004), LR 31:1514 (July 2005), LR 32:1027 (June 2006).

§1505. Exit from School Improvement

A. A school shall exit School Improvement when the fall accountability results indicate:

1. it is no longer Academically Unacceptable, and has not failed the Subgroup Component for 2 consecutive years;

2. - 3. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2257 (October 2004), LR 31:1514 (July 2005), LR 32:1027 (June 2006).

Chapter 17. Requirements for Schools in School Improvement (SI)

§1703. School Improvement 2 Requirements (SI 2)

A. - B.3. ...

C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:2257 (October 2004), LR 30:2745

(December 2004), LR 31:1515 (July 2005), LR 32:1027 (June 2006).

§1704. School Improvement 3 Requirements

A. - E.3. ...

F. With the assistance of the District Assistance Team, the school shall revise its School Improvement Plan to address the findings of the Scholastic Audit that will be conducted by an external team assigned by the LDE.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:2257 (October 2004), LR 30:2745 (December 2004), LR 31:1515 (July 2005), LR 32:1027 (June 2006).

§1705. School Improvement 4 Requirements

A. - G. ...

H. With the assistance of the District Assistance Team, the school shall continue to implement its School Improvement Plan to address the findings of the Scholastic Audit that will be conducted by an external team assigned by the LDE.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2747 (December 2003), amended LR 30:2257 (October 2004), LR 30:2446 (November 2004), LR 31:1515 (July 2005), LR 31:2764 (November 2005), LR 32:1027 (June 2006).

Chapter 21. State-Level School Improvement Tasks

§2101. State Support at Each Level

A. - A.4. ...

5. provide training for District Assistance Teams;

6. work to secure new funding and/or redirect existing resources to help implement their improvement plans;

7. approve school choice plans;

8. provide additional school improvement funds, as available.

B. - B.3. ...

4. ensure that an external Scholastic Audit is completed for all SI3 schools as funding is available. If funding is limited, SI3 schools will be prioritized from lowest SPS to highest SPS, and Scholastic Audits will be conducted in rank order until funding is exhausted.

C. - E.2. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2748 (December 2003), amended LR 30:2745 (December 2004), LR 31:1516 (July 2005), LR 32:1027 (June 2006).

Chapter 24. Recovery School District

§2401. Recovery School District

A. The Louisiana Legislature established the Recovery School District with the passage of R.S. 17:1990. A school is eligible for the Recovery School District under any of the following conditions.

1. The LEA fails to submit a reconstitution plan for a school in SI4 to BESE for approval.

2. A school's reconstitution plan is submitted to BESE but is deemed to be unacceptable.

3. A school in SI5 or 6 and/or the LEA fails to comply with the terms of a BESE approved reconstitution plan.

4. A school is labeled Academically Unacceptable for four consecutive years.

B. A school that enters the Recovery School District shall remain until:

1. it is no longer labeled Academically Unacceptable; and

2. BESE approves a proposal from the LEA for the return of the school that includes:

a. provisions for the continuation of the programs that have provided the basis for the improved academic achievement of the students; and

b. provisions providing for the continued employment of all persons employed by the Recovery School District or the operator of the school; and

c. provisions for the means and timetable for the school's transition and return to the jurisdiction of the LEA.

C. When a school in the Recovery School District is still Academically Unacceptable after four years, BESE shall take one of the following actions.

1. Revoke all school approval.

2. Require the Recovery School District to terminate the operational arrangement and provide a different operational arrangement.

3. Return the school to the jurisdiction of the city, parish, or other local public school board or other public entity from which it was transferred.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1028 (June 2006).

Chapter 35. Inclusion of Alternative Education Students

§3503. Option I

A. The testing score, and beginning in 2007 with the Baseline SPS, the attendance, dropout, and graduation data for every alternative education student at a given alternative school shall be returned to ("sent back") and included in the home-based school's and district's accountability calculations for both the SPS and subgroup components. The alternative school itself shall receive a "diagnostic" SPS, not to be used for rewards or corrective actions, if a statistically valid number of students were enrolled in the school at the time of testing.

B. Students included in the GED/Skills Option program will be included in school accountability. They will be required to take the 9th grade Iowa Test (beginning in 2006, the Iowa Test is replaced by the iLEAP) or participate in LEAP Alternate Assessment Level 1 or Level 2 (LAA 1 or 2) while enrolled. All programs will be considered Option I for alternative education purposes, and student test score data, and beginning in 2007 with the Baseline SPS, the

attendance, dropout, and graduation data will be sent back to the sending high schools and districts for accountability purposes.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 30:2446 (November 2004), LR 32:1028 (June 2006).

Chapter 41. Data Collection and Data Verification

§4101. Valid Data Considerations

A. An Unusual Data Result (UDR) shall be defined as any CRT, NRT, attendance, dropout, and graduation data that exceeds a parameter or a range of parameters, which shall be determined by the LDE and approved by the SBESE. Irregular data shall be defined as any data, which appears to contradict results, which are otherwise expected; unrealistic information; or data generated as a result of defective data collection or processing.

B. A test score shall be entered for all eligible students within a given school. For any eligible student who does not take the test, including those who are absent, a score of "0" on the CRT and NRT shall be calculated in the school's SPS. To assist a school in dealing with absent students, the Louisiana Department of Education shall provide an extended testing period for test administration. The only exceptions to this policy are students who were sick, whose family member(s) died, or who were in protective custody during the test and re-testing periods and who have formal documentation for that period.

C. The LDE shall evaluate the accountability results each year to identify irregular data and Unusual Data Results.

1. The LDE will select a sample of schools to investigate.

2. Districts shall be notified of the schools with irregular or unusual data that they must investigate themselves.

a. The LDE will identify the specific areas of concern.

b. The District will provide a written report explaining the irregular or unusual data within 60 days of notification by the LDE.

D. If inaccurate, invalid, and/or undocumented data is discovered and was or will be used in the calculation of School Performance Scores or Subgroup Adequate Yearly Progress determinations, the LDE shall correct and/or void the data.

1. For example, if four students in fall 2005 are coded as "out-of-state" transfers, it is determined in August 2006 that no documentation exists to support this exit code, and the students are not found enrolled in another Louisiana school; these four students will be changed to dropouts and counted as such in the dropout adjustment and non-dropout rates in the final fall 2006 accountability results, and if applicable, in the appropriate cohort for any graduation index calculations beginning in 2007.

2. In any instance where the inaccurate, invalid, and/or undocumented data was used in a previous year's accountability results, the LDE will evaluate the impact of the data and recommend to BESE any repayment of rewards or school improvement funds indicated by the recalculation of accountability results.

E. The LDE will notify in writing the superintendent of the LEA associated with any school where data is corrected and/or voided or where rewards must be repaid.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 30:2446 (November 2004), LR 32:1028 (June 2006).

§4103. NRT and CRT Data

A. For NRT and CRT data:

1. if there is evidence of irregular data or a UDR, the LDE shall require the LEA to investigate. The LEA shall report the results of its investigation to the State Superintendent of Education;

2. if the State Superintendent of Education determines that the results of the investigation do not sufficiently explain the data, s/he shall designate a team to visit the school and conduct its own investigation:

a. if the test data is determined to be inaccurate, invalid, and/or undocumented the LDE shall void or correct the data as described in §4101;

3. if the gains are validated by the visit, the school will be designated a "pacesetter" school. If the gains cannot be validated, the State Superintendent of Education may initiate further action.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2755 (December 2003), LR 32:1029 (June 2006).

§4104. Attendance and Dropout/Exit Data

A. The LDE may review and validate attendance, dropout, and exit code data:

1. due to an Unusual Data Result or irregular data;

2. while at a school or district site primarily to investigate other data or records;

3. during a random data audit.

B. If attendance data reported to the LDE through the Student Information System is found to differ from that in the teacher roll books, the LDE shall void or correct the data to match the roll books as described in §4101.

C. If there is insufficient documentation to validate the use of any student exit codes, the LDE shall void or correct the data as described in §4101.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1029 (June 2006).

Chapter 43. District Accountability

§4310. Subgroup Component AYP (Adequate Yearly Progress)

A. - B.2. ...

3. Each subgroup (African American, American Indian/Alaskan Native, Asian, Hispanic, White, Economically Disadvantaged, Limited English Proficient, Students with Disabilities, and All Students) within each district shall be evaluated separately on ELA and mathematics. In calculating the subgroup component for a district:

a. the alternate academic achievement standards for students participating in LAA 1 will be used, provided that the percentage of proficient LAA 1 students does not exceed

1.0 percent of all students in the grades assessed. If the district exceeds the 1.0 percent proficient cap, the district shall request a waiver. The students exceeding the cap shall be assigned a zero on the assessment and be considered non-proficient if:

i. the district fails to request the waiver; or

ii. the district requests the waiver but it is determined by LDE that ineligible students were administered LAA 1;

b. the modified academic achievement standards for students participating in LAA 2 will be used, provided that the percentage of proficient LAA 2 students does not exceed 2.0 percent of all students in the grades assessed. If the district exceeds the 2.0 percent proficient cap, the district shall request a waiver. The students exceeding the cap shall be assigned a zero on the assessment and be considered non-proficient if:

i. the district fails to request the waiver or;

ii. the district requests the waiver but it is determined by LDE that ineligible students were administered LAA 2;

c. students participating in LAA 1 or LAA 2 shall be included in the special education subgroup;

d. LEP students shall participate in the statewide assessments:

i. scores shall not be included in AMO or improvement in Percent Proficient calculations for LEP students who have not been enrolled in an English-speaking school for one full school year.

B.4. - E.2.b.Note ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1447 (July 2004), amended LR 30:2446 (November 2004), LR 31:424 (February 2005), LR 31:633 (March 2005), LR 31:913 (April 2005), LR 32:1029 (June 2006).

Chapter 45. Disaster Considerations for School and District Accountability

Reserved.

Weegie Peabody
Executive Director

0606#003

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28: CXV.1103)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 741—Louisiana Handbook for School Administrators*, §1103, Compulsory Attendance (LAC 28: CXV). The proposed amendment would provide nurse practitioners, licensed by the state of Louisiana, with the authority to substitute student absences. This revision is required to align the policy language in Bulletin 741, Section 1103, with the revisions made to R.S. 17:226 by the passage of Act 200 of the 2005 Regular Legislative Session.

**Title 28
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

Chapter 11. Student Services

§1103. Compulsory Attendance

A. - H. ...

1. The only exception to the attendance regulation shall be the enumerated extenuating circumstances that are verified by the Supervisor of Child Welfare and Attendance. Students shall be temporarily excused from the attendance regulation for the following reasons:

1. extended personal physical or emotional illness. Each LEA shall adopt policies regarding the requirement of a certificate from a physician or nurse practitioner licensed in the state in substantiation of the absence;

2. extended hospital stay as verified by a physician or dentist;

3. extended recuperation from an accident as verified by a physician, dentist, or nurse practitioner;

4. extended contagious disease within a family as verified by a physician or dentist; or

5. observance of special and recognized holidays of the student's own faith.

J. - M. ...

NOTE: Refer to §1117.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:221; R.S. 17:226; R.S. 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1273 (June 2005), amended LR 32:1030 (June 2006).

Weegie Peabody
Executive Director

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RULE

Board of Elementary and Secondary Education

Bulletin 1794—State Textbook
Adoption Policy and Procedure Manual
(LAC 28:XXXIII.101, 301, 305, 315,
505, 507, 701, 707, 717, and 901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education amended *Bulletin 1794—State Textbook Adoption Policy and Procedure Manual* (LAC 28:XXXIII). The amendments:

1. revise the department's mailing address (§101.B);

2. replace the language throughout the bulletin related to state approved content standards to reflect the review and adoption of textbooks based on their alignment with SBESE-approved Louisiana Grade-Level Expectations [§§301 Definitions (Basal and Textbook); 305.B.1; 315.A.1, B.1, and (Note); 507.C.2.c and, G.1; 707.A; 717.B, and G];

3. update and modify the adoption cycle to reflect a year delay in the adoption of textbooks as a result of the hurricanes of 2005 and the review and adoption of K-12 Reading and Literature prior to the review and adoption of K-12 Language Arts as shown below (Chapter 9.Appendix A);

4. correct §505.A.1.a to reflect a former SBESE approval allowing local adoptions within six months instead of three months;

5. clarify textbook access options outlined in §505.A.2.d.i.(a) for districts to report access to student textbooks to take home; and

6. add a definition of the term *piloting* in §701.L.1. The term *piloting* refers to product testing and research in any school or school system in Louisiana by any company and/or its parent affiliate.

This amendment is required by action of the State Board of Elementary and Secondary Education, in exercising its administrative and oversight authority for the state textbook adoption process.

**Title 28
EDUCATION**

**Part XXXIII. Bulletin 1794—State Textbook Adoption
Policy and Procedure Manual**

Chapter 1. Purpose

§101. Introduction

A. ...

B. It is hoped that the policies and procedures contained in this bulletin will help local school districts to provide textbooks that will have a significant, positive impact on student achievement, student attitudes and behaviors, and on the interactions in the learning environment for students of all ages, abilities, backgrounds and areas of interest. Any interested citizen may request his or her name be placed on the mailing list for textbook adoption information (R.S. 17:415.1.A) by writing to:

State Department of Education
Division of Educational Improvement and Assistance
P.O. Box 94064
Baton Rouge, LA 70804
Attn: Textbook Adoption Program

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1436 (August 1999), repromulgated LR 26:991 (May 2000), amended LR 32:1030 (June 2006).

Chapter 3. General Provisions

§301. Definitions

* * *

Basal—student-based curricular materials (print or non-print) that encompass the SBESE-approved Louisiana Grade-Level Expectations for specified subject areas. These curricular materials are considered a major teacher and student resource for attainment of the state standards and benchmarks and for the locally designed and aligned curriculum and course.

* * *

Textbook—any medium or material (print or non-print), book, or electronic medium that constitutes the principal source for teaching and learning in a specified subject area. A textbook shall be a systematically organized core of stand alone instructional materials (which may be hardbound, softbound, electronic or other media) designed to support the teaching and learning of a curriculum based on the SBESE-approved Grade-Level Expectations or state curricular

guides (e.g., home economics, foreign language, health, business education).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1436 (August 1999), repromulgated LR 26:992 (May 2000), amended LR 32:1030 (June 2006).

§305. Textbooks and Materials of Instruction

A. - A.1. ...

B. Adequate and Appropriate Instructional Materials

1. Instruction (at the local level) shall be supported with adequate and appropriate instructional materials, equipment, and available community resources that support the stated philosophy and purposes of the school system and state adopted Grade-Level Expectations.

C. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1437 (August 1999), repromulgated LR 26:992 (May 2000), amended LR 29:124 (February 2003), LR 32:1031 (June 2006).

§315. Establish Criteria and Procedure for Evaluation and Selection of Textbooks and Materials of Instruction

A. The following SBESE-approved definition shall serve as a framework for the review of textbooks and materials of instruction which are offered for adoption.

1. A *State-Approved Textbook* a systematically organized core of instructional materials (which may be hardbound, softbound, electronic or other media) designed to support the teaching and learning of a curriculum based on the State-approved Grade-Level Expectations and state assessment as approved by the SBESE. This definition includes any medium or material (print or non-print), book, or electronic medium that constitutes the principal source of study for teaching in specified subject areas.

B. At a minimum, the following framework shall guide evaluation.

1. Textbooks and materials of instruction shall align with the standards and benchmarks of the State Grade-Level Expectations, State-approved curriculum guides, and state assessment program.

2. - 4. ...

Note: The SDE shall establish an appropriate evaluation instrument(s) that shall be used by State Textbook Adoption Committee members, and their local subcommittees, as tools for final decision-making. In addition to the above frameworks, additional evaluation criteria shall focus on alignment of proposed textbooks and materials with the SBESE-approved state Grade-Level Expectations/curriculum guides and assessment programs.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1440 (August 1999), repromulgated LR 26:996 (May 2000), amended LR 32:1031 (June 2006).

Chapter 5. Local School System Responsibilities

§505. Local Implementation

A. Adequate and Appropriate Instructional Materials

1. Textbooks and materials of instruction for all curriculum areas at the local level shall be supported with adequate and appropriate instructional materials, equipment, and available community resources that support the stated philosophy and purposes of the school system (see also, Bulletin 741, 1.070.00).

a. School systems shall make a formal adoption of textbooks within six months from the date of state-level approval by the State Board of Elementary and Secondary Education (SBESE). Local school systems shall provide students with access to current textbooks that conform to minimum standards of quality.

2. - 2.c. ...

d. Access. A school system shall, based on input from local teachers, principals, administrators, and others, determine how access to textbooks in core subject areas will be made available to students. School systems must ensure that each child within the classroom will have equal access to any available instructional materials. School systems shall also inform each parent/guardian in writing at the beginning of each school year of the method of access to textbooks which has been selected for each course or grade level. A contact person and phone number should be provided.

i. Options for providing textbook access for students may include:

(a) textbooks provided for each student to take home.

2.d.i.(b). - 3.a. ...

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1442 (August 1999), repromulgated LR 26:998 (May 2000), amended LR 32:1031 (June 2006).

§507. Local Adoption Procedures

A. - C.2.b. ...

c. Local adoption committee members are to receive special training in textbook selection criteria (i.e., knowledge of subject area Grade-Level Expectations and assessments), voting procedure, and integrity of interaction with publishers.

D. - F.7. ...

G. Local Selection of Textbooks

1. An evaluation instrument must be used by local school districts. Alignment with State-adopted Grade-Level Expectations and state and local curriculum objectives, where applicable, shall be a primary consideration in the evaluation process. Local school districts may model state developed procedures and evaluation instruments.

G.2. - I.2. ...

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1443 (August 1999), repromulgated LR 26:998 (May 2000), amended LR 29:124 (February 2003), LR 32:1031 (June 2006).

Chapter 7. Publishers' Responsibilities

§701. Requirements for Publishers' Participation in State Textbook Adoption

A. - K. ...

L. The "piloting" of new materials in any school or school system prior to official review by the State Textbook

Adoption Committee and final approval by the SBESE is prohibited. Publishers are not to offer school-wide copies or classroom sets of any item or material on a trial or pilot basis.

1. The term *piloting* refers to product testing and research in any school or school system in Louisiana by any company and/or its parent affiliate.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1446 (August 1999), repromulgated LR 26:1002 (May 2000), amended LR 29:125 (February 2003), LR 32:1031 (June 2006).

§707. Submission of Correlations to State-Approved Grade-Level Expectations/Curriculum Guides

A. Publishers are required to submit in writing detailed correlations to *State Grade-Level Expectations/Curriculum Guides* for subject/content areas under adoption by the specified time each year.

B. ...

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1447 (August 1999), repromulgated LR 26:1003 (May 2000), amended LR 32:1032 (June 2006).

§717. Written Questions and Responses to Questions Regarding Textbooks Under Consideration

A. - B. ...

C. Questions may address the physical characteristics and layout; factual content of the book; relationship to State Grade-Level Expectations and assessment; organization, presentation and sequencing of content; and any other area specified for evaluation on the state evaluation form. Questions may not address items contained on the Ancillary Materials Submission Form, Free Materials Submission Form, including in-service offerings. Questions will be forwarded to publishers.

D. - F. ...

G. Each publisher shall be invited to a question/answer session during which time state committee members may seek further clarification to written responses provided by publishers or may pose additional questions for publishers' response. Publishers shall be allowed to discuss how their basal and teacher's editions align with the state Grade-Level Expectations and assessment program. Publishers may not address ancillary or free materials proposed for addition after SBESE approval of the basals.

H. ...

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1448 (August 1999), repromulgated LR 26:1004 (May 2000), amended LR 32:1032 (June 2006).

Chapter 9. Appendix A

NOTE: Forms contained in the Appendix are subject to revision by SDE.

§901. Adoption Cycle

A. Louisiana State Textbook Adoption Cycle: Core Subject Areas are Adopted Every Seven Years

State Textbook Adoption Cycle			
2006-2007	2007-2008	2008-2009	2009-2010
Social Studies K-12	Reading and Literature K-12	Language Arts K-12	Career and Technical Education

2010-2011	2011-2012	2012-2013
Science K-12	Foreign Language	Mathematics K-12
Health and Physical Education	Handwriting	
Computer Education	Music and Fine Arts	

NOTE: Adoption schedule may follow current cycle (listed above) with changes made to follow and align with any planned revisions to state content standards, Grade-Level Expectations, and/or state assessment content.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1450 (August 1999), repromulgated LR 26:1005 (May 2000), amended LR 32:1032 (June 2006).

Weegie Peabody
Executive Director

0606#005

RULE

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Pretreatment Streamlining
(LAC 33:IX.2903, 6105, 6109, 6111, 6113, 6115, 6123, 6129, and 7127)(Log #WQ067ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.2903, 6105, 6109, 6111, 6113, 6115, 6123, 6129, and 7127.Appendix N (Log #WQ067ft).

This Rule is identical to federal regulations found in 40 CFR 122.62, 403.3, 403.5, 403.6, 403.7, 403.8, 403.12, 403.15, and Appendix G to Part 403, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule revises several provisions of the general pretreatment regulations that address requirements for, and oversight of, industrial users (IUs) who introduce pollutants into publicly owned treatment works (POTWs). Changes to certain program requirements are made to be consistent with NPDES requirements for direct dischargers to surface waters. This Rule will reduce the regulatory burden on both IUs and state and POTW control authorities without adversely affecting environmental protection, and will allow control authorities to better focus oversight resources on IUs with the greatest potential for affecting POTW operations or the environment. The Rule also corrects a citation referring to the pretreatment regulations. This Rule is necessary in

order to comply with federal regulations that require the LDEQ Pretreatment Program to be consistent with the EPA General Pretreatment Regulations. EPA's Office of Waste Management initiated the evaluation of streamlining opportunities in 40 CFR Part 403 regulations in 1995. EPA proposed the Streamlining Rule in July 1999, and formally submitted the final Rule in June 2005. The Streamlining Rule was signed by the EPA Administrator on September 26, 2005, and became effective 30 days after its publication in the Federal Register (October 14, 2005). The basis and rationale for this Rule are to streamline the general pretreatment regulations for existing and new sources of pollution and to mirror the federal regulations.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Chapter 29. Transfer, Modification, Revocation and Reissuance, and Termination of LPDES Permits

§2903. Modification or Revocation and Reissuance of Permits

A. - A.1.f. ...

g. Reopener. When required by the reopener conditions in a permit, which are established in the permit under LAC 33:IX.2707.C (for CWA toxic effluent limitations and standards for sewage sludge use or disposal, see also LAC 33:IX.2707.B) or LAC 33:IX.6135.E (pretreatment program).

1.h.i. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1524 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2283 (October 2000), LR 27:45 (January 2001), LR 28:470 (March 2002), repromulgated LR 30:231 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2431 (October 2005), LR 32:1033 (June 2006).

Chapter 61. General Pretreatment Regulations for Existing and New Sources of Pollution

§6105. Definitions

A. For purposes of this Chapter, except as discussed below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this regulation.

* * *

Best Management Practices (BMPs)—schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in LAC 33:IX.6109. *BMPs* also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Control Authority—a POTW, if the POTW's pretreatment program submission has been approved in accordance with the provisions in LAC 33:IX.6121; or the *approval authority*, as defined in this Subsection, if the submission has not been approved.

* * *

Significant Industrial User—

a. except as provided in Subparagraph b of this definition, the term *significant industrial user* means:

i. - ii.(b). ...

(c) is designated as such by the *control authority*, as defined in this Subsection, on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with LAC 33:IX.6115.F.6);

b. the control authority may determine that an industrial user subject to categorical pretreatment standards under LAC 33:IX.6111 and 40 CFR Chapter I, Subchapter N is a non-significant categorical industrial user rather than a *significant industrial user* on a finding that the industrial user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

i. the industrial user, prior to the control authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

ii. the industrial user annually submits the certification statement required in LAC 33:IX.6123.Q together with any additional information necessary to support the certification statement; and

iii. the industrial user never discharges any untreated concentrated wastewater;

c. upon a finding that an industrial user meeting the criteria in Clause a.ii of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the *control authority* (as defined in this Subsection) may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with LAC 33:IX.6115.F.6, determine that such industrial user is not a *significant industrial user*.

* * *

EDITORIAL NOTE: At 49 FR 5132, Feb. 10, 1984, Paragraphs (i) and (n) were suspended until further notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:474 (March 2002), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1033 (June 2006).

§6109. National Pretreatment Standards: Prohibited Discharges

A.1. - C.3. ...

4. POTWs may develop best management practices (BMPs) to implement Paragraphs C.1 and 2 of this Section.

Such BMPs shall be considered local limits and pretreatment standards for the purposes of Section 307(d) of the CWA.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2232 (December 2001), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1033 (June 2006).

§6111. National Pretreatment Standards: Categorical Standards

National pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged to a POTW by existing or new industrial users in specific industrial subcategories will be established as separate regulations under the appropriate Subpart of 40 CFR Chapter I, Subchapter N. These standards, unless specifically noted otherwise, shall be in addition to all applicable pretreatment standards and requirements set forth in this Chapter.

A. - C.4. ...

5. When the limits in a categorical pretreatment standard are expressed only in terms of pollutant concentrations, an industrial user may request that the control authority convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the control authority.

a. The control authority may establish equivalent mass limits only if the industrial user meets all the following conditions. To be eligible for equivalent mass limits, an industrial user must:

i. employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its control mechanism;

ii. currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and not have used dilution as a substitute for treatment;

iii. provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;

iv. not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and

v. have consistently complied with all applicable categorical pretreatment standards during the period prior to the industrial user's request for equivalent mass limits.

b. An industrial user subject to equivalent mass limits must:

i. maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

ii. continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;

iii. continue to record the facility's production rates and notify the control authority whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in Clause C.5.a.iii of this Section. Upon notification of a revised production rate, the control authority must reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

iv. continue to employ the same or comparable water conservation methods and technologies as those implemented in accordance with Clause C.5.a.i of this Section so long as it discharges under an equivalent mass limit.

c. A control authority that chooses to establish equivalent mass limits:

i. must calculate the mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the industrial user by the concentration-based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;

ii. upon notification of a revised production rate, must reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

iii. may retain the same equivalent mass limit in subsequent control mechanism terms if the industrial user's actual average daily flow rate is reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit are not based on the use of dilution as a substitute for treatment, in accordance with Subsection D of this Section. The industrial user must also be in compliance with LAC 33:IX.6133 (regarding the prohibition of bypass).

d. The control authority may not express limits in terms of mass for pollutants such as pH, temperature, radiation, or other pollutants that cannot appropriately be expressed as mass.

6. The control authority may convert the mass limits of the categorical pretreatment standards at 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual industrial users under the following conditions. When converting such limits to concentration limits, the control authority must use the concentrations listed in the applicable Subparts of 40 CFR Parts 414, 419, and 455 and document that dilution is not being substituted for treatment as prohibited by Subsection D of this Section.

7. Equivalent limitations calculated in accordance with Paragraphs C.3, 4, 5, and 6 of this Section are deemed pretreatment standards for the purposes of Section 307(d) of the CWA and this Chapter. The control authority must document how the equivalent limits were derived and make this information publicly available. Once incorporated into its control mechanism, the industrial user must comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

8. Many categorical pretreatment standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum

monthly average, or four-day average, limitations. Where such standards are being applied, the same production of flow figure shall be used in calculating both the average and the maximum equivalent limitations.

9. Any industrial user operating under a control mechanism incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the control authority within two business days after the user has a reasonable basis to know that the production level will significantly change with the next calendar month. Any user not notifying the control authority of such an anticipated change will be required to meet the mass or concentration limits in its control mechanism that were based on the original estimate of the long term average production rate.

D. Dilution Prohibited as Substitute for Treatment. Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no industrial user shall ever increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The *control authority* (as defined in LAC 33:IX.6105.A) may impose mass limitations on industrial users that are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations is appropriate.

E. Combined Wastestream Formula. Where process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits may be derived by the control authority or by the industrial user with the written concurrence of the control authority. These alternative limits shall be applied to the mixed effluent. When deriving alternative categorical limits, the control authority or industrial user shall calculate both an alternative daily maximum value using the daily maximum value(s) specified in the appropriate categorical pretreatment standard(s) and an alternative consecutive sampling day average value using the monthly average value(s) specified in the appropriate categorical pretreatment standard(s). The industrial user shall comply with the alternative daily maximum and monthly average limits fixed by the control authority until the control authority modifies the limits or approves an industrial user modification request. Modification is authorized whenever there is a material or significant change in the values used in the calculation to fix alternative limits for the regulated pollutant. An industrial user must immediately report any such material or significant change to the control authority. Where appropriate new alternative categorical limits shall be calculated within 30 days.

1. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1034 (June 2006).

§6113. Removal Credits

A. Introduction

1. Definitions. For the purpose of this Section:

Overflow—the intentional or unintentional diversion of flow from the POTW before the POTW treatment plant.

* * *

A.2. - G. ...

H. Compensation for Overflow. POTWs that at least once annually overflow untreated wastewater to receiving waters may claim consistent removal of a pollutant only by complying with either Paragraph H.1 or 2 of this Section. However, this Subsection shall not apply where industrial user(s) can demonstrate that overflow does not occur between the industrial user(s) and the POTW treatment plant.

1. - 1.c. ...

2.a. The consistent removal claimed is reduced pursuant to the following equation.

$$r_c = r_m \frac{8760 - z}{8760}$$

where:

r_m = POTW's consistent removal rate for that pollutant as established under LAC 33:IX.6113.A.1 and B.2.

r_c = removal corrected by the overflow factor.

Z = hours per year that overflow occurred between the industrial user(s) and the POTW treatment plant, the hours either to be shown in the POTW's current LPDES permit application or the hours, as demonstrated by verifiable techniques, that a particular industrial user's discharge overflows between the industrial user and the POTW treatment plant.

b. The POTW is complying with all NPDES permit requirements and any additional requirements in any order or decree issued in accordance with the CWA affecting combined sewer outflows. These requirements include, but are not limited to, any combined sewer overflow requirements that conform to the combined sewer overflow control policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2555 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2514 (October 2005), amended LR 32:1035 (June 2006).

§6115. Pretreatment Program Requirements:

Development and Implementation by POTW

A. - F.1.b. ...

c. control through permit, order, or similar means, the contribution to the POTW by each industrial user to ensure compliance with applicable pretreatment standards and requirements. In the case of industrial users identified as significant under LAC 33:IX.6105.A. *Significant Industrial User*, this control shall be achieved through individual permits or equivalent individual control mechanisms issued to each such user except that:

i. at the discretion of the POTW, this control may include use of general control mechanisms if all of the facilities to be covered:

(a). involve the same or substantially similar types of operations;

(b). discharge the same types of wastes;

(c). require the same effluent limitations;

(d). require the same or similar monitoring; and

(e). in the opinion of the POTW, are more appropriately controlled under general control mechanisms than under individual control mechanisms;

ii. to be covered by the general control mechanism, the significant industrial user must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general control mechanism, any requests in accordance with LAC 33:IX.6123.E.2 for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general control mechanism until after the POTW has provided written notice to the significant industrial user that such a waiver request has been granted in accordance with LAC 33:IX.6123.E.2. The POTW must retain a copy of the general control mechanism, documentation to support the POTW's determination that a specific significant industrial user meets the criteria in Clause F.1.c.i of this Section, and a copy of the user's written request for coverage for three years after the expiration of the general control mechanism. A POTW may not control a significant industrial user through a general control mechanism where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for industrial users whose limits are based on the combined wastestream formula or net/gross calculations (LAC 33:IX.6111.E and 6129).

d. employ individual or general control mechanisms that are enforceable and contain, at a minimum, the following conditions:

i. a statement of duration (in no case more than five years);

ii. a statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;

iii. effluent limits, including best management practices, based on applicable general pretreatment standards in this Chapter, categorical pretreatment standards, local limits, and state and local law;

iv. self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge in accordance with LAC 33:IX.6123.E.2, or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in

this Chapter, categorical pretreatment standards, local limits, and state and local law;

v. a statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable deadlines;

e. impose the following requirements to control slug discharges, if determined by the POTW to be necessary:

i. the development of a compliance schedule by each industrial user for the installation of technology required to meet applicable pretreatment standards and requirements; and

ii. the submission of all notices and self-monitoring reports from industrial users as are necessary to assess and assure compliance by industrial users with pretreatment standards and requirements, including but not limited to the reports required in LAC 33:IX.6123;

f. carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by industrial users, compliance or noncompliance with applicable pretreatment standards and requirements by industrial users. Representatives of the POTW shall be authorized to enter any premises of any industrial user in which a discharge source or treatment system is located or in which records are required to be kept under LAC 33:IX.6123.O to assure compliance with pretreatment standards. Such authority shall be at least as extensive as the authority provided under Section 308 of the CWA;

g. obtain remedies for noncompliance by any industrial user with any pretreatment standard or requirement:

i. all POTWs shall be able to seek injunctive relief for noncompliance by industrial users with pretreatment standards and requirements. All POTWs shall also have authority to seek or assess civil or criminal penalties in at least the amount of \$1,000 a day for each violation by industrial users of pretreatment standards or requirements;

ii. pretreatment requirements that can be enforced through the remedies set forth in Clause F.1.g.i of this Section include, but are not limited to, the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the POTW; any requirements set forth in control mechanisms issued by the POTW; and any reporting requirements imposed by the POTW or these regulations. The POTW shall have authority and procedures (after informal notice to the discharger) immediately and effectively to halt or prevent any discharge of pollutants to the POTW that reasonably appears to present an imminent endangerment to the health or welfare of persons. The POTW shall also have authority and procedures (which shall include notice to the affected industrial users and an opportunity to respond) to halt or prevent any discharge to the POTW that presents or may present an endangerment to the environment or that threatens to interfere with the operation of the POTW. The approval authority shall have authority to seek judicial relief and may also use administrative penalty authority when the POTW has sought a monetary penalty that the approval

authority believes to be insufficient. The procedures for notice to dischargers where the POTW is seeking ex parte temporary judicial injunctive relief are to be governed by applicable state or federal law, and not by this provision; and

h. comply with the confidentiality requirements set forth in LAC 33:IX.6127.

2. - 2.d....

e. randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards; and inspect and sample the effluent from each significant industrial user at least once a year, except as otherwise specified below:

i. where the POTW has authorized the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard in accordance with LAC 33:IX.6123.E.3, the POTW shall sample for the waived pollutant at least once during the term of the categorical industrial user's control mechanism. In the event that the POTW subsequently determines that a waived pollutant is present or is expected to be present in the industrial user's wastewater based on changes that occur in the user's operations, the POTW shall immediately begin at least annual effluent inspection and monitoring of the user's discharge and inspection;

ii. where the POTW has determined that an industrial user meets the criteria for classification as a non-significant categorical industrial user, the POTW must evaluate, at least once per year, whether an industrial user continues to meet the criteria in LAC 33:IX.6105;

iii. in the case of industrial users subject to reduced reporting requirements under LAC 33:IX.6123.E.3, the POTW shall randomly sample and analyze the effluent from industrial users and conduct inspections at least once every two years. If the industrial user no longer meets the conditions for reduced reporting in LAC 33:IX.6123.E.3, the POTW must immediately begin sampling and inspecting the industrial user at least once a year;

f. evaluate whether each such significant industrial user needs a plan or other action to control slug discharges. For industrial users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006; additional significant industrial users must be evaluated within one year of being designated a significant industrial user. For purposes of this Subsection, a *slug discharge* is any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge that has a reasonable potential to cause interference or pass-through, or in any other way violate the POTW's regulations, local limits, or permit conditions. The results of such activities shall be available to the approval authority upon request. Significant industrial users are required to notify the POTW immediately of any changes at their facilities affecting potential for slug discharge. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

i. a description of discharge practices, including nonroutine batch discharges;

ii. a description of stored chemicals;

iii. procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under LAC 33:IX.6109.B, with procedures for follow-up written notification within five days;

iv. if necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response;

g. investigate instances of noncompliance with pretreatment standards and requirements, as indicated in the reports and notices required under LAC 33:IX.6123, or indicated by analysis, inspection, and surveillance activities described in Subparagraph F.2.e of this Section. Sample taking and analysis and the collection of other information shall be performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions; and

h. comply with the public participation requirements of 40 CFR Part 25 in the enforcement of national pretreatment standards. These procedures shall include provision for at least annual public notification, in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, of industrial users that, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment requirements. For the purposes of this provision, a significant industrial user (or any industrial user that violates Clause F.2.h.iii, iv, or v of this Section) is in significant noncompliance if its violation meets one or more of the following criteria:

i. chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by LAC 33:IX.6105.A. *National Pretreatment Standard, Pretreatment Standard, or Standard*;

ii. technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by LAC 33:IX.6105.A. *National Pretreatment Standard, Pretreatment Standard, or Standard*, multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

iii. any other violation of a pretreatment standard or requirement as defined by LAC 33:IX.6105.A. *National Pretreatment Standard, Pretreatment Standard, or Standard* (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

iv. any discharge of a pollutant that has caused imminent endangerment to human health or welfare or to the

environment or has resulted in the POTW's exercise of its emergency authority under Clause F.1.g.ii of this Section to halt or prevent such a discharge;

v. failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

vi. failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

vii. failure to accurately report noncompliance;

viii. any other violation or group of violations, which may include a violation of best management practices, that the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

3. - 5.c. ...

d. adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in Paragraphs F.1 and 2 of this Section.

6. The POTW shall prepare and maintain a list of its industrial users meeting the criteria in LAC 33:IX.6105.A.*Significant Industrial User.a*. The list shall identify the criteria in LAC 33:IX.6105.A.*Significant Industrial User.a* applicable to each industrial user and, where applicable, shall also indicate whether the POTW has made a determination in accordance with LAC 33:IX.6105.A.*Significant Industrial User.c* that such industrial user should not be considered a significant industrial user. The initial list shall be submitted to the approval authority in accordance with LAC 33:IX.6117 as a nonsubstantial program modification in accordance with LAC 33:IX.6135.D. Modifications to the list shall be submitted to the approval authority in accordance with LAC 33:IX.6123.I.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:2122 (November 1998), LR 25:1092 (June 1999), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1035 (June 2006).

§6123. Reporting Requirements for POTWs and Industrial Users

A. Reserved.

1. Repealed.

2. Repealed.

B. - B.4.a.i. ...

ii. other streams as necessary to allow use of the combined wastestream formula of LAC 33:IX.6111.E (see Subparagraph B.5.d of this Section).

4.b. - 5.a. ...

b. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the standard or control authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be

reported. The sample shall be representative of daily operations. In cases where the standard requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the control authority or the applicable standards to determine compliance with the standard.

c. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this Paragraph.

d. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula of LAC 33:IX.6111.E, in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with LAC 33:IX.6111.E, this adjusted limit along with supporting data shall be submitted to the control authority.

e. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 (see LAC 33:IX.4901) and amendments thereto. Where 40 CFR Part 136 (see LAC 33:IX.4901) does not contain sampling or analytical techniques for the pollutant in question, or where the administrator determines that the 40 CFR Part 136 (see LAC 33:IX.4901) sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the administrator.

f. The control authority may allow the submission of a baseline report that utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

g. The baseline report shall indicate the time, date, and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

6. Certification. A statement, reviewed by an authorized representative of the industrial user (as defined in Subsection L of this Section) and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O and M) and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements.

B.7. - D. ...

E. Periodic Reports on Continued Compliance

1. Any industrial user subject to a categorical pretreatment standard, after the compliance date of such pretreatment standard or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the control authority during the months of June and December, unless required more frequently in the pretreatment standard or by the control authority or the approval authority, a report indicating the nature and concentration of pollutants in the effluent that are limited by

such categorical pretreatment standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in Paragraph B.4 of this Section except that the control authority may require more detailed reporting of flows. In cases where the pretreatment standard requires compliance with a best management practice (or pollution prevention alternative), the user shall submit documentation required by the control authority or the pretreatment standard necessary to determine the compliance status of the user. At the discretion of the control authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the control authority may agree to alter the months during which the above reports are to be submitted.

2. The control authority may authorize an industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by the categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions.

a. The control authority may authorize a waiver where the pollutant is determined to be present solely due to sanitary wastewater discharged from the facility, provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.

b. The monitoring waiver is valid only for the duration of the effective period of the permit or other equivalent individual control mechanism, but in no case longer than five years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism.

c. In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver must be signed in accordance with Subsection L of this Section, and include the certification statement in LAC 33:IX.6111.A.2.b. Non-detectable sample results may be only used as a demonstration that a pollutant is not present if the EPA-approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

d. Any grant of the monitoring waiver by the control authority must be included as a condition in the user's control mechanism. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the control authority for three years after expiration of the waiver.

e. Upon approval of the monitoring waiver and the revision of the user's control mechanism by the control authority, the industrial user must certify on each report, with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the industrial user.

"Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment

standard for 40 CFR [specify applicable national pretreatment standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant(s)] in the wastewaters due to the activities at the facility since the filing of the last periodic report under LAC 33:IX.6123.E.1."

f. In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the user's operations, the user must immediately comply with the monitoring requirements of Paragraph E.1 of this Section, or other more frequent monitoring requirements imposed by the control authority, and notify the control authority.

g. This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

3. The control authority may reduce the requirement in Paragraph E.1 of this Section to a requirement to report no less than once a year, unless required more frequently in the pretreatment standard or by the approval authority.

a. The industrial user must meet all of the following conditions:

i. the industrial user's total categorical wastewater flow does not exceed any of the following:

(a). 0.01 percent of the design dry weather hydraulic capacity of the POTW or 5,000 gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the industrial user discharges in batches;

(b). 0.01 percent of the design dry weather organic treatment capacity of the POTW; and

(c). 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical pretreatment standard for which approved local limits were developed by a POTW in accordance with LAC 33:IX.6109.C and Subsection D of this Section;

ii. the industrial user has not been in significant noncompliance, as defined in LAC 33:IX.6115.F.2.h, for any time in the past two years;

iii. the industrial user does not have daily flow rates, production levels, or pollutant levels that vary so significantly that decreasing the reporting requirement for this industrial user would result in data that are not representative of conditions occurring during the reporting period in accordance with Paragraph G.3 of this Section.

b. An industrial user must notify the control authority immediately of any changes at its facility causing it to no longer meet the conditions of Clause E.3.a.i or ii of this Section. Upon notification, the industrial user must immediately begin complying with the minimum reporting requirements in Paragraph E.1 of this Section.

c. The control authority must retain documentation to support the control authority's determination that a specific industrial user qualifies for reduced reporting requirements under this Paragraph for a period of three years after the expiration of the term of the control mechanism.

4. Where the control authority has imposed mass limitations on industrial users as provided for by LAC 33:IX.6111.D, the report required by Paragraph E.1 of this Section shall indicate the mass of pollutants regulated by pretreatment standards in the discharge from the industrial user.

5. For industrial users subject to equivalent mass or concentration limits established by the control authority in accordance with the procedures in LAC 33:IX.6111.C, the report required by Paragraph E.1 of this Section shall contain a reasonable measure of the user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by Paragraph E.1 of this Section shall include the user's actual average production rate for the reporting period.

F. ...

G. Monitoring and Analysis to Demonstrate Continued Compliance

1. Except in the case of non-significant categorical users, the reports required in Subsections B, D, and E of this Section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the control authority, of pollutants contained therein that are limited by the applicable pretreatment standards. This sampling and analysis may be performed by the control authority in lieu of the industrial use. Where the POTW performs the required sampling and analysis in lieu of the industrial user, the user will not be required to submit the compliance certification required under Paragraph B.6 and Subsection D of this Section. In addition, where the POTW itself collects all the information required for the report, including flow data, the industrial user will not be required to submit the report.

2. If sampling performed by an industrial user indicates a violation, the user shall notify the Office of Environmental Services, Water and Waste Permits Division, within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 days after becoming aware of the violation. Where the control authority has performed the sampling and analysis in lieu of the industrial user, the control authority must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Resampling is not required if:

a. the control authority performs sampling at the industrial user at a frequency of at least once per month; or

b. the control authority performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the control authority receives the results of this sampling.

3. The reports required in Subsections B, D, E, and H of this Section shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The control authority shall require that frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the

control authority. Where time-proportional composite sampling or grab sampling is authorized by the control authority, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the composting procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate.

4. For sampling required in support of baseline monitoring and 90-day compliance reports required in Subsections B and D of this Section, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the control authority may authorize a lower minimum. For the reports required by Subsections E and H of this Section, the control authority shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.

5. All analyses shall be performed in accordance with procedures established by the administrator pursuant to Section 304(h) of the CWA and contained in 40 CFR Part 136 (see LAC 33:IX.4901) and amendments thereto or with any other test procedures approved by the administrator (see 40 CFR Parts 136.4 and 136.5). Sampling shall be performed in accordance with the techniques approved by the administrator. Where 40 CFR Part 136 (see LAC 33:IX.4901) does not include sampling or analytical techniques for the pollutant in question, or where the administrator determines that the 40 CFR Part 136 (see LAC 33:IX.4901) sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the administrator.

6. If an industrial user subject to the reporting requirement in Subsection E of this Section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the control authority, using the procedures prescribed in Paragraph G.5 of this Section, the results of this monitoring shall be included in the report.

H. Reporting Requirements for Industrial Users Not Subject to Categorical Pretreatment Standards. The control authority shall require appropriate reporting from those industrial users with discharges that are not subject to categorical pretreatment standards. Significant noncategorical industrial users shall submit to the control authority at least once every six months (on dates specified by the control authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the control authority. In cases where a local limit

requires compliance with a best management practice or pollution prevention alternative, the user must submit documentation required by the control authority to determine the compliance status of the user. These reports shall be based on sampling and analysis performed in the period covered by the report, and in accordance with the techniques described in 40 CFR Part 136 (see LAC 33:IX.4901) and amendments thereto. This sampling and analysis may be performed by the control authority in lieu of the significant noncategorical industrial user.

I. Annual POTW Reports. POTWs with approved pretreatment programs shall provide the approval authority with a report that briefly describes the POTW's program activities, including activities of all participating agencies, if more than one jurisdiction is involved in the local program. The report required by this Section shall be submitted no later than one year after approval of the POTW's pretreatment program, and at least annually thereafter, and shall include, at a minimum, the following:

1. an updated list of the POTW's industrial users, including their names and addresses, or a list of deletions and additions keyed to a previously submitted list. The POTW shall provide a brief explanation of each deletion. This list shall identify which industrial users are subject to categorical pretreatment standards and specify which standards are applicable to each industrial user. The list shall indicate which industrial users are subject to local standards that are more stringent than the categorical pretreatment standards. The POTW shall also list the industrial users that are subject only to local requirement. The list must also identify industrial users subject to categorical pretreatment standards that are subject to reduced reporting requirements under Paragraph E.3 of this Section, and identify which industrial users are non-significant categorical industrial users;

2. - 5. ...

J. Notification of Changed Discharge. All industrial users shall promptly notify the control authority (and the POTW if the POTW is not the control authority) in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under Subsection P of this Section.

K. Compliance Schedule for POTWs. The following conditions and reporting requirements shall apply to the compliance schedule for development of an approvable POTW pretreatment program required by LAC 33:IX.6115.

1. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the development and implementation of a POTW pretreatment program (e.g., acquiring required authorities, developing funding mechanisms, acquiring equipment).

2. No increment referred to in Paragraph K.1 of this Section shall exceed nine months.

K.3. - L.1.a. ...

b. the manager of one or more manufacturing, production, or operating facilities, provided that the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment

recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions are taken to gather complete and accurate information for control mechanism requirements; and has been assigned or delegated authority to sign documents in accordance with corporate procedures;

2. - 4. ...

M. Signatory Requirements for POTW Reports. Reports submitted to the approval authority by the POTW in accordance with Subsection I of this Section must be signed by a principal executive officer, ranking elected official, or other duly authorized employee. The duly authorized employee must be an individual or position having responsibility for the overall operation of the facility or the pretreatment program. This authorization must be made in writing by the principal executive officer or ranking elected official, and submitted to the approval authority prior to or together with the report being submitted.

N. - N.3....

O. Recordkeeping Requirements

1. Any industrial user and POTW subject to the reporting requirements established in this Section shall maintain records of all information resulting from any monitoring activities required by this Section, including documentation associated with best management practices. Such records shall include for all samples:

a. - e. ...

2. Any industrial user or POTW subject to the reporting requirements established in this Section, including requirements for documentation associated with best management practices, shall be required to retain for a minimum of three years any records of monitoring activities and results (whether or not such monitoring activities are required by this Section) and shall make such records available for inspection and copying by the state administrative authority and the EPA regional administrator (and POTW in the case of an industrial user). This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or POTW or when requested by the state administrative authority or the EPA regional administrator.

O.3. - P.4. ...

Q. Annual Certification by Non-significant Categorical Industrial Users. A facility determined to be a non-significant categorical industrial user in accordance with LAC 33:IX.6105 must annually submit the following certification statement, signed in accordance with the signatory requirements in this Section. This certification must accompany an alternative report required by the control authority.

"Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards in 40 CFR [specify applicable national pretreatment standard part(s)], I certify, to the best of my knowledge and belief, that during the period from [month, day, year] to [month, day, year]:

1. the facility described as [insert facility name] was a non-significant categorical industrial user as described in LAC 33:IX.6105;

2. the facility complied with all applicable pretreatment standards and requirements during this reporting period; and

3. the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based upon the following information.

[Insert narrative description.]"

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:2122 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2514 (October 2005), amended LR 32:1038 (June 2006).

§6129. Net/Gross Calculation

A. Application. Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the industrial user's intake water in accordance with this Section. Any industrial user wishing to obtain credit for intake pollutants must make application to the control authority. Upon request of the industrial user, the applicable standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water), if the requirements of Subsection B of this Section are met.

B. Criteria

1. Calculations shall be done on a net basis if:

a. the applicable categorical pretreatment standards contained in 40 CFR Subchapter N specifically provide that the standards shall be applied on a net basis; or

b. the industrial user demonstrates that the control system it proposes or uses to meet applicable categorical pretreatment standards would, if properly installed and operated, meet the standards in the absence of pollutants in the intake waters.

2. - 4. ...

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1042 (June 2006).

Chapter 71. Appendices

§7127. Appendix N—Pollutants Eligible for a Removal Credit

I. Regulated Pollutants in 40 CFR Part 503 Eligible for a Removal Credit

Pollutants	Use or Disposal Practice		
	LA	SD	I

[See Prior Text]			

Key:

LA - I...

¹The following organic pollutants are eligible for a removal credit if the requirements for total hydrocarbons or carbon monoxide in Subpart E in 40 CFR Part 503 are met when sewage sludge is fired in a sewage sludge incinerator:

Acrylonitrile
Aldrin/Dieldrin (total)
Benzene
Benzidine
Benzo(a)pyrene
Bis(2-chloroethyl)ether
Bis(2-ethylhexyl)phthalate
Bromodichloromethane
Bromoethane
Bromoform
Carbon tetrachloride
Chlordane
Chloroform
Chloromethane
DDD
DDE
DDT
Dibromochloromethane
Dibutyl phthalate
1,2-dichloroethane
1,1-dichloroethylene
2,4-dichlorophenol
1,3-dichloropropene
Diethyl phthalate
2,4-dinitrophenol
1,2-diphenylhydrazine
Di-n-butyl phthalate
Endosulfan
Endrin
Ethylbenzene
Heptachlor
Heptachlor epoxide
Hexachlorobutadiene
Alpha-hexachlorocyclohexane
Beta-hexachlorocyclohexane
Hexachlorocyclopentadiene
Hexachloroethane
Hydrogen cyanide
Isophorone
Lindane
Methylene chloride
Nitrobenzene
N-Nitrosodimethylamine
N-Nitrosodi-n-propylamine
Pentachlorophenol
Phenol
Polychlorinated biphenyls
2,3,7,8-tetrachlorodibenzo-p-dioxin
1,1,2,2-tetrachloroethane
Tetrachloroethylene
Toluene
Toxaphene
Trichloroethylene
1,2,4-Trichlorobenzene
1,1,1-Trichloroethane
1,1,2-Trichloroethane
2,4,6-Trichlorophenol

II. – Footnote 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:726 (June 1997), LR 23:959 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2765 (December 2000),

Herman Robinson, CPM
Executive Counsel

0606#020

RULE

Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice

Peace Officer Training (LAC 22:III.4715 and 4723)

In accordance with the provision of R.S. 40:2401, et seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et seq., which is the Administrative Procedure Act, The Peace Officer Standards and Training Council hereby amends rules and regulations relative to the training of peace officers.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part III. Commission on Law Enforcement and Administration of Criminal Justice

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4715. Instructor Qualifications

A. - E. ...

F. POST Corrections Instructors

1.a. Eligibility for *Level 1* Corrections Instructors

i. All applicants must be both a *Level 1* (320 hr. basic) and *Level 3* (90 hr. correctional officer) peace officer or be a *Level 2* (218 hr. basic corrections) peace officer under the current law; and

ii. have two years minimum full time experience in supervising inmates in a jail or correctional facility; and

iii. successfully complete the POST/ACA Corrections Instructor Course.

b. No out-of-state transfers are allowed for corrections instructor certification.

2.a. Eligibility for *Level 2* Master Corrections Instructors

i. The applicant shall be a POST/ACA Corrections Instructor for at least two years; and

ii. be recommended by the head of the agency/department; and

iii. successfully complete the POST/ACA Master Corrections Instructor course.

b. The *Level 2* Master Corrections Instructor can train and certify new *Level 1* POST Corrections Instructors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:664 (April 1999), LR 31:2008 (August 2005), LR 32:1043 (June 2006).

§4723. POST Firearms Qualification Course

A. Stages of Fire

1. STAGE I—At 25 yards, fire 6 rounds standing barricade, strong-hand, 6 rounds kneeling barricade, strong-hand, 6 rounds standing barricade, SH or OH, off-side. Time Limit: 90 seconds.

a. String I—The shooter must move maximum five yards to cover (barricade), draw and take up standing, strong-hand barricade position. Cover target (person) and give verbal commands. Shooter assumes he is in immediate danger and fires 6 rounds.

b. String II—Shooter then assumes a kneeling, strong-hand barricade position and fires 6 rounds.

c. String III—Shooter assumes off-side barricade position, strong or off-hand, and fires 6 rounds.

2. STAGE II—At 7 yards, fire 6 rounds kneeling (10 seconds), 12 rounds aim fire (25 seconds), 6 rounds off-hand (8 seconds), from ready gun position.

a. String I—Standing position: On command, draw and assume a kneeling position. Fire 6 rounds in 10 seconds.

b. String II—Standing position: On command, draw and fire 6 rounds, reload and fire 6 additional rounds in 25 seconds. Mandatory reloading for all weapons.

c. String III—Standing position with weapon in strong hand, ready gun position. On command, shooter shifts weapon to off hand only and fires 6 rounds in 8 seconds.

3. STAGE III—At 4 Yards, fire 3 rounds - One or two-hand instinct shooting position from holster in 3 seconds; back to ready gun position. 3 rounds - One or two-hand instinct shooting position.

a. String I—Standing position: On command, draw and fire 3 rounds in 3 seconds using instinct shooting position. Cover target for 1 second and assume a ready gun position; then, on command, shooter (using instinct shooting position) fires 3 rounds in 3 seconds.

b. String II—Repeat String I

4. STAGE IV—At 2 yards, fire 2 rounds - One or two-hand; take one step to rear in 2 seconds. Repeat 3 times.

a. String I—Standing position: On command, draw and fire 2 rounds in 2 seconds and holster. Shooter will take 1 step to rear while drawing.

b. String II—Repeat String I

c. String III—Repeat String I

B. Scoring of Target

1. Introduction. The following guidelines are published to provide a standard target and scoring system for the POST Qualification Course. The POST Qualification Target will be used for the course.

2. Scoring of the POST Target

a. Each hit in the silhouette, outside of the scoring ring, will be scored as one point.

b. Each hit in the scoring ring will be scored as two points.

c. A hit will not be recorded in the next higher scoring ring unless it breaks the line.

3. Qualification Requirements

a. Shooter must shoot 80 percent of possible 120. (80 percent = 96).

b. Basic academy qualification shooter will fire course 4 consecutive times and must average 80 percent minimum.

c. For in-service training, POST Course must be fired once annually with 80 percent minimum score.

d. For qualification course, basic or in-service, certified POST firearms instructor must score the target.

e. For any type of qualification, the course should be fired in order listed. Only during practice or demonstration may the course be fired in any order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:665 (April 1999), LR 32:1043 (June 2006).

Michael A. Ranatza
Executive Director

0606#056

RULE

Office of the Governor Division of Administration Office of the Commissioner

Small Entrepreneurship (Hudson Initiative)—Procurement (LAC 19:VIII.Chapters 11 and 13)

The Division of Administration, Office the Commissioner of Administration, in accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, has adopted LAC 19:VIII, Subpart 2, under the authority of R.S. 39:2007(F). The purpose of this promulgation is to provide for the establishment of regulations governing procurements made as part of the Louisiana Initiative for Small Entrepreneurships (Hudson Initiative), R.S. 39:2001 through 2008 and R.S. 51:931. This Rule will allow for coordination of state procurement with the February 20, 2006, implementation of Small Entrepreneurship certification procedures by the Department of Economic Development pursuant to LAC 19:VIII, Subpart 1.

Title 19

CORPORATIONS AND BUSINESS

Part VIII. Small Entrepreneurship (Hudson Initiative)

Subpart 2. Procurement

Chapter 11. General Provisions

§1101. Purpose

A. The State of Louisiana's Small Entrepreneurship (Hudson Initiative) Program, hereinafter called SE (HI), was created to provide additional opportunities for Louisiana-based small entrepreneurships, hereinafter called SE's, to participate in contracting and procurement with the state of Louisiana. By formalizing existing practices and implementing new procedures, the SE (HI) will allow the state of Louisiana to target more effectively certified SE participation and create opportunities relating to the state's contracting and procurement. Shown below are the key features of the SE (HI).

B.1. The SE (HI) is a goal-oriented program, encouraging state agencies to contract with certified SE's as well as encouraging contractors who receive contracts from the state to use good faith efforts to utilize certified SE's. The SE (HI) is a race and gender-neutral program. SE (HI) participation is restricted to Louisiana-based certified SE's in accordance with rules promulgated by the Louisiana Department of Economic Development.

a. The state will establish annual goals for certified SE participation in state procurement and public contracts. Contract goals will vary based on contracting and subcontracting opportunities, availability of certified SE's, and price competitiveness.

b. To participate, SE's must be certified by the Louisiana Department of Economic Development. Certification is based on a firm's gross revenues, number of employees, and other criteria as specified by Act 440 of the 2005 Legislative Session.

c. The SE (HI) has guidelines for counting certified SE participation.

d. The SE (HI) incorporates several procedures to help implement the initiative.

2. These procedures are designed to maximize the initiative's success, including:

a. assisting certified SE's and contractors by providing information, practical advice, and support;

b. strongly encouraging joint ventures and/or alliances among certified SE's and larger firms;

c. assisting in developing a mentoring program for certified SE's with appropriate private sector businesses and individuals;

d. requiring bidders and proposers to provide written assurance of certified SE participation in their bids and proposals;

e. providing workshops and training sessions to acquaint certified SE's with state procurement and public contract proposal and bidding practices, including problems frequently encountered by certified SE's during the proposal/bid process and generally while doing work for the state;

f. maintaining an updated certified SE directory and source list(s) on the Internet to help identify qualified and available certified SE's; and

g. making the state's central procurement website (LaPac) available for agencies to indicate that a particular procurement has been designated for SE participation.

3. For designated contracts, the SE (HI) requires good-faith efforts by contractors to use certified SE's in contract performance. The SE (HI) has procedures in place to determine whether contractors are meeting this requirement of good-faith efforts. Contractors are required to document their efforts to obtain certified SE participation. A contract award may be denied or an existing contract may be terminated if the state becomes aware that the contractor in fact failed to use good-faith efforts. The state recognizes that availability, subcontracting capabilities, and price competitiveness are relevant factors in determining whether a contractor has used good-faith efforts to subcontract with certified SE's.

4. The state may impose sanctions on a contractor who fails to make good-faith efforts or on an SE that was found to be guilty of deception relating to certification. Sanctions may include a suspension from doing business with the state for up to three years. Procedures are in place to provide an opportunity for due process for any contractor or SE prior to the suspension.

5. The SE (HI) is race and gender neutral. The SE (HI) shall not be used to discriminate against any person, company, or group of persons or companies. It is the policy of the state to prohibit discrimination based on race, gender, religion, national or ethnic origin, age, disability, or sexual orientation. Contractors and/or certified SE's that violate the state's non-discrimination mandate in the operations of the SE (HI) will be subject to sanctions.

C. The state utilizes various purchasing methods to acquire goods and services, including requests for proposals (RFP), invitations to bid (ITB), and purchase orders. The state determines which purchasing method to use based upon statutes and regulations applicable to the nature of the procurement.

1. The state will monitor the progress of the SE (HI), reviewing participation reports, community input, recommendations, and operational efficiency. Annual reports will be made to the House Committee on Appropriations and the Senate Committee on Finance addressing the number of contracts awarded to certified SE's, the number of contracts that included a good faith SE subcontracting plan, and the dollar value of SE contracts.

2. Nothing in the SE (HI) should be construed to give a proposer/bidder a property interest in an ITB, RFP, or contract prior to the state's award of the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:1044 (June 2006).

§1103. Mission and Policy Statement

A. Act 440 of the 2005 legislative session enacted R.S. 39:2001, et seq. and R.S. 51:931, creating the Small Entrepreneurship (Hudson Initiative) Program for the state of Louisiana. As enacted, the SE (HI) is a goal-oriented program, encouraging the state to contract with certified SE's as well as encouraging the state's contractors to use good-faith efforts to utilize Louisiana-based certified SE's as subcontractors.

B. It is the mission of the state to promote trade and economic development. It is the state's policy to promote economic development and business opportunities for all sectors of our community. Certified SE's need to be given an opportunity to participate in a fair portion of the total purchases and contracts for property, services, and construction for the state. Therefore, the state establishes the SE (HI) to ensure opportunities for certified SE's to participate in the state's contracting and procurement opportunities and ultimately to enhance the stability of Louisiana's economy.

C. As a matter of policy, the state recognizes and requires competitive pricing, qualifications, and demonstrated competencies in the selection of contractors. The SE (HI) is designed to create opportunities, while requiring competitiveness and quality of work. As such, it allows the state to target more effectively and strive to increase certified SE participation in the state's contracting and procurement activities. In its operations, the SE (HI) will assist the state in its mission of promoting economic development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:1045 (June 2006).

§1105. Scope

A. These procedures apply to all state departments, prime contractors, subcontractors, and certified SE's involved with SE (HI) contracts. These procedures do not apply to agency expenditures for amortization of debt, debt service, depreciation, employee benefits, per diem,

relocation expenses, salaries, postage, and transfer of charges. These procedures do not apply to contracts for sole source items, contracts with other governmental entities, and those contracts that are prohibited by federal law from inclusion in these procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:1045 (June 2006).

Chapter 13. Procedures

§1301. Operational Procedures

A. The procedures herein are established to govern the program components of the SE (HI) including, without limitation, program compliance, specific implementation measures, purchasing methods, reporting of certified SE participation, imposition of sanctions, and dispute resolution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:1045 (June 2006).

§1303. Objectives

A. The overall objectives for this program are:

1. to implement the policy of the SE (HI) to promote economic development and business opportunities for all sectors throughout the state;

2. to ensure opportunities for certified SE's to participate in all phases of the state's contracting activities;

3. to stimulate participation of Louisiana-based certified SE's with the state and create opportunities through the state's contracting and procurement;

4. to encourage certified SE's to seek work from prime contractors when qualified and work is available;

5. to formalize existing procurement and contracting practices and implement new procurement and contracting procedures to assist more effectively certified SE participation;

6. to carry out the mandate of the state as enacted by Act 440 of the 2005 Legislative Session;

7. to ensure nondiscriminatory practices in the use of certified SE's for state contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:1045 (June 2006).

§1307. Reserved.

§1309. Overall Annual SE (HI) Goals and Agency Participation Levels

A. Overall Annual Goals. Overall annual goals for SE (HI) participation for the state will be set each year by the Commissioner of Administration as a percentage increase based on prior year activity.

B. Individual Agency Participation Levels. The Commissioner of Administration will provide guidance on how agencies will determine participation levels. The criteria used to set individual agency participation levels may include but not be limited to certified SE capacity, certified SE availability, nature of the contract, past experiences with SE (HI) participation, recognized industry composition, and subcontracting opportunities. No quotas or set-asides will be used in implementing the SE (HI).

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:1045 (June 2006).

§1311. Purchasing Methods

A. The state utilizes various purchasing methods to acquire goods, services, major repairs and public works including requests for proposals (RFP), invitations to bid (ITB), and purchase orders. The procurement method to be used is based upon statutes and regulations applicable to the nature of the procurement.

B. Nothing in the SE (HI) should be construed to give a proposer/bidder a property interest in an ITB, RFP, or contract prior to the state's award of the contract.

C. Agencies will participate in the program by using any or all of the following procurement methods:

1. purchasing directly from a certified SE within the agency's discretionary procurement authority for goods, operating services, major repairs, construction and personal, professional and consulting services;

2. issuing an order to a certified SE (prime contractor or distributor) on statewide contract;

3. using an ITB process to award a contract either to a certified SE or to a bidder who can demonstrate a good faith plan to use certified SE's as subcontractors in performing the prime contract. To be responsive to the ITB the bidder must be either a certified SE or be able to demonstrate its good faith subcontracting plan:

a. good faith subcontracting plans in an invitation to bid:

i. the ITB will require the bidder to certify that the bidder is either a certified SE or that the bidder has a good faith subcontracting plan;

ii. the following describes the process a non-certified SE bidder shall follow in order to comply with the requirement for a good faith subcontracting plan:

(a). the bidder has or will use the SE (HI) certification list maintained by the Department of Economic Development to provide notice of the potential subcontracting opportunities to three or more certified SE's capable of performing the subcontract. Notification must be provided to the certified SE's no less than five working days prior to the date of bid opening;

(b). written notification is the preferred method to inform certified SE's. This written notification may be transmitted via fax and/or e-mail;

(c). written notification must include:

- (i). the scope of work;
- (ii). information regarding the location to review plans and specifications (if applicable);
- (iii). information about required qualifications and specifications;
- (iv). bonding and insurance information and/or requirements (if applicable);
- (v). contact person;

(d). the successful bidder must be able to provide written justification of the selection process if a certified SE was not selected;

b. post audits may be conducted. In the event that there is a question as to whether the low bidder's good faith subcontracting plan was complied with, the prime contractor must be able to provide supporting documentation to

demonstrate its good faith subcontracting plan was actually followed (i.e., phone logs, fax transmittals, letters, e-mails). If it is at any time determined that the contractor did not in fact perform its good faith subcontracting plan, the contract award or the existing contract may be terminated;

4. using a request for proposals (RFP) process to award a contract to a certified SE or to a proposer demonstrating a good faith effort to use certified SE's as subcontractors:

a. if an agency decides to issue an RFP to satisfy its SE (HI) goal, the procurement process will include either of the following:

i. require that each proposer either be a certified SE, or have made a good faith subcontracting effort in order to be responsive; or

ii. reserve 10 percent of the total RFP evaluation points for otherwise responsive proposers who are themselves a certified SE or who have made a good faith effort to use one or more SE's in subcontracting;

b. in evaluating proposals, the evaluation committee will follow the scoring criteria set forth in the RFP. In its evaluation process, the evaluation committee will not give additional points for SE participation beyond the designated amount set forth in the RFP;

c. good faith subcontracting in a request for proposal:

i. proposers alleging to have made a good faith subcontracting effort may be required in the RFP to verify their good faith subcontracting plan. A good faith effort can be evidenced by many things including those listed below:

(a). the proposer divided the contract work into reasonable lots or portions;

(b). the proposer used the SE (HI) certification list maintained by the Department of Economic Development to provide notice to three or more certified SE's of the potential subcontracting opportunities available in performance of the prime subcontract. Notification must have been provided to the certified SE's no less than five working days prior to the submission of the proposal;

(c). the notification from the proposer was in writing. This written notification may have been transmitted via fax and/or e-mail;

(d). the written notification gave the SE's complete information regarding the potential subcontract including such things as:

- (i). the scope of work;
- (ii). information regarding the location to review plans and specifications (if applicable);
- (iii). information about required qualifications and specifications;
- (iv). bonding and insurance information and/or requirements (if applicable);
- (v). contact person;

ii. an RFP under Clause 4.a.i shall require all proposers who are not certified SE's to certify they made a good faith subcontracting effort in their proposals;

iii. an RFP under Clause 4.a.ii may require that proposals include a proposed schedule of certified SE participation that lists the names of potential certified SE subcontractors, a description of the work each would perform, and the dollar value of each proposed certified SE subcontract;

iv. an RFP under Clause 4.a.ii may require that proposers provide documentation to demonstrate their good faith subcontracting effort (i.e., phone logs, fax transmittal logs, letters, e-mails) in order to receive any reserved points;

v. proposers responding to RFP's under either Clauses 4.a.i or 4.a.ii may be asked to provide written justification of the subcontractor selection process if a certified SE is not used as a subcontractor;

d. if at any time the state determines that the contractor did not in fact make a good faith effort, the contract award or the existing contract may be terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:1046 (June 2006).

§1313. Procedures for Counting Small Entrepreneurship Participation

A. The state may count towards its SE (HI) goals the total dollar value of the contract awarded to the certified SE, if the certified SE is the prime contractor.

B. The state may count the total dollar value of a contract that is subcontracted to a certified SE.

C. The state may count towards its SE (HI) goals the total dollar value of a contract awarded to a joint venture, of which a certified SE is a part. The joint venture must provide an affidavit stating the amount of work actually performed by the certified SE.

D. The state may count toward its SE (HI) goals the total dollar value of the contract if the RFP contemplated awarding ten percent of the total evaluation points to a proposer who demonstrated good faith efforts to use certified SE's as subcontractors, but was unsuccessful in doing so.

E. The state may count toward its SE (HI) goals the total dollar value of those contracts in which the contractor has provided a good faith subcontracting plan as part of the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:1047 (June 2006).

§1315. Certification Procedures

A. Certification procedures are in accordance with rules and regulations promulgated by the Louisiana Department of Economic Development. (LAC 19:VII.Subpart A)

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:1047 (June 2006).

§1317. Implementation Procedures

A. In an effort to maximize the SE (HI)'s success, the following procedures will be implemented to maximize opportunities for certified SE participation.

1. The Division of Administration and state departments/agencies are responsible for the direct operation and direct implementation of the SE (HI).

2. Each department/agency of the state shall choose an initiative coordinator. The person chosen to be initiative coordinator shall be the person serving as the undersecretary of the department or the business manager for an agency. The initiative coordinator or his designee shall be responsible for acting as a business advisor to work directly

with certified SE's and contractors to provide information, assistance, and support. The Division of Administration and state departments/agencies will undertake various tasks to make the program workable, including the following:

a. provide information to certified SE's on the state's organization and contractual needs and offer instructions on procurement policy, procedures, and general RFP/ITB requirements;

b. provide workshops and training sessions at least twice each year for certified SE's on challenges frequently encountered by certified SE's during bid/proposal process and generally when doing work for the state;

c. enhance the existing state's procurement and financial database to identify certified SE's for historical and reporting purposes;

d. hold pre-bid and pre-proposal seminars to explain bid and proposal requirements, including an explanation of the forms that must be submitted with the response or proposal;

e. conduct outreach activities;

f. conduct internal information workshops to inform and acquaint the state employees responsible for state procurement and public contracts with the goals and objective of the state's SE (HI) initiative and to sensitize them to the problems of SE's;

g. inform certified SE's of ITB's and RFP's related to their capabilities by placing notices on the state's central procurement website, LaPac.

3. The state will encourage the formation of joint ventures/alliances among certified SE's and larger firms to provide opportunities for certified SE's to gain experience.

4. The state will encourage a mentoring program between large businesses and certified SE's to share information and experiences.

5. In RFP's requiring the compliance of a good faith subcontracting plan the state may require proposers to submit information on their business relationships and arrangements with certified SE subcontractors at the time of proposal review. Agreements between a proposer and a certified SE subcontractor in which the certified SE subcontractor promises not to provide subcontracting quotations to other proposers shall be prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:1047 (June 2006).

§1319. Legal Remedies

A. Legal remedies will be in accordance with applicable procurement statutes including contract controversies, suspension and/or debarment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:1047 (June 2006).

§1321. Reporting Procedures

A. The Commissioner of Administration is charged with the preparation of an annual report on the progress of the SE (HI) in the most recently ended fiscal year. The commissioner must present the report to the House Committee on Appropriations and the Senate Committee on Finance by the fifteenth day of January each year. Therefore,

information for the commissioner's report regarding an agency's achievement of SE (HI) goals must be submitted to the commissioner no later than the first day of October each year. Each agency is required to report for the preceding fiscal year:

1. total number and dollar value of all contracts awarded in whole or in part to certified SE's;

2. number of contracts and the value of the contracts that included a good faith certified SE subcontracting plan;

3. number of actual agency staff that attended Division of Administration training for SE (HI) and the number of certified SE's that attended workshops and training sessions.

B. On-line forms for consistency in reporting will be provided on the commissioner's home page. A new "activity code" will be established in ISIS to track expenditures related to SE (HI). Agencies that do not use ISIS must develop their own mechanism to capture SE (HI) expenditures in order to provide reporting information to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:1047 (June 2006).

Denise Lea
Director

0606#036

RULE

Department of Health and Hospitals Board for Hearing Aid Dealers

Conduct and Licensing
(LAC 46:XXXIX.301, 501, 503, 901, and 903)

Under the authority of R.S. 37:2457, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Board for Hearing Aid Dealers, has amended LAC 46:XXXIX.301, 501, 503, 901, and 903, to determine which evidence and testimony is relevant for revocation or suspension of a hearing aid dealer's license.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIX. Hearing Aid Dealers

Chapter 3. Ethics

§301. Unethical Conduct

A. It shall be the responsibility of each holder of a license, temporary training permit, or certificate of endorsement under R.S. 37:2441-2465 to be familiar with and to avoid commission of any of the acts regarded as unethical practices by the Act. Full responsibility for the ethical conduct of a temporary training permit holder shall rest with the license or certificate holder who sponsored his application for a temporary training permit; provided, however, that such sponsoring license or certificate holder may relieve himself of such responsibility by discharging the

holder of the temporary training permit, returning said license by registered mail, to the board, together with a letter explaining fully the circumstances under which the temporary training permit holder was separated from the employment of the sponsor. If the certificate cannot be returned, full explanation shall be included in same letter.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:2457.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board for Hearing Aid Dealers, July 1969, amended by the Department of Health and Hospitals, Board for Hearing Aid Dealers, LR 32:1048 (June 2006).

Chapter 5. Application for License

§501. Application Forms; Fee

A. Every person requesting an application for a license or certificate of endorsement under this act shall be furnished the necessary form.

B. The application forms shall be designed to provide the board with the information necessary to satisfy itself that all requirements pertaining to Act 302 of 1968 of the legislature of the state of Louisiana are being fulfilled.

C. Failure to complete all forms and provide all information required may be just cause for the application to be rejected by the board and returned to the applicant.

D. The application shall be accompanied by a cashiers check or postal money order in the amount specified by this act. It shall be understood by the applicant that the application fee is to cover the cost of administration and shall not be refunded.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:2445 and R.S. 37:2457.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board for Hearing Aid Dealers, July 1969, amended by the Department of Health and Hospitals, Board for Hearing Aid Dealers, LR 32:1048 (June 2006).

§503. Applications, Temporary Training Permit Notarized

A. All applications shall be subscribed by the applicant and sworn to by him before a notary public, and in the case of a temporary training permit, the sponsor's statement shall also be notarized.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:2448, R.S. 37:2449 and R.S. 37:2457.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board for Hearing Aid Dealers, July 1969, amended by the Department of Health and Hospitals, Board for Hearing Aid Dealers, LR 32:1048 (June 2006).

Chapter 9. License

§901. Display of License

A. - C. ...

D. In any case where a temporary training permit holder is separated from the employment of his sponsor for any cause, he shall surrender his identification card to his sponsor for return to the board with his temporary permit. Upon application of a new sponsor, a new identification card will be issued to the temporary training permit holder and his certificate shall be forwarded to his new sponsor.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:2443 and R.S. 37:2457.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board for Hearing Aid Dealers, July 1969, amended by the Department of Health and Hospitals, Board for Hearing Aid Dealers, LR 32:1048 (June 2006).

§903. Revocation or Suspension of License

A. - B.1. ...

2. After due consideration of the written complaint, the written answer to the complaint, if any, all evidence offered, the written report of the Ethics Committee, and any additional investigation by the board, the Louisiana Board for Hearing Aid Dealers may:

- a. dismiss the complaint as unjustified;
- b. take action under R.S. 37:2461 and/or R.S. 37:2462, in accordance with the decision of the board.
- c. Repealed.

C. In the event that the board should seek the suspension or revocation of the license or temporary license of the accused party, the board shall:

- 1. set a time, date and location for a public hearing on the merits of the complaint;
- 2. notify the accused party of the time, date and location of such public hearing, in writing, and furnish him with the specific charges of the complaint at least 30 days before such hearing;
- 3. subpoena, compel the attendance and testimony of witnesses;
- 4. employ a public stenographer to transcribe all testimony adduced at the hearing;
- 5. any and all evidence and testimony relevant to the complaint may be presented to the board. The board will determine which evidence and testimony is relevant and make its consideration thereupon;
- 6. a majority of the board will preside;
- 7. obtain the services of legal counsel to assist the board at the hearing;
- 8. within 60 days after the hearing render its decision and reasons in writing, a copy of which is to be mailed to the complainant and the accused licensed hearing aid dealers.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:2453 and R.S. 37:2457.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board for Hearing Aid Dealers, July 1969, amended by the Department of Health and Hospitals, Board for Hearing Aid Dealers, LR 32:1049 (June 2006).

Gerald Cockerham
Chairman

0606#024

RULE
Department of Health and Hospitals
Board of Pharmacy

Pharmacy Technicians—Scope of Practice
(LAC 46:LIII.907)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended the referenced Rule.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LIII. Pharmacists

Chapter 9. Pharmacy Technicians

§907. Scope of Practice

A. Pharmacy technician candidates and pharmacy technicians may assist the pharmacist by performing those duties and functions assigned by the pharmacist while under his direct and immediate supervision.

1. The ratio of candidates to pharmacists on duty shall not exceed one to one at any given time.

2. The ratio of technicians to pharmacists on duty shall not exceed two to one at any given time. However, the ratio of technicians to pharmacists on duty may be increased to three to one if no technician candidates are on duty at the same time.

B. Pharmacy technician candidates shall not:

- 1. receive verbal initial prescription orders;
- 2. give or receive verbal transfers of prescription orders;
- 3. interpret prescription orders (however, a technician candidate may translate prescription orders);
- 4. compound high-risk sterile preparations, as defined by the United States Pharmacopeia (USP), or its successor;
- 5. counsel patients.

C. Pharmacy technicians shall not:

- 1. release a verbal prescription order for processing until it is reduced to written form and initialed by the receiving technician and supervising pharmacist;
- 2. interpret prescription orders (however, a technician may translate prescription orders);
- 3. compound high-risk sterile preparations, as defined by the United States Pharmacopeia (USP), or its successor;
- 4. counsel patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:2486 (November 2004), amended LR 32:1049 (June 2006).

Malcolm J. Broussard
Executive Director

0606#023

RULE

Department of Health and Hospitals
Office of Public Health

Infectious Disease Epidemiology Program
(LAC 51:II.Chapter 1)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health pursuant to the authority in R.S. 40:5, amends Title 51, Part II, Chapter 1 providing for the control of diseases and disease reporting requirements. The changes represent upgrades to the present Sanitary Code to

accommodate new diseases and conditions of public health concern, to expand the list of health care providers required to report, and to clarify reporting requirements for laboratories. The changes to the Sanitary Code are divided into five categories: (1) make additions and amendments to the list of Reportable Diseases and Conditions; (2) add Laboratory Directors and Poison Control Centers to the list of health care providers required to report; (3) amend the definition of the types of cases that must be reported by health care providers; (4) amend the definition of cases that the State Health Officer may investigate; and (5) amend and clearly define the reporting requirements of clinical laboratories operating within or outside of the state.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part II. The Control of Diseases

Chapter 1. Disease Reporting Requirements

§101. Definitions [formerly paragraph 2:001]

A. ...

* * *

Case of Arsenic Exposure—any medical condition/visit resulting from arsenic exposure as determined from the exposure history or patient statement and/or injury resulting from inhalation, ingestion, dermal exposure or ocular contact with arsenic. Laboratory test results for arsenic: includes results of arsenic tests (blood, urine, or tissue samples), regardless of test result.

Case of Cadmium Exposure—any medical condition/visit resulting from cadmium exposure as determined from the exposure history or patient statement and/or injury resulting from inhalation, ingestion, dermal exposure or ocular contact with cadmium. Laboratory test results for cadmium: includes results of cadmium tests (blood, urine, or tissue samples), regardless of test result.

Case of Lead Exposure—any medical condition/visit resulting from lead exposure as determined from the exposure history or patient statement and/or injury resulting from inhalation, ingestion, dermal exposure or ocular contact with lead. Laboratory test results for lead: includes results of lead tests (blood, urine, or tissue samples), regardless of test result.

Case of Mercury Exposure—any medical condition/visit resulting from mercury exposure as determined from the exposure history or patient statement and/or injury resulting from inhalation, ingestion, dermal exposure or ocular contact with mercury. Laboratory test results for mercury: includes results of mercury tests (blood, urine, or tissue samples), regardless of test result.

Case of Pesticide-Related Illness and Injury—any medical condition/visit resulting from pesticide exposure as determined from the exposure history or patient statement and/or acute, subacute, or chronic illness or injury resulting from inhalation, ingestion, dermal exposure or ocular contact with a pesticide. Laboratory test results for pesticide-related illness and injury includes results of cholinesterase tests (plasma and red blood cell), regardless of test results, for which the purpose of the test was possible pesticide exposure; and tests of pesticides or metabolites in blood, urine, or tissue samples, regardless of test results.

* * *

Pesticide—any pesticide defined in the Louisiana Pesticide Law (Louisiana Revised Statutes Chapter 20, 1999) as now stated and as may be amended in the future. Pesticides include but are not limited to insecticides, herbicides, rodenticides, repellants, fungicides, and wood treatment products.

* * *

AUTHORITY NOTE: The first source of authority for promulgation of the sanitary code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the specific provisions of R.S. 40:4(A)(2) and R.S. 40:5(1)(2) and (10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:1050 (June 2006).

§105. Reportable Diseases and Conditions [formerly paragraph 2:003]

A. The following diseases or conditions are hereby declared reportable with reporting requirements by Class.

1. Class A Diseases or Conditions which Shall Require Reporting within 24 Hours

a. This class includes diseases of major public health concern because of the severity of disease and potential for epidemic spread. Class A diseases or conditions shall be reported to the Office of Public Health by telephone immediately upon recognition that a case, a suspected case, or a positive laboratory result is known. In addition, all cases of rare or exotic communicable diseases, unexplained death, unusual cluster of disease and all outbreaks shall be reported. The following diseases or conditions shall be classified as Class A for reporting requirements:

- i. Anthrax;
- ii. Avian Influenza;
- iii. Botulism;
- iv. Brucellosis;
- v. Cholera;
- vi. Diphtheria;
- vii. Haemophilus influenzae (invasive infection);
- viii. Influenza-associated Mortality;
- ix. Measles (rubeola);
- x. Neisseria meningitidis (invasive infection);
- xi. Plague;
- xii. Poliomyelitis (paralytic);
- xiii. Q Fever (Coxiella burnetii);
- xiv. Rabies (animal and human);
- xv. Rubella (congenital syndrome);
- xvi. Rubella (German measles);
- xvii. Severe Acute Respiratory Syndrome-associated Coronavirus (SARS-CoV);
- xviii. Staphylococcus aureus, Vancomycin Intermediate or Resistant (VISA/VRSA);
- xix. Smallpox;
- xx. Tularemia;
- xxi. Viral Hemorrhagic Fever;
- xxii. Yellow Fever.

2. Class B Diseases or Conditions which Shall Require Reporting within One Business Day

a. This class includes diseases of public health concern needing timely response because of potential for

epidemic spread. The following Class B diseases shall be reported to the Office of Public Health by the end of the next business day after the existence of a case, a suspected case, or a positive laboratory result is known:

- i. Arthropod-Borne Neuroinvasive Disease and other infections (including West Nile, St. Louis, California, Eastern Equine, Western Equine and others);
- ii. Aseptic meningitis;
- iii. Chancroid¹;
- iv. Escherichia coli, Shiga-toxin producing (STEC), including E. coli O157:H7;
- v. Hantavirus Pulmonary Syndrome;
- vi. Hemolytic-Uremic Syndrome;
- vii. Hepatitis A (acute illness);
- viii. Hepatitis B (acute illness and carriage in pregnancy);
- ix. Hepatitis B (perinatal infection);
- x. Hepatitis E;
- xi. Herpes (neonatal);
- xii. Legionellosis;
- xiii. Malaria;
- xiv. Mumps;
- xv. Pertussis;
- xvi. Salmonellosis;
- xvii. Shigellosis;
- xviii. Syphilis¹;
- xix. Tetanus;
- xx. Tuberculosis²;
- xxi. Typhoid Fever.

3. Class C Diseases or Conditions which Shall Require Reporting within Five Business Days

a. This class shall include the diseases of significant public health concern. The following diseases shall be reported to the Office of Public Health by the end of the workweek after the existence of a case, suspected case, or a positive laboratory result is known:

- i. Acquired Immune Deficiency Syndrome (AIDS)
- ii. Blastomycosis;
- iii. Campylobacteriosis;
- iv. Chlamydial infection¹;
- v. Coccidioidomycosis;
- vi. Cryptococcosis;
- vii. Cryptosporidiosis;
- viii. Cyclosporiasis;
- ix. Dengue;
- x. Ehrlichiosis;
- xi. Enterococcus, Vancomycin Resistant [(VRE), invasive disease];
- xii. Giardia;
- xiii. Gonorrhea¹;
- xiv. Hansen Disease (leprosy);
- xv. Hepatitis B (carriage, other than in pregnancy);
- xvi. Hepatitis C (acute illness);
- xvii. Hepatitis C (past or present infection);
- xviii. Human Immunodeficiency Virus (HIV);
- xix. Listeria;
- xx. Lyme Disease;
- xxi. Lymphogranuloma venereum¹;
- xxii. Psittacosis;
- xxiii. Rocky Mountain Spotted Fever (RMSF);
- xxiv. Staphylococcal Toxic Shock Syndrome;

- xxv. Staphylococcus aureus, Methicillin/Oxacillin Resistant [(MRSA), invasive infection];
- xxvi. Streptococcal disease, Group A (invasive disease);
- xxvii. Streptococcal disease, Group B (invasive disease);
- xxviii. Streptococcal Toxic Shock Syndrome;
- xxix. Streptococcus pneumoniae, Penicillin Resistant [(DRSP), invasive infection];
- xxx. Streptococcus pneumoniae (invasive infection in children <5 years of age);
- xxxi. Transmissible Spongiform Encephalopathies;
- xxxii. Trichinosis;
- xxxiii. Varicella (chickenpox);
- xxxiv. Vibrio infections (other than cholera).

4. Class D Special Reportable Diseases or Conditions Shall Require Reporting within Five Business Days

a. This class shall include the diseases of significant public health concern. The following diseases/conditions shall be reported to the Office of Public Health by the end of the workweek after the existence of a case, suspected case, or a positive laboratory result is known:

- i. Cancer;
- ii. Complications of abortion;
- iii. Congenital hypothyroidism³;
- iv. Galactosemia³;
- v. Heavy Metal (Arsenic, Cadmium, Mercury) Exposure and/or Poisoning (All Ages);
- vi. Hemophilia³;
- vii. Lead Exposure and/or Poisoning (All Ages)³;
- viii. Pesticide-Related Illness or Injury (All Ages);
- ix. Phenylketonuria³;
- x. Reye's Syndrome;
- xi. Severe traumatic head injury;
- xii. Severe under nutrition (severe anemia, failure to thrive);
- xiii. Sickle cell disease (newborns)³;
- xiv. Spinal cord injury;
- xv. Sudden infant death syndrome (SIDS).

B. Case reports not requiring special reporting instructions (see below) can be reported by Confidential Disease Report forms (2430), facsimile, phone reports or through the Office of Public Health's electronic Reportable Disease Database: <https://ophrdd.dhh.state.la.us>.

1. ¹Report on STD-43 form. Report cases of syphilis with active lesions by telephone.

2. ²Report on CDC72.5 (f.5.2431) card.

3. ³Report to the Louisiana Genetic Diseases Program and Louisiana Childhood Lead Poisoning Prevention Programs.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:1050 (June 2006).

§109. Reports by All Health Care Providers [formerly paragraph 2:006]

A. It shall be the duty of every osteopath, coroner, medical examiner, dentist, homeopath, infection control practitioner, laboratory director, medical records director, nurse, nurse midwife, nurse practitioner, pharmacist, physician assistant, podiatrist, poison control center, social worker, veterinarian, and any other health care professional

to report, a positive laboratory result, a confirmed or suspected case of any reportable disease or condition as specified in §105 in which he or she has examined or evaluated, or for which he or she is attending or has knowledge.

AUTHORITY NOTE: Promulgated in accordance with the provisions or R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1213 (June 2002), amended LR 32:1051 (June 2006).

§113. Laboratory Reporting Requirements [formerly paragraph 2:008]

A. The director of every laboratory whether public, private, hospital or other, within or out of the state shall report to the State Health Officer the results of all tests that are in any way clinically relevant, suggestive or indicative of an individual having active disease, past or present exposure to, past or present contact with and/or past or present association with any of the disease/conditions listed in the Public Health Sanitary Code, Part II, Chapter 1, §105. The results of the tests to be reported to the state health officer do not have to be conducted for diagnostic reasons, nor do the results have to be diagnostic or confirmatory. The report should be received in a timely manner consistent with the requirements of the diseases/conditions Class described in §105 and shall state the name, date of birth, sex, race, usual residence, specimen identification code/ID and test results of the tested individual as well as the name of the physician or person submitting the specimen. Contact information for the laboratory performing the test(s) must be provided. Laboratories shall not defer their Public Health Reporting responsibilities to other authorities (e.g., Infection Control) within the institutions they serve. In addition, laboratories performing tests on specimens received from other laboratories shall report to the state health officer all results as prescribed above plus the contact information for the facility/laboratory where the specimen originated. Moreover, no considerations, evaluations or concerns, regarding any test technology or test result by institutions and/or organizations whether federal, state or otherwise (e.g., FDA, CMS-CLIA, etc.) which may be overseeing, approving, evaluating or licensing laboratory testing, shall represent an a priori rationale for withholding laboratory reports from the state health officer.

B. Laboratory reports shall not be construed by the Office of Public Health as diagnosis. In the case of private patients, follow-up of laboratory reports shall be through the physician(s) submitting the specimen(s).

AUTHORITY NOTE: Promulgated in accordance with the provisions or R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1214 (June 2002), amended LR 32:1052 (June 2006).

§115. Investigations [formerly paragraphs 2:009]

A. The state health officer may immediately upon receiving notification of any communicable disease or reportable condition, investigate as the circumstances may require for the purpose of verification of the diagnosis, to ascertain the source of the causative agent, to disclose unreported cases and to reveal susceptible contacts if such information is required to prevent a serious health threat to the community. The decision of the state health officer as to the diagnosis shall be final, for administrative purposes.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions or R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1214 (June 2002), amended LR 32:1052 (June 2006).

Frederick P. Cerise, M.D., M.P.H.
Secretary

0606#075

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Medical Assistance—Pharmacy
(LAC 50:XXIX.Chapters 1-9)

The following Chapters have been codified and placed in Title 50. The table below reflects current codification and citations of the text used to compile the Sections being promulgated.

Current Placement	Uncodified Historical Citations
§105	LR 22:1134 (November 1996)
§107	LR 28:2363 (November 2002)
§109	LR 22:583 (July 1996)
§111	LR 22:107 (February 1996)
§113	LR 14:88 (February 1988), LR 16: 313 (April 1990), LR 29:2115 (October 2003).
§115	LR 16:972 (November 1990)
§117	LR 14:88 (February 1988), LR 16:313 (April 1990), LR 18:964 (September 1992).
§119	LR 14:88 (February 1988), LR 16:313 (April 1990).
§301	LR 6:114 (March 1980), LR 12:244 (April 1986), LR 14:88 (February 1988), LR 16:313 (April 1990), LR 19:1579 (December 1993), LR 22:370 (May 1996), LR 22:583 (July 1996)
§303	LR 6:114 (March 1980), LR 12:244 (April 1986), LR 19:1579 (December 1993), LR 22:370 (May 1996), LR 22:583 (July 1996)
§305	LR 6:114 (March 1980), LR 12:244 (April 1986), LR 19:1579 (December 1993), LR 22:370 (May 1996), repromulgated LR 22:583 (July 1996)
§307	LR 6:114 (March 1980), LR 12:244 (April 1986), LR 19:1579 (December 1993), LR 22:370 (May 1996), LR 22:583 (July 1996)
§309	LR 6:114 (March 1980), LR 12:244 (April 1986), LR 19:1579 (December 1993), LR 22:370 (May 1996), LR 22:583 (July 1996)
§311	LR 6:114 (March 1980), LR 12:244 (April 1986), LR 19:1579 (December 1993), LR 22:370 (May 1996), LR 22:583 (July 1996)
§313	LR 6:114 (March 1980), LR 12:244 (April 1986), LR 19:1579 (December 1993), LR 22:370 (May 1996), LR 22:583 (July 1996)
§315	LR 19:1579 (December 1993)
§501	LR 14:88 (February 1988), LR 16:313 (April 1990), LR 18:964 (September 1992), LR 31:931 (April 2005)
§701	LR 31:2897 (November 2005)
§703	LR 31:2897 (November 2005)
§705	LR 31:2898 (November 2005)
§707	LR 31:2898 (November 2005)
§709	LR 31:2899 (November 2005)
§711	LR 31:2899 (November 2005)
§713	LR 31:2899 (November 2005)
§715	LR 31:2900 (November 2005)

Current Placement	Uncodified Historical Citations
§901	LR 1:341 (August 1975), LR 14:88 (February 1988), LR 16:313 (April 1990)
§903	LR 14:88 (February 1988), amended LR 16:313 (April 1990)
§915	LR 18:57 (January 1992)
§917	LR 18:57 (January 1992)
§919	LR 18:57 (January 1992)
§921	LR 18:57 (January 1992)
§923	LR 14:88 (February 1988), LR 18:57 (January 1992)
§925	LR 4:296 (August 1978), LR 5:280 (September 1979), LR 7:501 (October 1981), LR 12:679 (October 1986), LR 13:24 (January 1987), LR 13:183 (March 1987), LR 13:657 (November 1987), LR 16:313 (April 1990), LR 16:693 (August 1990), LR 17:271 (March 1991), LR 18:57 (January 1992), LR 22:108 (February 1996), LR 22:1224 (December 1996), LR 23:1687 (December 1997), LR 24:2280 (December 1998)
§935	LR 14:88 (February 1988), LR 16:313 (April 1990), LR 26:1299 (June 2000), LR 26:1629 (August 2000), LR 28:837 (April 2002)
§945	LR 5:64 (March 1979), LR 5:244 (August 1979), LR 5:355 (November 1979), LR 6:175 (May 1980), LR 7:7 (January 1981), LR 7:629 (December 1981), LR 8:11 (January 1982), LR 8:510 (October 1982), LR 9:13 (January 1983), LR 9:14 (January 1983), LR 9:63 (February 1983), LR 9:552 (August 1983), LR 9:837 (December 1983), LR 10:466 (June 1984), LR 11:540 (May 1985), LR 11:637 (June 1985), LR 11:865 (September 1985), LR 11:1149 (December 1985), LR 12:769 (November 1986), LR 13:498 (September 1987), LR 14:88 (February 1988), LR 14:294 (May 1988), LR 14:353 (June 1988), LR 15:548 (July 1989), LR 15:844 (October 1989), LR 16:313 (April 1990)
§947	LR 14:88 (February 1988), amended LR 16:313 (April 1990)
§949	LR 1:341 (August 1975), LR 2:272 (September 1976), LR 5:64 (March 1979), LR 5:244 (August 1979), LR 5:355 (November 1979), LR 6:175 (May 1980), LR 7:7 (January 1981), LR 7:629 (December 1981), LR 8:11 (January 1982), LR 8:510 (October 1982), LR 9:13 (January 1983), LR 9:14 (January 1983), LR 9:63 (February 1983), LR 9:552 (August 1983), LR 9:837 (December 1983), LR 10:466 (June 1984), LR 11:540 (May 1985), LR 11:637 (June 1985), LR 11:865 (September 1985), LR 11:1149 (December 1985), LR 12:769 (November 1986), LR 13:498 (September 1987), LR 14:88 (February 1988), LR 14:294 (May 1988), LR 14:353 (June 1988), LR 15:548 (July 1989), LR 15:844 (October 1989), LR 16:313 (April 1990)
§961	LR 31:1595 (July 2005)
§963	LR 31:1595 (July 2005)
§971	LR 32:247 (February 2006)
§981	LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000)

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 1. General Provisions

§101-103. Reserved.

§105. Medicaid Pharmacy Benefits Management

System Point of Sale—Prospective Drug Utilization Program

A. The Louisiana Medicaid Pharmacy Benefits Management System (LMPBM) includes a Point-of-Sale/Prospective Drug Utilization Review component.

B. The Department of Health and Hospitals reserves the right for ultimate decision making relative to certain drug class information and drug contraindications or interactions.

C. Formulary Management. The formulary is managed through the use of Federal Upper Limits (FUL) and the Louisiana Maximum Allowable Costs (LMAC) limitations. Federal Upper Limits and Louisiana Maximum Allowable Costs limitations provide for dispensing of multiple source drugs at established limitations unless the prescribing physician specifies that the brand product is medically necessary for a patient. Establishment of co-payments also provides for formulary management. The Medicaid Program has established a broad formulary with limited exceptions.

D. Reimbursement Management. The cost of pharmaceutical care is managed through Estimated Acquisition Costs (EAC) of drug ingredient costs through Average Wholesale Price (AWP) discounting, the Louisiana Maximum Allowable Costs (LMAC) limitations and compliance with Federal Upper Limits (FUL) regulations, and the establishment of the maximum allowable overhead costs, drug rebates and copayments.

E. Claims Management. The claims management component is performed through the processing of pharmacy claims against established edits. Claim edit patterns and operational reports are analyzed to review the effectiveness of established edits and to identify those areas where the development of additional edits are needed.

F. Program Integrity. Program integrity is maintained through the following mechanisms:

1. retrospective drug utilization review;
2. Lock-In Program for patient education;
3. Surveillance and Utilization Review Program

which provides for on-going review processes for misutilization, abuse and fraud, and audits of the providers of the Pharmacy Program.

G. Pharmacy Provider Network. Enrolled Medicaid pharmacy providers are required to comply with all applicable federal and state laws and regulations.

H. Point-of-Sale Prospective Drug Utilization Review System. This on-line Point-of-Sale System provides electronic claims management to evaluate and improve drug utilization quality. Information about the patient and the drug will be analyzed through the use of eight therapeutic modules in accordance with the standards of the National Council of Prescription Drug Plan. The purpose of prospective drug utilization review is to reduce in duplication of drug therapy, prevent drug-to-drug interactions, and assure appropriate drug use, dosage and duration. The PRO-DUR modules may screen for drug interactions, therapeutic duplication, improper duration of therapy, incorrect dosages, clinical abuse/misuse and age restrictions. Electronic claims submission sends on-line messages to pharmacists informing them of potential drug-related problems and the pharmacists must document their responses by using interventions codes. By using these codes, pharmacists will document prescription reporting and outcomes of therapy for Medicaid recipients.

I. POS/PRO-DUR Requirements Provider Participation

1. Point-of-Sale (POS) enrollment amendment and certification is required prior to billing POS/PRO-DUR system. Annual recertification is required.

2. All Medicaid enrolled pharmacy providers will be required to participate in the Pharmacy Benefits Management System.

3. All Medicaid enrolled pharmacy providers whose claim volume exceeds 100 claims or \$4,000 per month and all providers enrolled on January 1, 1996 will be required to participate in Point-of-Sale System. Long term care pharmacy provider claims may be processed through electronic media claims (EMC).

4. Providers accessing the POS/PRO-DUR system will be responsible for the purchase of all hardware for connection to the switching companies and any fees associated with connection or transmission of information to the fiscal intermediary. The Bureau of Health Services Financing will not reimburse the provider for any initial on-going fees incurred by the provider to access the POS/PRO-DUR system.

5. Providers are required to verify eligibility with the monthly eligibility card and a copy of the card should be retained for processing the claim.

6. Pharmacy providers and physicians may obtain assistance with clinical questions from the Northeast Louisiana University, School of Pharmacy.

7. Physicians and pharmacy providers will be required to participate in the educational and intervention features of the Pharmacy Benefits Management System.

J. Recipient Participation. Pharmacy patients are encouraged to take an active role in the treatment or management of their health conditions through participation in patient counseling efforts with their physicians and pharmacists.

K. Disease and Outcomes Management. Disease management will be focused on improving the drug therapy for certain disease states by developing procedures to assure direct interventions and increasing compliance of patients. Patient populations will be targeted for disease therapy monitoring and educational efforts

L. Peer Counseling and Conference Management. The department will analyze data for individual prescribers and pharmacists. Quality management strategies will be used for peer counseling and conferences with prescribers and/or pharmacists to assure appropriate prescribing and dispensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, Title XIX of the Social Security Act, and the 1995-96 General Appropriate Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1053 (June 2006).

§107. Prior Authorization

A. The medication must be prescribed by a practitioner who is authorized to prescribe under state law. The National Drug Code (NDC) must be shown on each pharmacy claim form for reimbursement of prescription drugs subject to rebates from manufacturers as mandated by federal law and regulations.

B. Covered Drugs. Coverage of drugs shall be limited to specific drug products authorized for reimbursement by therapeutic category and listed by generic name, strength/unit, NDC, and brand name. Those drug products subject to mandatory coverage as a result of a rebate agreement with the federal government will be covered until written notice is received from the Centers for Medicare and

Medicaid Services that coverage will be terminated. Providers will be given prior notice of termination of coverage as required under federal regulations.

C. Prior Authorization with a Preferred Drug List

1. As authorized by R.S. 46:153.3(B)(2)(a) and pursuant to 42 U.S.C. s1396r-8, a prior authorization process is established which utilizes a preferred drug list (PDL) for selected therapeutic classes. Drugs included on the PDL are automatically prior authorized. Drugs in those classes that are not included on the PDL shall require prescribers to obtain prior authorization. Providers will be notified of the drugs selected for placement on the PDL by selected therapeutic classes prior to implementation of the prior authorization process and as additional drugs are subsequently added to the list. Lists of covered drug products, including those that require prior authorization, will be maintained in either the Prescription Drug Services Manual, other designated service provider manuals, on the Louisiana Medicaid web site or provider notices.

2. The prior authorization process provides for a turnaround response by either telephone or other telecommunications device within 24 hours of receipt of a prior authorization request. In emergency situations, providers may dispense at least a 72-hour supply of medication as mandated by R.S. 46:153.3(B)(2)(a) and pursuant to 42 U.S.C. s1396r-8.

3. The Pharmaceutical and Therapeutics Committee will make recommendations to the department regarding drugs to be considered for prior authorization. The composition of and appointment to the Pharmaceutical and Therapeutics Committee complies with R.S. 46:153.3(D) and 42 U.S.C.s1396r-8.

D. Drugs Excluded from Coverage. As provided by Section 1927(d)(2) of the Social Security Act, the following drugs are excluded from program coverage:

1. experimental drugs;
2. anorexics;
3. cough and cold preparations;
4. cosmetic drugs;
5. compounded prescriptions (mixtures of two or more ingredients-the individual drugs will continue to be reimbursed);
6. medications which are included in the reimbursement to a facility, i.e.:
 - a. hospitals;
 - b. skilled nursing facility for recipients receiving benefits under Part A of Title XVIII;
 - c. mental hospitals; or
 - d. some other nursing facilities;
7. non-legend drugs with some exceptions;
8. fertility drugs when used for fertility treatment;
9. vaccines covered in other programs; and
10. DESI Drugs (see Subsection E below).

E. DESI Drugs. Those drugs that are subject to a Notice of Opportunity for Hearing (NOOH), as prescribed by Section 1927(k)(2)(A) of the Social Security Act for which the Food and Drug Administration has proposed to withdraw from the market because they are "less than effective" or "identical, related, or similar drugs", and are identified as DESI ineffective drugs shall be excluded from coverage.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1054 (June 2006).

§109. Medicare Part B

A. The Department of Health and Hospitals, Bureau of Health Services Financing pays the full co-insurance and the Medicare deductible on pharmacy claims for services provided to Medicaid recipients covered by Medicare Part B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1055 (June 2006).

§111. Copayment

A. Payment Schedule

1. A copayment requirement in the Pharmacy Program is based on the following payment schedule.

Calculated State Payment	Copayment
\$10.00 or less	\$0.50
\$10.01 to \$25.00	\$1.00
\$25.01 to \$50.00	\$2.00
\$50.01 or more	\$3.00

2. The pharmacy provider shall collect a copayment from the Medicaid recipient for each drug dispensed by the provider and covered by Medicaid. The following pharmacy services are exempt from the copayment requirement:

- a. services furnished to individuals under 21 years of age;
- b. services furnished to pregnant women if such services are related to the pregnancy, or to any other medical condition which may complicate the pregnancy;
- c. services furnished to any individual who is an inpatient in a hospital, long term care facility, or other medical institution;
- d. emergency services provided in a hospital, clinic, physician office or other facility equipped to furnish emergency care;
- e. family planning services and supplies.

B. In accordance with federal regulations, the following provisions apply.

1. The provider may not deny services to any eligible individual on account of the individual's inability to pay the copayment amount. However, this service statement does not apply to an individual who is able to pay, nor does an individual's inability to pay eliminate his or her liability for the copayment.

2. Providers shall not waive the recipient copayment liability.

3. Departmental monitoring and auditing will be conducted to determine provider compliance.

4. Violators of this §111 will be subject to a penalty such as suspension from the Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 32:1055 (June 2006).

§113. Prescription Limit

A. The Department of Health and Hospitals will pay for a maximum of eight prescriptions per calendar month for Medicaid recipients.

B. The following federally mandated recipient groups are exempt from the eight prescriptions per calendar month limitation:

- 1. persons under 21 years of age;
- 2. persons who are residents of long-term care institutions, such as nursing homes and ICF-MR facilities; and
- 3. pregnant women.

C. The eight prescriptions per month limit can be exceeded when the prescriber determines an additional prescription is medically necessary and communicates the following information to the pharmacist in his own handwriting or by telephone or other telecommunications device:

- 1. "medically necessary override;" and
- 2. a valid ICD-9-CM Diagnosis Code that directly related to each drug prescribed that is over the eight prescription limit (no ICD-9-CM literal description is acceptable).

D. The prescriber should use the Clinical Drug Inquiry (CDI) internet web application developed by the fiscal intermediary in his/her clinical assessment of the patient's disease state or medical condition and the current drug regime before making a determination that more than eight prescriptions per calendar month is required by the recipient.

E. Printed statements without the prescribing practitioner's signature, check-off boxes or stamped signatures are not acceptable documentation.

F. An acceptable statement and ICD-9-CM are required for each prescription in excess of eight for that month.

G. Pharmacists and prescribers are required to maintain documentation to support the override of a prescription limitation.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1055 (June 2006).

§115. Drug Coverage Limits

A. Reimbursement for multi-source prescription drugs shall be limited in accordance with state and federal law and rules pertaining thereto, with the following exception: Reimbursement shall be provided for any drug prescribed by a physician that, in his professional judgment and within the lawful scope of his practice, he considers appropriate for the diagnosis and treatment of the patient with the following limitations.

1. The prescribed drug has been approved and designated as safe and effective by the Food and Drug Administration.

2. The prescribed drug is not classified as a DESI drug (drugs which have been identified by the FDA as lacking evidence of safety/effectiveness).

3. The prescribed drug is not a compounded prescription (mixtures of two or more ingredients).

4. The prescribed drug is not a narcotic prescribed only for narcotic addiction.

5. The prescription is not for medications which are included in the reimbursement to Title XIX facilities, including, but not limited to:

- a. hospitalized recipients;
- b. recipients receiving benefits under Part A of Title XVIII in a skilled nursing facility; or

c. resident/patients at Villa Feliciana or any state mental hospital.

6. The prescribed drug is a cosmetic drug, anorexic cough and cold preparation, minor tranquilizer, or nonprescription drug that is recommended for coverage by the Medicaid Drug Committee and approved by the department for reimbursement.

7. The prescribed drug is included in the classification experimental drugs which are generally labeled: "Caution - limited by federal law to investigational use," a specific exception has been granted by the federal government and the prescription drug has been recommended for coverage by the Medicaid Drug Program Committee and approved by the department.

8. The prescribed drug is an immunosuppressant drug prescribed and billed to Medicare within one year from the date of the transplant for a Title XIX recipient who has Medicare Part B coverage.

9. The prescribed drug is an immunosuppressant drug covered by Medicare Part B which is prescribed for a nontransplant patient with Medicare Part B coverage and identified in the Title XIX provider manual as subject to special billing procedures. Payment shall be made only when billing requirements are met. Requirements may include provision of a physician statement (or copy) verifying the diagnosis attached to each claim submitted.

B. Drug Listing

1. A complete listing of covered drugs will be maintained in the Title XIX provider manual for utilization by providers. The bureau's fiscal intermediary will provide coverage information on any specific drug. Providers should contact the fiscal intermediary's provider relations unit when a specific coverage question arises.

2. The Title XIX provider manual shall include a listing of examples of prescribed medications and/or supplies which are not payable under pharmaceutical services of the Medical Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1055 (June 2006).

§117. Time Limits

A. Filling Prescriptions. Prescriptions shall be filled within six months of the date prescribed by a physician or other service practitioner covered under Medicaid of Louisiana.

B. Transferring Prescriptions. Transfer of a prescription from one pharmacy to another is allowed if less than six months have passed since the date prescribed and in accordance with the Louisiana Board of Pharmacy requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1056 (June 2006).

§119. Maximum Quantity

A. For all prescriptions, the maximum quantity payable shall be a month's supply or 100 unit doses, whichever is greater. The quantity billed shall be that prescribed, unless it exceeds the maximum quantity payable in which case the maximum quantity payable shall be filled.

B. When maintenance drugs are prescribed and dispensed for chronic illnesses they shall be in quantities sufficient to effect economy in dispensing and yet be medically sound. Listed below are drugs the agency considers to be maintenance type drugs and which should be prescribed and dispensed in a month's supply:

1. anti-coagulants;
2. anti-convulsants;
3. oral anti-diabetics;
4. calcium gluconate, calcium lactate, and calcium phosphate;
5. cardiovascular drugs including:
 - a. diuretics;
 - b. antihypertensives; and
 - c. antihyperlipidemics;
6. estrogens;
7. ferrous gluconate and ferrous sulfate;
8. potassium supplements;
9. thyroid and antithyroid drugs;
10. vitamins:
 - a. A, D, K, B₁₂ injection;
 - b. Folic Acid; and
 - c. Nicotinic Acid.

C. For patients in nursing homes, the pharmacist shall bill for a minimum of a month's supply of medication unless the treating physician specifies a smaller quantity for a special medical reason.

D. Payment will not be made for narcotics prescribed only for narcotic addiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1056 (June 2006).

§121. Authorized Prescribers (Reserved)

Chapter 3. Lock-In Program

§301. Introduction

A. Recipients shall have free choice of pharmacy unless subject to the agency's Lock-In Program.

B. Lock-in is a mechanism for restricting Medicaid recipients to a specific physician and/or a specific pharmacy. The lock-in mechanism does not prohibit the recipient from receiving services from providers who offer services other than physician and pharmacy services. The lock-in mechanism:

1. ensures appropriate use of Medicaid benefits by recipients and/or providers; and
2. serves as an educational device in instructing recipients in the most efficient method of using Medicaid services to ensure maximum health benefits.

C. A Medicaid beneficiary who has shown a consistent pattern of misuse of program benefits may be placed into the lock-in mechanism. Misuse may take the form of obtaining prescriptions under the pharmacy program from various physicians and/or pharmacists without these providers' knowledge that the beneficiary is receiving these drugs in an uncontrolled and unsound way.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1056 (June 2006).

§303. Beneficiary Placement

A. Potential lock-in beneficiaries will be identified through review of various reports generated by the Medicaid Management Information System or by referral from other interested parties to the Fiscal Intermediary for data analysis. Professional medical personnel affiliated with the Fiscal Intermediary and/or Department of Health and Hospitals examine data for a consistent pattern of misuse of program benefits by a beneficiary. Contact with involved providers may be initiated for additional information. The MMIS beneficiary profile may be shared with providers. Professional medical personnel associated with the Fiscal Intermediary and/or Department of Health and Hospitals may render a decision to place a beneficiary in the Pharmacy Lock-In Program. The decision is submitted, along with any provisions regarding providers, to a Department of Health and Hospitals designee for approval. The decision making authority rests solely with the Department of Health and Hospitals, Bureau of Health Services Financing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1057 (June 2006).

§305. Agency Responsibilities

A. The Bureau of Health Services Financing advises the fiscal intermediary of the decision to place a beneficiary in the Pharmacy Lock-In Program. The fiscal intermediary staff shall forward a notification to the local Medicaid office of the decision to place the beneficiary in the program and to initiate the necessary steps.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1057 (June 2006).

§307. Notification Directives

A. The local Medicaid office shall initiate the letter providing the beneficiary timely notice of the decision to lock-in providers and shall include the following additional information:

1. the bureau's intention to allow the beneficiary to choose one primary care provider and one pharmacy provider and a specialist provider;
2. that the Medical Assistance Program will make payments only to the physician and pharmacy providers chosen by the beneficiary and subsequently assigned by the bureau;
3. that a new eligibility card will be issued containing a special indicator identifying the beneficiary's lock-in status;
4. that the beneficiary is advised to contact his local Medicaid office for an appointment to discuss the Pharmacy Lock-In Program; and
5. that the beneficiary has the right to appeal the decision.

B. The local Medicaid office shall be responsible for the following:

1. initiate contact with the beneficiary in instances when the beneficiary fails to seek contact;
2. conduct a face-to-face interview with the beneficiary regarding the lock-in program and the beneficiary's rights and responsibilities;

3. assist the beneficiary, if necessary, in exercising due process rights; and complete Form 9-LI(2) at the initial contact and at each subsequent contact(s) when a beneficiary's choice of providers changes; and

4. notify the fiscal intermediary when beneficiaries refuse to choose providers.

C. The fiscal intermediary shall be responsible for the following:

1. ensure that production of regular eligibility card is suppressed upon receipt of Forms 9-LI(2) and 19LI;
2. verify to the local Medicaid office that the beneficiary has been locked in;
3. notify the local Medicaid office of confirmation or denial of providers;
4. notify the local Medicaid office of the effective month of lock-in;
5. ensure suppression of the regular eligibility card when the beneficiary refuses to choose providers and has not appealed the lock-in decision within 30 days of notification; and
6. initiate form to lock-in providers on the MMIS file;
7. notify lock-in providers of their selection.

D. The lock-in card with the special indicator may be issued either by the local eligibility office or the fiscal intermediary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1057 (June 2006).

§309. Restrictions

A. Beneficiaries shall be prohibited from choosing physicians and pharmacists who overprescribe or oversupply drugs. When the agency cannot approve a beneficiary's choice of provider(s), the lock-in beneficiary shall be required to make another selection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1057 (June 2006).

§311. Appeals

A. The beneficiary has the right to appeal the lock-in decision within 30 days of mailing the notice of action. If the receipt requests a hearing before the date of action, the decision to lock-in is stayed pending the appeal hearing. The beneficiary also has a right to an informal discussion. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing staff will conduct the informal telephone discussion in conjunction with local Medicaid office staff when requested. An explanation of the reason for recommending lock-in will be made to the beneficiary. If after the informal discussion the decision is reaffirmed to proceed with lock-in, the beneficiary will be given 30 days from the informal discussion notice of decision to file and appeal. In instances when a beneficiary delays or postpones an appeal without prior notice, lock-in will be implemented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1057 (June 2006).

§313. Changing Lock-In Providers

A. Beneficiaries may change lock-in providers every year without cause. With good cause, they may change lock-in providers only with bureau's approval. Beneficiaries may change providers for the following "good cause" reasons:

1. a beneficiary relocates;
2. a beneficiary's primary diagnosis changes, requiring a different specialist;
3. the lock-in provider(s) request(s) that the recipient be transferred; or
4. the lock-in provider(s) stop(s) participating in the Medical Assistance Program.

a. The beneficiary may still receive other program services available through Medicaid such as hospital, transportation, etc., which are not controlled or restricted by placing a beneficiary in lock-in for pharmacy and physician services. No beneficiary on lock-in status shall be denied the service of a physician or pharmacist on an emergency basis within program regulations. The Medicaid eligibility card states that an enrolled provider will be reimbursed for such services. In instances in which a beneficiary is referred by his lock-in physician to another physician provider, reimbursement shall be made to the physician provider to whom the beneficiary was referred within program regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1058 (June 2006).

§315. Beneficiary Profile Review

A. Beneficiary profiles are to be reviewed periodically as described in the Lock-In Procedure Manual (for determination of continuance of discontinuance of LI). Professional medical staff associated with the fiscal intermediary or Department of Health and Hospitals examine a recipient's profile for a continued pattern of misuse of program benefits. Periods of ineligibility for Medicaid will not affect the lock-in status of the individual. The local eligibility office will notify the Bureau of Health Services Financing upon reapplication and the recipient will be placed on a locked-in status. A review at the end of the first four months will be made to determine if lock-in should be continued. Based upon a recommendation of appropriate medical professional staff, a decision may be presented to Department of Health and Hospitals to restore unrestricted benefits and appropriate notification will be made to the beneficiary and the local eligibility office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1058 (June 2006).

Chapter 5. Narcotics and Controlled Substances

§501. Schedule II Narcotic Analgesic Prescriptions

A. Schedule II narcotic analgesic prescriptions covered under the Louisiana Medicaid Program shall be filled within six months of the date prescribed by a physician or other prescribing practitioner. Also, in accordance with guidance from the drug enforcement agency, the prescriber has the ability to issue multiple prescriptions for the same Schedule II medication to the same patient on the same day. All prescriptions must be dated and signed on the date issued.

The prescriber may issue dispensing instruction, e.g., "do not dispense until a specified date."

B. Payment will not be made for narcotics prescribed only for narcotic addiction.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1058 (June 2006).

Chapter 7. Parenteral Nutrition Therapy

§701. Introduction

A. Parenteral nutrition (PN) therapy is the introduction of nutrients by some means other than through the gastrointestinal tract, in particular intravenous, subcutaneous, intramuscular, or intramedullary injection. Intravenous nutrition is also referred to as TPN (Total Parenteral Nutrition) or Hyperalimentation Therapy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1058 (June 2006).

§703. Medical Necessity

A. Parenteral nutrition is covered for a recipient with permanent, severe pathology of the alimentary tract which does not allow absorption of sufficient nutrients to maintain weight and strength commensurate with the recipient's general condition.

B. Parenteral nutrition is considered to be medically necessary when any of the following conditions exists. The conditions must be deemed to be severe enough that the recipient would not be able to maintain his/her weight and strength on only oral intake or tube enteral nutrition. The recipient:

1. has undergone recent (within the past three months) massive small bowel resection leaving less than or equal to 5 feet of small bowel beyond the ligament of Treitz; or

2. has a short bowel syndrome that is severe enough that the recipient has net gastrointestinal fluid and electrolyte malabsorption such that on an oral intake of 2.5-3 liters/day the enteral losses exceed 50 percent of the oral/enteral intake and the urine output is less than 1 liter/day; or

3. requires bowel rest for at least three months and is receiving intravenously 20-35 cal/kg/day for treatment of symptomatic pancreatitis with/without pancreatic pseudocyst, severe exacerbation of regional enteritis, or a proximal enterocutaneous fistula where tube feeding distal to the fistula is not possible; or

4. has complete mechanical small bowel obstruction where surgery is not an option; or

5. is significantly malnourished (10 percent weight loss over three months or less and serum albumin less than or equal to 3.4 gm/dl) and has very severe fat malabsorption (fecal fat exceeds 50 percent of oral/enteral intake on a diet of at least 50 gm of fat/day as measured by a standard 72 hour fecal fat test); or

6. is significantly malnourished (10 percent weight loss over three months or less and serum albumin less than or equal to 3.4 gm/dl) and has a severe motility disturbance of the small intestine and/or stomach which is unresponsive to prokinetic medication. Prokinetic medication is defined as the presence of daily symptoms of nausea and vomiting while taking maximal doses and is demonstrated either:

a. scintigraphically (solid meal gastric emptying study demonstrates that the isotope fails to reach the right colon by six hours following ingestion); or

b. radiographically (barium or radiopaque pellets fail to reach the right colon by six hours following administration).

Note: These studies must be performed when the recipient is not acutely ill and is not on any medication which would decrease bowel motility.

C. Maintenance of weight and strength commensurate with the recipient's overall health status must require intravenous nutrition and must not be possible utilizing all of the following approaches:

1. modifying the nutrient composition of the enteral diet (e.g., lactose free, gluten free, low in long chain triglycerides, substitution with medium chain triglycerides, provision of protein as peptides or amino acids, etc.); and

2. utilizing pharmacologic means to treat the etiology of the malabsorption (e.g., pancreatic enzymes or bile salts, broad spectrum antibiotics for bacterial overgrowth, prokinetic medication for reduced motility, etc.).

D. Recipients who do not meet the criteria in Paragraphs B.1-6 must meet criteria in Paragraphs C.1-2 (modification of diet and pharmacologic intervention) in addition to the following criteria:

1. the recipient is malnourished (10 percent weight loss over three months or less and serum albumin less than or equal to 3.4 gm/dl); and

2. a disease and clinical condition has been documented as being present and it has not responded to altering the manner of delivery of appropriate nutrients (e.g., slow infusion of nutrients through a tube with the tip located in the stomach or jejunum).

E. The following are some examples of moderate abnormalities which would require a failed trial of tube enteral nutrition before PN would be covered:

1. moderate fat malabsorption - fecal fat exceeds 25 percent of oral/enteral intake on a diet of at least 50 gm fat/day as measured by a standard 72 hour fecal fat test;

2. diagnosis of malabsorption with objective confirmation by methods other than 72 hour fecal fat test (e.g., Sudan stain of stool, dxylose test, etc.);

3. gastroparesis which has been demonstrated:

a. radiographically or scintigraphically as described in Subsection B above with the isotope or pellets failing to reach the jejunum in three to six hours; or

b. by manometric motility studies with results consistent with an abnormal gastric emptying, and which is unresponsive to prokinetic medication;

4. a small bowel motility disturbance which is unresponsive to prokinetic medication, demonstrated with a gastric to right colon transit time between three to six hours;

5. small bowel resection leaving greater than 5 feet of small bowel beyond the ligament of Treitz;

6. short bowel syndrome which is not severe (as defined in Paragraph B.2);

7. mild to moderate exacerbation of regional enteritis, or an enterocutaneous fistula;

8. partial mechanical small bowel obstruction where surgery is not an option.

F. Documentation must support that a concerted effort has been made to place a tube. For gastroparesis, tube placement must be post-pylorus, preferably in the jejunum.

Use of a double lumen tube should be considered. Placement of the tube in the jejunum must be objectively verified by radiographic studies or fluoroscopy. Placement via endoscopy or open surgical procedure would also verify location of the tube.

G. A trial with enteral nutrition must be documented, with appropriate attention to dilution, rate, and alternative formulas to address side effects of diarrhea.

H. PN can be covered in a recipient with the ability to obtain partial nutrition from oral intake or a combination of oral/enteral or oral/enteral/parenteral intake as long as the following criteria are met:

1. a permanent condition of the alimentary tract is present which has been deemed to require parenteral therapy because of its severity;

2. a permanent condition of the alimentary tract is present which is unresponsive to standard medical management; and

3. the person is unable to maintain weight and strength.

I. If the medical necessity criteria for parenteral nutrition are met, medically necessary nutrients, administration supplies and equipment are covered. PN solutions containing little or no amino acids and/or carbohydrates would be covered only in situations stated in Paragraphs B.1, 2, or 4 above.

J. Documentation Requirements

1. Recipients covered under Paragraph B.4 must have documentation of the persistence of their condition. Recipients covered under Paragraphs B.5-D.2 must have documentation that sufficient improvement of their underlying condition has not occurred which would permit discontinuation of parenteral nutrition. Coverage for these recipients would be continued if the treatment has been effective as evidenced by an improvement of weight and/or serum albumin. If there has been no improvement, subsequent claims will be denied unless the physician clearly documents the medical necessity for continued parenteral nutrition and any changes to the therapeutic regimen that are planned, e.g., an increase in the quantity of parenteral nutrients provided.

2. A total caloric daily intake (parenteral, enteral and oral) of 20-35 cal/kg/day is considered sufficient to achieve or maintain appropriate body weight. The ordering physician must document in the medical record the medical necessity for a caloric intake outside this range in an individual recipient.

3. Parenteral nutrition would usually be noncovered for recipients who do not meet criteria in Paragraphs H.1-3, but will be considered on an individual case basis if detailed documentation is submitted.

4. Recipients covered under criteria in Paragraphs B.1 or 2 must have documentation that adequate small bowel adaptation had not occurred which would permit tube enteral or oral feedings.

5. Recipients covered under Paragraphs B.3 must have documentation of worsening of their underlying condition during attempts to resume oral feedings.

6. The ordering physician must document the medical necessity for protein orders outside of the range of 0.8-1.5 gm/kg/day, dextrose concentration less than 10 percent, or

lipid use greater than 15 units of a 20 percent solution or 30 units of a 10 percent solution per month.

7. If the medical necessity for special parenteral formulas is not substantiated, authorization of payment will be denied.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1058 (June 2006).

§705. Exclusionary Criteria

A. Parenteral nutrition will be denied as noncovered in situations involving temporary impairments. The recipient must have:

1. a condition involving the small intestine and/or its exocrine glands which significantly impairs the absorption of nutrients; or

2. a disease of the stomach and/or intestine which is a motility disorder and impairs the ability of nutrients to be transported through the GI system. There must be objective evidence supporting the clinical diagnosis.

B. Parenteral nutrition is noncovered for the recipient with a functioning gastrointestinal tract whose need for parenteral nutrition is only due to:

1. a swallowing disorder;

2. a temporary defect in gastric emptying such as a metabolic or electrolyte disorder;

3. a psychological disorder impairing food intake such as depression;

4. a metabolic disorder inducing anorexia such as cancer;

5. a physical disorder impairing food intake such as the dyspnea of severe pulmonary or cardiac disease;

6. a side effect of a medication; or

7. renal failure and/or dialysis.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1060 (June 2006).

§707. Prior Authorization

A. Parenteral nutrition therapy may be approved by the Prior Authorization Unit (PAU) at periodic intervals not to exceed six months. However, Medicaid will pay for no more than one month's supply of nutrients at any one time. All requests to the PAU shall include:

1. the prognosis as well as the diagnosis;

2. the date the recipient was first infused;

3. whether the recipient has been trained to use parenteral equipment;

4. a statement that the recipient is capable of operating the parenteral equipment;

5. either the Medicaid certificate of medical necessity form for TPN, or the Medicare certificate of medical necessity form, Form DMERC 10.02A, completed and signed by the treating physician;

6. documentation showing that the recipient has a permanent impairment. Permanence does not require a determination that there is no possibility that the recipient's condition may improve sometime in the future. Medical documentation must substantiate that the condition is expected to last a long and indefinite duration (at least three months).

B. Additional documentation must be included with the initial request for parenteral nutrition.

1. In the situations addressed in Paragraphs B.1-4 under Medical Necessity Criteria, the documentation must include copies of the operative report and/or hospital discharge summary and/or x-ray reports and/or a physician letter which document the condition and the necessity for PN therapy.

2. For the situations addressed in Paragraphs B.5 and D.2 under Medical Necessity Criteria (when appropriate), include the results of the fecal fat test and dates of the test.

3. For the situations addressed in Paragraphs B.6 and D.2 under Medical Necessity Criteria, include a copy of the report of the small bowel motility study and a list of medications that the recipient was on at the time of the test.

4. For the situations addressed in Paragraphs B.5 - D.2 under Medical Necessity Criteria, include the results of serum albumin and the date of the test (within one week prior to initiation of PN) and a copy of a nutritional assessment by a physician, dietitian or other qualified professional within one week prior to initiation of PN, to include the following information:

a. current weight with date and weight one - three months prior to initiation of PN;

b. estimated daily calorie intake during the prior month and by what route (e.g., oral, tube);

c. statement of whether there were caloric losses from vomiting or diarrhea and whether these estimated losses are reflected in the calorie count;

d. description of any dietary modifications made or supplements tried during the prior month (e.g., low fat, extra medium chain triglycerides, etc.).

5. For situations described in Paragraphs D.2 under Medical Necessity Criteria, include:

a. a statement from the physician;

b. copies of objective studies; and

c. excerpts of the medical record giving the following information:

i. specific etiology for the gastroparesis, small bowel dysmotility, or malabsorption;

ii. a detailed description of the trial of tube enteral nutrition including the beginning and ending dates of the trial, duration of time that the tube was in place, the type and size of tube, the location of tip of the tube, the name of the enteral nutrient, the quantity, concentration, and rate of administration, and the results;

iii. a copy of the x-ray report or procedure report documenting placement of the tube in the jejunum;

iv. prokinetic medications used, dosage, and dates of use;

v. nondietary treatment given during prior month directed at etiology of malabsorption (e.g., antibiotic for bacterial overgrowth); and

vi. any medications used that might impair GI tolerance to enteral feedings (e.g., anticholinergics, opiates, tricyclics, phenothiazines, etc.) or that might interfere with test results (e.g., mineral oil, etc.) and a statement explaining the need for these medications.

6. Any other information which supports the medical necessity for parenteral nutrition may also be included.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1060 (June 2006).

§709. Intradialytic Parenteral Nutrition

A. Intradialytic Parenteral Nutrition Therapy (IDPN) is parenteral nutrition therapy provided to a recipient with end stage renal disease (ESRD) while the recipient is being dialyzed.

B. In order to cover IDPN, documentation must be clear and precise to verify that the recipient suffers from a permanently impaired gastrointestinal tract and that there is insufficient absorption of nutrients to maintain adequate strength and weight. The supporting documentation must substantiate that the recipient cannot be maintained on oral or enteral feedings and that due to severe pathology of the alimentary tract, the recipient must be intravenously infused with nutrients.

C. Infusions must be vital to the nutritional stability of the recipient and not supplemental to a deficient diet or deficiencies caused by dialysis. Physical signs, symptoms and test results indicating severe pathology of the alimentary tract must be clearly evident in any documentation submitted. Recipients receiving IDPN must also meet the criteria for parenteral nutrition.

D. If the medical necessity criteria for parenteral nutrition are met, one supply kit and one administration kit will be covered for each day that parenteral nutrition is administered, if such kits are medically necessary and used.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1061 (June 2006).

§711. Additional Documentation

A. For the initial request and for revised requests or reconsiderations involving a change in the order, there must be additional documentation to support the medical necessity of the following orders, if applicable:

1. the need for special nutrients;
2. the need for dextrose concentration less than 10 percent;
3. the need for lipids more than 15 units of a 20 percent solution or 30 units of a 10 percent solution per month.

B. After the first six months, the PA request must include a physician's statement describing the continued need for parenteral nutrition. For situations described in Paragraphs B.5-D.2 under medical necessity criteria, the PA request must include the results of the most recent serum albumin (within two weeks of the request date) and the recipient's most recent weight with the date of each. If the results indicate malnutrition, there should be a physician's statement describing the continued need for parenteral nutrition and any changes to the therapeutic regimen that are planned.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1061 (June 2006).

§713. Equipment and Supplies

A. An infusion pump is used to deliver nutritional requirements intravenously. Infusion pumps are covered for the delivery of parenteral nutrition for those recipients who

cannot absorb nutrients by the gastrointestinal tract. Only one pump (ambulatory or stationary) will be covered at any one time. Additional pumps will be denied as not medically necessary.

1. An external ambulatory infusion pump is a small portable electrical device that is used to deliver parenteral nutrition. It is designed to be carried or worn by the recipient.

2. A stationary infusion pump is an electrical device, which serves the same purpose as an ambulatory pump, but is larger and typically mounted on a pole.

B. An IV pole is a device to suspend fluid to be administered by gravity or pump. An IV pole will be covered when a recipient is receiving parenteral fluids and the recipient is not using an ambulatory infusion pump.

C. Infusion pumps, ambulatory and stationary, are indicated for the administration of parenteral medication in the home when parenteral administration of the medication in the home is reasonable and medically necessary, and an infusion pump is necessary to safely administer the medication.

D. An external ambulatory infusion pump is a small portable electrical device that is used to deliver parenteral medication. It is designed to be carried or worn by the recipient.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1061 (June 2006).

§715. Reimbursement

A. The reimbursement rate for parenteral nutrition formula is 80 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount.

B. The reimbursement rate for parenteral equipment and supplies is 70 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount. If an item is not available at 70 percent of the Medicare Fee Schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged 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, Office of the Secretary, Bureau of Health Services Financing, LR 32:1061 (June 2006).

Chapter 9. Methods of Payment

Subchapter A. General Provisions

§901. Definitions

Average Wholesale Price—the wholesale price of a drug product as reported to the agency by one or more national compendia on a weekly basis to update the Medicaid Management Information System (MMIS).

Brand Name—any registered trade name commonly used to identify a drug.

Legend Drugs—drugs which bear the federal legend: "Caution: federal law prohibits dispensing without a prescription."

Multiple Source Drug—a drug marketed or sold by two or more manufacturers or labelers or a drug marketed or sold by the same manufacturer or labeler under two or more

different proprietary names or both under a proprietary name and without such a name.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1061 (June 2006).

§903. Claims Documentation

A. The manufacturer number, product number, and package number for the drug dispensed shall be listed on all claims. This information shall be taken from the actual package from which the drug is usually purchased by a provider, from a supplier whose products are generally available to all pharmacies and reported in one or more national compendia. Repackaged drug products supplied through co-ops, franchises, or other sources not readily available to other providers shall not be used. In such instances, the manufacturer number, product number, and package number for the largest package size, as reported in one or more national compendia for the drug shall be listed.

AUTHORITY NOTE: Promulgated in 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 Finances, LR 32:1062 (June 2006).

Subchapter B. Maximum Allowable Overhead Cost

§915. Cost Determination

A. Definitions

Adjustment Factors—

- a. CPI—all item factor;
- b. CPI—medical care factor;
- c. Wage Factor. Each of the above adjustment factors is computed by dividing the value of the corresponding index for December of the year preceding the overhead year and by the value of the index one year earlier (December of the second preceding year).

d. ROI. One year treasury bill rate applied to a portion of prescription drug cost (17 percent) in recognition of inventories maintained for the purpose of filling prescriptions.

Base Rate—the rate calculated in accordance with §917.A.2, plus any base rate adjustments which are in effect at the time of calculation of new rates or adjustments. The base rate was initially calculated using the 1990/91 fee survey findings of average cost for pharmacies representative of the average pharmacy participating in Medicaid reimbursement (15,000 - 50,000 Rx volume). This rate was then inflated forward to December 1990 to establish the first overhead cost maximum.

Base Rate Components—the base rate is the summation of the components shown below. Each component is intended to set the maximum allowable for the costs indicated by its name.

Base Rate Component	Adjustment Factor
Pharmacist Salaries	CPI – Medical Care
Other Salaries	WAGE
Other Routine Services	CPI – All Items
Inventory Cost	ROI (1)
Fixed Cost	None (2)
Return on Equity	None (3)
	(1) No return on equity allowed
	(2) No inflation allowed
	(3) Adjusted by ROE Factor
	(4) Indices

a. CPI—All Items. *The Consumer Price Index for all Urban Consumers - Southern Region* (All items line of Table 12) as published by the United States Department of Labor.

b. CPI—Medical Care. *The Consumer Price Index for all Urban Consumers - Southern Region* (Medical Care line of Table 12) as published by the United States Department of Labor.

c. Wage. The average annual wage for production or nonsupervisory service workers as furnished by the Dallas Regional Office of the Bureau of Labor Statistics of the U.S. Department of Labor. This figure will be obtained by telephone in May and will be utilized to calculate the adjustment factor based upon the change which has occurred since December of the preceding year.

d. ROI. Interest Rates—Money and Capital Markets. The average percent per year for one year U.S. Treasury bills taken from the *Federal Reserve Bulletin* report on Money Market Rates (line 17) for the preceding calendar year.

Maximum Allowable Overhead Cost—overhead cost is determined through use of cost survey results adjusted by various indices to assure recognition of costs which must be incurred by efficiently and economically operated providers. The cost determined is referred to as a maximum allowable to reflect application of the "lesser of" methodology for determining total reimbursement.

Overhead Year—the one-year period from July 1 - June 30 of the next calendar year during which a particular rate is in effect. It corresponds to a state fiscal year.

B. Determination of Limits. Limits on overhead cost are established through the overhead cost survey process which classifies cost in accordance with generally accepted accounting principles and Medicare principles regarding the allowability of cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1062 (June 2006).

§917. Maximum Allowable Overhead Cost Calculation

A. The most recent cost survey results will be utilized to establish base cost for professional salaries; other salaries; other routine costs; and fixed cost. Claims processing data for claims paid in the current overhead period will be utilized to determine average drug cost. Seventeen percent of this cost will be utilized as base prescription inventory. The base prescription inventory amount shall not be added to the overhead cost maximum allowable. Base prescription inventory is recognized as an allowable investment subject to a return on investment only. Calculation of maximum allowable overhead cost per prescription shall be performed as follows:

1. $NORC = ORC \times CPIF$:
 - a. NORC is the new other routine cost component;
 - b. ORC is the current (base) routine cost component;
 - c. CPIAI is the CPI - All items Economic Adjustment Factor.
2. $NPS = PS \times CPIMC$:
 - a. NPS is the new pharmacist salaries cost component;

b. PS is the current (base) pharmacist salaries cost component;

c. CPIMC is the CPI - Medical Care Economic Adjustment Factor.

3. $NOS = OS \times W$:

a. NOS is the new other salaries cost component;

b. OS is the current (base) salaries cost component;

c. W is the Wage Economic Adjustment Factor.

4. $NROI = ROI \times IR$:

a. NROI is the new return on investment component;

b. ROI is 17 percent of the current average drug cost;

c. IR is the Interest Rate - Money and Capital Markets

5. $Rate = (NORC + NPS + NOS + FCC) \times ROEF + NROI$ where:

a. NORC, NPS, NOS, and NROI are computed by formulae in Paragraphs 1-4 above;

b. FCC is the fixed cost component which does not include prescription drug inventory;

c. ROEF is the return on equity factor of 1.05 applied to all cost components except return on investment which is calculated separately.

B. After formal adoption of the new maximum allowable overhead cost, the components computed above will become the base components used in calculating the next year's overhead maximum allowable, unless they are adjusted as provided in §911 below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1062 (June 2006).

§919. Parameters and Limitations

A. Method of Calculation. All calculations described herein shall be carried out algebraically.

B. Rounding in all calculations the base maximum allowable and the base components will be rounded to the nearest one cent (two decimal places) and the economic adjustment factors will be rounded to four decimal places.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1063 (June 2006).

§921. Interim Adjustment to Overhead Cost

A. If an unanticipated change in conditions occurs which affects the overhead costs of at least 50 percent of the enrolled providers by an average of five percent or more, the maximum allowable overhead cost may be adjusted. Medicaid of Louisiana will determine whether or not the maximum allowable overhead cost limit should be changed when requested to do so by 10 percent of the enrolled pharmacies. The burden of proof as to the extent and cost effect of the unanticipated charge will rest with the entities requesting the change. Medicaid of Louisiana, however, may initiate an adjustment without a request to do so

1. Temporary Adjustments. Temporary adjustments do not affect the base cost used to calculate a new maximum allowable overhead cost limit. Temporary adjustments may be made in the rate when changes which will eventually be reflected in the economic indices, such as a change in the

minimum wage, occur after the end of the period covered by the index, i.e., after the December preceding the limit calculation. Temporary adjustments are effective only until the next overhead cost limit calculation which uses economic adjustment factors based on index values computed after the change causing the adjustment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1063 (June 2006).

§923. Cost Survey

A. Every three years a cost survey shall be conducted which includes cost data for all enrolled pharmacy providers. Participation shall be mandatory for continued enrollment as a pharmacy provider. Cost data from providers who have less than 12 months of operating data shall not be utilized in determining average overhead cost or grouping providers by prescription volume. Pre-desk reviews shall be performed on all cost surveys to determine an average provider profile based upon total prescription volume. Through statistical analysis, minimum and maximum volume ranges shall be established which represent the majority of providers participating in Medicaid reimbursement. Cost surveys of providers whose prescription volumes are above or below the volume range established, shall not be utilized in calculating average overhead cost. Information submitted by participants shall be desk reviewed for accuracy and completeness. Field examination of a representative sample of participants shall be primarily random, but geographic location and type of operation shall be taken into consideration in order to ensure examination of pharmacies in various areas of the state and representative of various types of operations.

B. Cost Finding Procedures. The basic analytical rationale used for cost finding procedures shall be that of full costing. Under full costing, all costs associated with a particular operation are summed to find the total cost. The objective of cost finding shall be to estimate the cost of dispensing prescriptions through generally accepted accounting principles.

C. Inflation Adjustment. Where data collected from participating pharmacies represents varying periods of time, cost and price data may be adjusted for the inflation that occurred over the relevant period. The appropriate Consumer Price Index Indicator (Table 12, Southern Region, *Urban Consumer*) and wage indicator produced by the U.S. Department of Labor Statistics shall be utilized.

D. In addition to cost finding procedures, a usual and customary survey shall be included in the survey instrument. This instrument shall be used to determine the following:

1. an average usual and customary charge, or gross margin for each pharmacy;

2. the computation of the net margin per prescription (gross margin less computed dispensing cost per prescription) in order to approximate the average profit per prescription;

3. computation of the average percentage of markup per prescription;

4. the computation of average usual and customary charges shall include adjustments to allow comparability with upper limits for prescription reimbursement utilized by Medicaid of Louisiana.

E. Statistical Analysis. Statistical analysis shall be undertaken to estimate the cost to pharmacies of dispensing prescriptions. Such analysis shall include, but not be limited to:

1. an average dispensing cost for pharmacies;
2. analysis of the correlations among overhead costs and parameters deemed relevant to pharmacy costs;
3. the statistical relationship between independent variables and dispensing cost shall be analyzed using the techniques of simple linear and stepwise multiple regression. Independent variables may include annual volume of prescriptions filled, pharmacy location, type of ownership, and number of Medicaid claims paid:

- a. before regression analysis is performed, efforts shall be made to insure that the data collected during the surveys was accurate and representative, and that errors made during data entry are corrected. Efforts should include tabulations, cross tabulations, data plotting, and visual data inspection.

F. Survey Results

1. Medicaid of Louisiana shall consider survey results in determining whether the maximum allowable overhead cost should be rebased. Where the overhead cost survey findings demonstrate the current maximum allowable is below average cost or above the eightieth percentile of cost, rebasing shall be required.

2. Medicaid of Louisiana may review the survey data and establish a new cost base utilizing the cost survey findings and any other pertinent factors, including, but not limited to:

- a. inflation adjustment;
- b. application of return on equity;
- c. recognition of inventory investment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1063 (June 2006).

§925. Dispensing Fee

A. Maximum Allowable Overhead Cost

1. The maximum allowable overhead cost will remain at the level established for state fiscal year 1994-95. This maximum allowable overhead cost will remain in effect until the dispensing survey is completed and an alternate methodology is determined.

2. No inflation indices or any interim adjustments will be applied to the maximum allowable overhead costs.

B. Provider participation in the Louisiana Dispensing Fee Survey shall be mandatory. Failure to cooperate in the Louisiana Dispensing Fee Survey by a provider shall result in removal from participation as a provider of pharmacy services under Title XIX. Any provider removed from participation shall not be allowed to re-enroll until a dispensing fee survey document is properly completed and submitted to the bureau.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006).

**Subchapter C. Average Wholesale Price
§935. Estimated Acquisition Cost Formula**

A. *Estimated Acquisition Cost (EAC)* is the modified average wholesale price of the drug dispensed, identified by the manufacturer number, product number, and package number usually purchased by a provider, from a supplier whose products are generally available to all pharmacies and reported in one or more national compendia. Repackaged drug products supplied through co-ops, franchises, or other sources not readily available to other providers shall not be used to estimate provider acquisition cost. In such instances, the average wholesale price for the drug product used by the repackager identified by the manufacturer number, product number, and largest reported package size in one or more national compendia shall be utilized by the agency to estimate acquisition cost.

B. The agency shall make payments for multiple source drugs other than drugs subject to "physician certifications" based on the lower of:

1. Average Wholesale Price (AWP) minus 13.5 percent for independent pharmacies and AWP minus 15 percent for chain pharmacies. This applies to:

- a. single source drugs;
- b. multiple source drugs that do not have a state maximum allowable cost (MAC) or federal upper limit; and
- c. those prescriptions subject to MAC overrides based on the physician's certification that a brand name product is medically necessary;

2. Louisiana's maximum allowable cost limitation plus the maximum allowable overhead cost;

3. federal upper limits plus the maximum allowable overhead cost; or

4. provider's usual and customary charges to the general public. *General Public* is defined here as all other non-Medicaid prescriptions including:

- a. third-party insurance;
- b. pharmacy benefit management; and
- c. cash.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006).

Subchapter D. Maximum Allowable Costs

§945. Reimbursement Methodology

A. Maximum Pharmaceutical Price Schedule

1. The maximum payment by the agency for a prescription shall be no more than the cost of the drug established by the state plus the established dispensing fee.

2. Each pharmacy's records shall establish that the established dispensing fee paid by the Medical Assistance Program for prescription does not exceed the dispensing fee paid by others. This also applies to the payment for insulin and diabetic testing agency and indwelling catheters and catheterization trays for which the dispensing fee may not exceed 50 percent of the wholesale price.

B. Payment will be made for medications in accordance with the payment procedures for any eligible person who has identified himself to the provider by presenting his

identification card which shows his eligibility. State office advises participating pharmacists regarding payable medication.

C. The pharmacy must be licensed to operate in Louisiana except:

1. as provided for a person residing near the state line; or

2. as provided for a recipient visiting out-of-state.

D. Payment will be made only to providers whose records are subject to audit.

E. Payment will be made to providers only for medications furnished to persons eligible for medical vendor payments on a prescription written by a licensed physician or dentist.

F. Payments will be made only for the drugs covered under the Medical Assistance Program's Pharmacy 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, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006).

§947. Payments to Dispensing Physician

A. Payment will be made for medications dispensed by a physician on a continuing basis only when his main office is more than five miles from a facility which dispenses drugs.

1. Under the above circumstances, vendor payments (when the treating prescriber dispenses his own medications and bills Medical Assistance Program under his own name or the name of his own clinic or hospital) will be made on the same basis as a pharmacist as specified in §945.A.1-2.

B. A prescriber who has a suboffice in an area more than five miles from a pharmacy or other facility dispensing medications will not be paid for medications he dispenses if his main office is within five miles of a pharmacy or other facility dispensing medications.

C. When a prescriber bills the Medical Assistance Program for medications he dispenses, he shall certify that he himself, another prescriber, or a pharmacist dispensed the medications and he shall maintain the same records as required of the pharmacist.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1065 (June 2006).

§949. Cost Limits

A. Federal Upper Limits for Multiple Source Drugs

1. Except for drugs subject to "Physician Certification," the Medical Assistance Program shall utilize listings established by CMS that identify and set upper limits for multiple source drugs that meet the following requirements.

a. All of the formulations of the drug approved by the Food and Drug Administration (FDA) have been evaluated as therapeutically equivalent in the most current edition of their publication, *Approved Drug Products with Therapeutic Equivalence Evaluations* (including supplements or in successor publications).

b. At least three suppliers list the drug (which has been classified by the FDA as category "A" in the aforementioned publication based on listings contained in current editions (or updates) of published compendia of cost information for drugs available for sale nationally.

2. The Medical Assistance Program shall utilize the maximum acquisition cost established by CMS in determining multiple source drug cost.

3. The Medical Assistance Program shall provide pharmacists who participate in Title XIX reimbursement with updated lists reflecting:

a. the multiple source drugs subject to federal multiple source drug cost requirements;

b. the maximum reimbursement amount per unit; and

c. the date such costs shall become effective.

B. Louisiana Maximum Allowable Cost (LMAC) Limits

1. LMAC is the median AWP cost for a specific strength/unit drug determined by listing the wholesale costs for each readily available manufacturer, labeler, etc., and taking the median of those AWP costs (one-half will be above the median cost and one-half will be below the median cost). LMAC limits may be adjusted by the agency based on changes in the availability and estimated acquisition costs (EAC) of the drugs.

2. The agency shall make determinations of which multiple source drugs are to be subject to LMAC regulation based on the availability of drugs in the Louisiana Medical Assistance Program. The availability of a drug product will be determined by review of provider claim data. Providers shall be given advanced notice of any additions, deletions, or adjustments in price. Any provider may request and receive at no charge, one complete listing annually.

3. In no case shall a recipient be required to provide payment for any difference in a prescription price that may occur with implementation of the LMAC limit, nor may BHSF use a cost which exceeds the established maximums except for physician certification for brand name drugs.

C. Lower of Reimbursement for Multiple Source Drugs. The agency shall make payments for multiple source drugs other than drugs subject to *physician certifications* based on the lower of:

1. the providers' usual and customary charges to the general public not to exceed the agency's maximum pharmaceutical price schedule;

2. the agency's estimate of acquisition cost plus the agency's established dispensing fee;

3. any applicable federal upper limit for multiple source drugs plus the agency's established dispensing fee; or

4. any applicable Louisiana Maximum Allowable Cost limit plus the agency's established dispensing fee.

D. Physician Certifications

1. Limits on payments for multiple source drugs shall not be applicable when the prescriber certifies in his own handwriting that a specified brand name drug is medically necessary for the care and treatment of a recipient. Such certification may be written directly on the prescription or on a separate sheet which is attached to the prescription. A standard phrase in the prescriber's handwriting, such as "brand necessary" will be acceptable.

2. Any practice which precludes the prescriber's handwritten statement shall not be accepted as a valid certification. Such practices include, but are not limited to:

a. a printed box on the prescription blank that could be checked by the prescriber to indicate brand necessity;

b. a handwritten statement transferred to a rubber stamp and then stamped on the prescription blank;

c. preprinted prescription forms using a facsimile of the prescriber's handwritten statement.

E. Other Drug Cost Limits. The agency shall make payments for drugs other than multiple source drugs and drugs subject to "Physician Certifications" based on the lower of:

1. the agency's estimate of acquisition cost plus the agency's established dispensing fee;

2. the providers' usual and customary charges to the general public not to exceed the agency's "Maximum Pharmaceutical Price Schedule."

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1065 (June 2006).

Subchapter E. 340B Program

§961. Definitions

Actual Acquisition Cost—the covered entity's net payment made to purchase a drug product, after taking into account such items as purchasing allowances, discounts, wholesaler fees and rebates.

Contract Pharmacy—a pharmacy under contract with a covered entity that lacks its own pharmacy whereby the contract pharmacy is authorized to dispense 340B-discounted drugs on behalf of the covered entity in accordance with 1996 Health Resources and Services Administration (HRSA) guidelines (61 FR 43549, August 23, 1996). Contract pharmacies may also serve as billing agents for covered entities.

Covered Entity—a provider or program that meets the eligibility criteria for participating in the 340B Program as set forth in Section 340B(a)(4) of the Public Health Service Act. Covered entities include eligible disproportionate share hospitals that are owned by or under contract with state or local government, community health centers, migrant health centers, health centers for public housing, health centers for the homeless, AIDS drug assistance programs and other AIDS clinics and programs, black lung clinics, hemophilia treatment centers, native Hawaiian health centers, urban Indian clinics/638 tribal centers, 340s school-based programs, Title X family planning clinics, sexually-transmitted disease clinics, and tuberculosis clinics.

Dispensing Fee—the fee paid by Medicaid for the professional services provided by a pharmacist when dispensing a prescription, including the \$0.10 provider fee assessed for each prescription filled in the state of Louisiana per legislative mandate.

Medicaid Carve-Out—a billing mechanism available to covered entities that implements the 340B requirement protecting manufacturers from giving a 340B discount and paying a Medicaid rebate on the same drug. If a covered entity elects to implement the Medicaid carve-out option, the covered entity only purchases through the 340B Program covered drugs dispensed to non-Medicaid patients; drugs dispensed to Medicaid patients are purchased outside the 340B Program.

Patient—an individual eligible to receive 340B-discounted drugs from a covered entity by virtue of being the covered entity's patient as defined in HRSA's 1996 patient definition guideline (61 FR 55156, October 24, 1996).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1066 (June 2006).

§963. Reimbursement

A. Self-administered drugs that are purchased by a covered entity through the 340B program and dispensed to patients who are covered by Medicaid shall be billed to Medicaid at actual acquisition cost unless the covered entity has implemented the Medicaid carve-out option, in which case such drugs shall be billed in accordance with existing state Medicaid reimbursement methodologies.

B. Contract Pharmacies. In the event that the covered entity has entered into a contract pharmacy arrangement and the contract pharmacy serves as the covered entity's billing agent, the contract pharmacy shall bill Medicaid at actual acquisition cost under the covered entity's Medicaid pharmacy billing number, unless the covered entity has implemented the Medicaid carve-out option, in which case such drugs shall be billed in accordance with existing state Medicaid reimbursement methodologies under the contract pharmacy's Medicaid pharmacy billing number.

C. Dispensing Fees. The covered entity shall be paid a dispensing fee of \$8.10 for each prescription dispensed to a Medicaid patient, unless the covered entity has implemented the carve-out option, in which case the covered entity shall be paid the state's existing maximum allowable overhead cost. With respect to contract pharmacy arrangements in which the contract pharmacy also serves as the covered entity's billing agent, the contract pharmacy shall be paid the \$8.10 dispensing fee on behalf of the covered entity, unless the covered entity elects the Medicaid carve-out, in which case the contract pharmacy shall be paid the state's existing maximum allowable overhead cost.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1066 (June 2006).

Subchapter F. Antihemophilia Drugs

§971. Reimbursement

A. The estimated acquisition cost reimbursement rate under the Medicaid Program for Antihemophilia drugs, factor products is the average wholesale price minus 30 percent for all prescription drug providers.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1066 (June 2006).

Subchapter G. Provider Fees

§981. Prescription Fee

A. A prescription fee shall be paid by each pharmacy and dispensing physician for each outpatient prescription dispensed. The fee shall be \$0.10 per prescription dispensed by a pharmacist or dispensing physician. Where a prescription is filled outside of Louisiana and not shipped or delivered in any form or manner to a patient in the state, no fee shall be imposed. However, out-of-state pharmacies or dispensing physicians dispensing prescriptions which are shipped, mailed or delivered in any manner inside the state

of Louisiana shall be subject to the \$0.10 fee per prescription. The fee only applies to prescriptions which are dispensed and sold for human use. Pharmacies and dispensing physicians subject to prescription fees shall provide documentation quarterly, on a form provided by the department, of utilization for all medications dispensed in conjunction with payment of fees

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1066 (June 2006).

Frederick P. Cerise, M.D., M.P.H.
Secretary

0606#078

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Nursing Facilities—Minimum Licensing Standards (LAC 48:1.9717, 9820, 9911)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 48:1.9717 and 9911, and adopts 9820 as authorized by R.S. 36:254 and 40:2009.1-2116.4. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 97. Nursing Homes

Subchapter A. General Provisions

§9717. Administration

A. Facility Administrator. All facilities are required to have full-time administrators. Full-time administrators are persons who are licensed, currently registered and engaged in the day-to-day management of the facility. The administrator's duties shall conform to the following standards.

1. Administrative/management activities shall be the major function of the required duties.

2. An adequate and reasonable amount of time shall be spent on the premises of the facility. The administrative activities must be the major function of the person performing the duties.

3. A major portion of the time, described above, shall be spent during the normal work week of the facility's personnel.

B. A full-time employee functioning in an administrative capacity shall be authorized in writing to act in the administrator's behalf when he/she is absent or functioning as a full-time administrator for two facilities.

C. Administrator Responsibilities and Restrictions

1. No individual may function as a full-time administrator for more than two nursing facilities. When a full-time administrator is engaged in the management of two nursing facilities, the facilities' sizes and proximity to one

another have considerable bearing on the administrator's ability to adequately manage the affairs of both nursing facilities.

a. The response time to either facility shall be no longer than one hour.

b. If an administrator serves two facilities, he/she must spend 20 hours per week at each facility.

2. The administrator or his designee is responsible, in writing, for the execution of all policies and procedures.

3. If a change occurs in the individual who is the administrator of a nursing facility, notice shall be provided to the Bureau of Health Services Financing, Health Standards Section by the facility administrator or, in the absence of an administrator, by the governing body of the facility at the time the change occurs.

a. Notice shall include the identity of all individuals involved and the specific changes which have occurred.

b. Failure to provide written notice by certified mail within 30 calendar days from the date a change occurs will result in a Class C civil money penalty.

c. The Department shall allow nursing facilities 30 days from the date of the change in the position to fill the resulting vacancy in the administrator position. There shall be no waiver provisions for this position.

d. The governing body of the facility shall appoint a facility designee charged with the general administration of the facility in the absence of a licensed administrator.

e. Failure to fill a vacancy or to notify the Department in writing by the thirty-first day of vacancy that the administrator position has been filled shall result in a Class C civil money penalty.

D. Assistant Administrator. A nursing facility with a licensed bed capacity of 161 or more beds must employ an assistant administrator. An assistant administrator shall be a full-time employee and function in an administrative capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 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 24:47 (January 1998), amended LR 32:1067 (June 2006).

Chapter 98. Nursing Homes

Subchapter C. Dietetic Services

§9820. Feeding Assistants

A. Prior to assisting nursing facility residents with feeding, the assistant must have successfully completed the state-approved training course published by the American Health Care Association, *Assisted Dining: The Role and Skills of Feeding Assistants*.

1. Licensed personnel qualified to teach the course include:

- a. registered nurses;
- b. licensed practical nurses;
- c. dietitians; and
- d. speech therapists.

2. The competency of feeding assistants must be evaluated by course instructors and supervisory nurses.

3. If feeding assistants transfer between facilities, the receiving facility must assure competency.

B. Feeding assistants must be registered on the Direct Service Worker Registry (DSW) unless they are volunteers.

1. Volunteers must complete the training course except in cases where a family member or significant other is feeding the resident.

2. If verification of completion of training cannot be obtained from the DSW Registry, the training course must be taken.

C. The clinical decision as to which residents are fed by a feeding assistant must be made by a registered nurse (RN) or licensed practical nurse (LPN). It must be based upon the individual nurse's assessment and the resident's latest assessment and plan of care.

1. A physician or speech therapist may override the nurse's decision, if in their professional opinion, it would be contraindicated.

D. The use of a feeding assistant must be noted on the plan of care.

E. There must be documentation to show that the residents approved to be fed by feeding assistants have no complicated feeding problems.

1. Feeding assistants may not feed residents who have complicated feeding problems such as difficulty swallowing, recurrent lung aspirations and tube or IV feedings.

F. There must be documentation of on-going assessment by nursing staff to assure that any complications that develop are identified and addressed promptly.

G. A feeding assistant must work under the supervision of a RN or LPN and the resident's clinical record must contain entries made by the supervisory RN or LPN describing services provided by the feeding assistant.

H. Facilities may use feeding assistants at mealtimes or snack times, whenever the facility can provide the necessary supervision.

1. A feeding assistant may feed residents in the dining room or another congregate area.

I. Facilities may use their existing staff to feed residents as long as each staff member successfully completes the state-approved training course.

J. Facilities must maintain a record of all individuals used as feeding assistants who have successfully completed the training course.

K. Residents have the right to refuse to be fed by a feeding assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 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 32:1067 (June 2006).

Chapter 99. Nursing Homes

Subchapter A. Physical Environment

§9911. Toilet, Hand Washing and Bathing Facilities

A. Each floor occupied by residents shall be provided with a toilet and lavatory, and either a bathtub or shower.

B. ...

C. In nursing homes built prior to August 26, 1958, the following ratio shall be provided (whenever calculations include any fraction of a fixture, the next higher whole number of fixtures shall be installed):

Lavatories	1:10 beds
Toilets	1:10 beds
Showers or tubs	1:15 beds

D. In nursing homes built after August 26, 1958, the following ratio shall be provided (whenever calculations include any fraction of a fixture, the next higher whole number of fixtures shall be installed):

Lavatories	One per bedroom or immediately adjacent thereto
Toilets	1:8 beds
Showers or tubs	1:10 beds

E. - F. ...

G. Separate toilet and lavatory facilities for use by employees shall be provided. Separate bathtubs or showers shall be provided for employees who live on the premises.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 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 LR 32:1068 (June 2006).

Frederick P. Cerise, M.D., M.P.H.
Secretary

0606#073

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Professional Services
Physician Supplemental Payment**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule 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 Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will provide supplemental Medicaid payments for qualifying essential state-owned or operated physician practice plans organized by or under the control of a state academic health system or other state entity.

A. In order to qualify to receive supplemental payments, physicians and other eligible professional service practitioners must be:

1. licensed by the state of Louisiana;
2. enrolled as a Louisiana Medicaid provider; and
3. employed by a state-owned or operated entity, such as state-operated hospital or other state entity, including a state academic health system, which:
 - a. has been designated by the bureau as an essential provider; and
 - b. has furnished satisfactory data to DHH regarding the commercial insurance payments made to its employed physicians and other professional service practitioners.

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

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

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

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

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

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

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

Implementation of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0606#074

RULE

Department of Public Safety and Corrections Corrections Services

Louisiana Risk Review Panel
(LAC 22:I.107)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Department of Public Safety and Corrections, Corrections Services, hereby amends LAC 22:I.107, Louisiana Risk Review Panel.

The Department of Public Safety and Corrections hereby amends and clarifies the secretary's current regulation regarding the Louisiana Risk Review Panel, in particular, eligibility requirements.

Title 22 CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

§107. Louisiana Risk Review Panel

A. ...

B. Applicability. deputy secretary, chief of operations, undersecretary, assistant secretary of the office of adult services, wardens, director of probation and parole, chairman/Board of Parole, chairman/Board of Pardons and administrators of local jail facilities.

C.1. - 2.e. ...

3. A majority of the members of each panel shall constitute a quorum. All official actions of the panel shall require an affirmative vote of a majority of members present.

C.4. - D.1.c.iii. ...

iv. sentenced to life imprisonment and has served at least seven years in actual custody;

v. an inmate sentenced as a habitual offender under R.S. 15:529.1 where one or more of the crimes was a crime of violence defined or enumerated in R.S. 14:2(13).

D.2. - G.1.a. ...

b. risk level based upon Louisiana Risk Need Assessment II (LARNA II) score;

c. comments submitted by the sentencing judge, district attorney, assistant district attorney, the Board of Parole, the Board of Pardons, the victim or victim's family or the inmate;

d. the age of the inmate (to include consideration of chronological age and length of confinement where such contributes to a reduction in danger to the public);

e. current medical condition (where such contributes to a reduction in danger to the public);

f. damage or injury occasioned by the crime committed;

g. resources available to the inmate in the event of release (job and housing, family or other support, skill level); and

h. the extent to which the sentence for the instant offense exceeded the minimum sentence in effect at the time of sentencing.

2. ...

H. The effective date of this regulation is June 20, 2006.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.22 (as enacted by Act Number 403 of the 2001 Regular Session of the Louisiana Legislature).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 28:94 (January 2002), amended LR 29:2847 (December 2003), LR 32:1069 (June 2006).

Richard L. Stalder
Secretary

0606#045

RULE

**Department of Treasury
State Employees' Retirement System**

DROP Program—Interest (LAC 58:I.2715 and 4135)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has amended LAC 58:I.2715 and adopted LAC 58:I.4135. These Rules clearly establish that interest is paid by LASERS only on traditional DROP funds and not on funds transferred into the Self-Directed Plan.

**Title 58
RETIREMENT**

**Part I. Louisiana State Employees' Retirement System
Chapter 27. DROP Program**

Subchapter C. Withdrawal

§2715. Interest

A. ...

B. Plan year shall mean fiscal year. The actual posting of interest shall not be performed until the system actuary's report is approved by the Public Retirement Systems Actuarial Committee.

C. Interest shall not be paid on funds transferring to the Self-Directed Plan. DROP participants who are vested under LAC 58:I.4103 who choose to transfer their funds to the SDP shall not be paid DROP interest under this section beginning on the date LASERS receives the participant's request for transfer. DROP participants who were not vested under LAC 58:I.4103 shall not be paid DROP interest under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 31:946 (April 2005), LR 32:1070 (June 2006).

Chapter 41. Self-Directed Plan

§4135. No DROP Interest

A. Participants in the SDP shall not receive interest paid by LASERS on traditional DROP/IBO accounts under the provisions of LAC 58:I.2715.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 32:1070 (June 2006).

Cindy Rougeou
Executive Director

0606#058

RULE

**Department of Treasury
State Employees' Retirement System**

DROP Program—Time for Disbursement (LAC 58:I.2713)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has amended LAC 58:I.2713. The amended Rule will sets

out the manner in which disbursements from DROP accounts shall be made.

**Title 58
RETIREMENT**

Part I. Louisiana State Employees' Retirement System

Chapter 27. DROP Program

Subchapter C. Withdrawal

§2713. Time for Disbursement

A. ...

B. Disbursements from the DROP accounts shall be made on the first day of each month; if the first is a weekend or holiday, the disbursement shall be made on the following workday.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:2466 (December 1999), LR 29:1121 (July 2003), LR 30:2079 (September 2004), LR 32:1070 (June 2006).

Cindy Rougeou
Executive Director

0606#059

RULE

**Department of Treasury
State Employees' Retirement System**

Self-Directed Plan—Time to Transfer Funds
(LAC 58:I.4111)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has amended LAC 58:I.4111. This Rule sets out the time in which funds are transferred from LASERS to the third-party administrator of the Self-Directed Plan.

**Title 58
RETIREMENT**

Part I. Louisiana State Employees' Retirement System

Chapter 41. Self-Directed Plan

§4111. Time to Transfer Funds

A. Except in emergency circumstances as determined by the executive director:

1. LASERS shall forward the entire deposit balance of a participant to the third party administrator within 10 working days from the end of the DROP accumulation period. LASERS may supplement or otherwise correct balances forwarded in those instances where there are errors, missing documents or incomplete reports submitted by agencies reporting earnings for the participant;

2. for participants in the Initial Benefit Option ("IBO") or for those DROP participants whose accumulation period is less than six months, LASERS shall transfer 80 percent of the DROP/IBO balance within 45 days from the date of initial transfer into the SDP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement

System, LR 30:1307 (June 2004), amended LR 32:1070 (June 2006).

Cindy Rougeou
Executive Director

0606#057

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spotted Seatrout Management Measures (LAC 76:VII.341)

The Wildlife and Fisheries Commission does hereby amend a Rule, LAC 76:VII.341, modifying the recreational daily take and possession limit in a defined area within Cameron and Calcasieu Parishes. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), R.S. 56:325.1(A), and R.S. 56:326.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §341. Spotted Seatrout Management Measures

A. - B. ...

C. Recreational Regulations. Within those areas of the state, including coastal territorial waters, south of Interstate 10 from its junction at the Texas-Louisiana boundary eastward to its junction with Louisiana Highway 171, south

to Highway 14, and then south to Holmwood, and then south on Highway 27 through Gibbstown south to Louisiana Highway 82 at Creole and south on Highway 82 to Oak Grove, and then due south to the western shore of the Mermentau River, following this shoreline south to the junction with the Gulf of Mexico, and then due south to the limit of the state territorial sea, under the authority of the provisions of R.S. 56:325.1(A), the daily take and possession limit shall be 15 fish, regardless of where taken, with no more than 2 spotted seatrout exceeding 25 inches total length. Those spotted seatrout exceeding 25 inches in length shall be considered as part of the daily recreational take and possession limit.

AUTHORITY NOTE: Promulgated in accordance with Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S.56:6(25)(a); R.S. 56:306.5, R.S. 56:306.6, 56:325.1(A) and (B); R.S. 56:325.3; R.S. 56:326.3; Act 1316 of the 1995 Regular Legislative Session; and Act 1164 of the 2003 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:238 (March 1996), LR 24:360 (February 1998), LR 26:2333 (October 2000), LR 30:1509 (July 2004), LR 30:2498 (November 2004), repromulgated LR 32:125 (January 2006), amended LR 32:1071 (June 2006).

Terry D. Denmon
Chairman

0606#021

Notices of Intent

NOTICE OF INTENT

Department of Economic Development Office of the Secretary

Angel Investor Tax Credit Program (LAC 13:I.Chapter 33)

The Department of Economic Development, Office of the Secretary, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and in accordance with R.S. 47:6020 through 6020.4 and 36:104, hereby gives notice of its intent to amend and re-adopt the following Rules for the Angel Investor Tax Credit Program.

The Department of Economic Development, Office of the Secretary, has found a need to amend and re-adopt the Rules regarding the regulation of the Angel Investor Tax Credit Program pursuant to R.S. 47:6020 through 6020.4, and the state needs to provide for the growth and stability of Louisiana's entrepreneurial business environment by making available ready sources of capital necessary to support this environment. This program is intended to provide economic benefits to Louisiana-based investors who will make new investments or increase their existing investment in Louisiana-based economic development projects that will create and/or retain jobs for Louisiana citizens; and to enhance the entrepreneurial business environment and raise ready sources of capital for this environment through encouraging third parties to invest in early stage wealth-creating businesses expanding the economy of the state, enlarging the quality of jobs available in Louisiana. Without these Rules, the state of Louisiana may suffer the loss of business investment and economic development projects creating or retaining jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 33. Angel Investor Tax Credit

§3301. General

A. The intent of the Angel Investor Tax Credit Program Act of 2005 (Act 400 of 2005; La. 47:6020 through 6020.4, the provisions of which shall hereinafter be referred to as "Act 400") is to enhance the entrepreneurial business environment and raise ready sources of capital for this environment through encouraging third parties to invest in early stage wealth-creating businesses expanding the economy of the state, enlarging the quality jobs available in Louisiana to retain the presence of young people in Louisiana. These provisions are to be read in pari materiae with Act 400. For the purposes of this Rule, the "secretary" shall be either the secretary of Economic Development or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:228 (February 2006), amended LR 32:

§3303. Accredited Investor

A. An accredited investor shall be defined as:

1. an angel pool (which may be a limited liability corporation or limited liability partnership, as provided below) as determined by the secretary, all of whose participants shall be accredited investors;

2. a person who has individual net worth, or joint net worth with the person's spouse, that exceeds \$1 million at the time of the purchase;

3. a person with income exceeding \$200,000 in each of the two most recent years or joint income with a spouse exceeding \$300,000 for those years and a reasonable expectation of the same income level in the current year;

4. persons, including corporations, partnerships, limited liability partnerships and limited liability corporations composed of persons meeting the qualifications of Paragraphs A.2 and 3 above, provided that the person's share of the tax credits of the entrepreneurial business shall not exceed that person's share of the profits of the entrepreneurial business or a person's share of the tax credits as a partner or a member of a limited liability corporation or partnership shall not exceed that person's share of the profits of the LLC.

B. Angel pools may receive certification from the secretary upon showing:

1. the proposed pool of investors is organized solely for the purposes of making angel investments;

2. participants in the pool are given the opportunity to screen applicants for pool investments and to participate in deal reviews as well as post investment review of company performance;

3. participants are given the opportunity to opt in or out of proposed angel investments and are not participating solely upon the determinations of an investment or fund manager;

4. such other factors of operation of the pool as may distinguish it from the operation of a venture fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:228 (February 2006), amended LR 32:

§3305. Louisiana Entrepreneurial Business

A. A Louisiana Entrepreneurial Business shall be defined as those businesses approved by the secretary under Act 400 and that meet the following requirements:

1. a business shall provide the secretary with a business plan that includes all appropriate long and short term forecasts and contingencies of business operations, including research and development, profit, loss and cash flow projections and details of expenditure of angel investor funding in accordance with Act 400 and shall also include the following:

a. the principal business operations of the business are located in Louisiana including Louisiana as the primary place of employment for the employees of the business;

b. demonstrating a plan or progression through which more than 50 percent of its sales will be from outside of Louisiana;

c. that the business is to operate as a person defined as an *employer* within the meaning of R.S. 51:2453(1)(b)(i) through (v), (c), and (d), and in §§1105.A.1 through A.5 of the Quality Jobs Rules.

2. The secretary shall also find that the business is not a business primarily engaged in the business of retail sales, real estate, professional services, gaming or gambling, natural resource extraction or exploration, or financial services including venture capital funds.

3. Such other findings by the secretary as shall be consistent with Act 400, provided that under no circumstances shall the secretary's certification of the applicant as a Louisiana Entrepreneurial Business be considered or implied to be an endorsement of the business or any investment in that business and the applicant shall so advise all investors of this fact.

B. Approval of the secretary shall be obtained upon application by letter that submits the above business plan together with the Louisiana taxpayer identification number of the business and all other information regarding those items necessary to qualify the investment in the business for the angel tax credit as provided for by Act 400 addressed to the Secretary of Economic Development, Post Office Box 94185, Baton Rouge, LA 70802-9185. Upon receipt, the secretary shall make such requests for other information necessary to a determination that the business should or should not be certified as a Louisiana Entrepreneurial Business. The secretary's certification of the business shall include the Louisiana taxpayer identification number of the business. This certification shall be in effect for one year from the date of the secretary's letter. The certification may be extended for additional one year periods upon application to the secretary showing that the business continues to be an entrepreneurial business within the meaning of the act and these rules, and the application includes the use of proceeds previously raised, number of employees, amount of payroll, annual revenue, and such other information as shall be requested by the secretary or his representative. In order to continue to be certified, the business shall be in compliance with all reporting and other provisions of Act 400 and these rules with respect to the administration of the credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:228 (February 2006), amended LR 32:

§3307. The Angel Investor Tax Credit

A. The following rules shall be applicable to investments by accredited investors in Louisiana Entrepreneurial Businesses.

1. By January 31 of each year, Louisiana Entrepreneurial Businesses certified by the secretary shall, by affidavit of its chief financial officer, provide the secretary with the list of those accredited investors, the Louisiana taxpayer identification number of the accredited investors and the amount of their investment in accordance with the statute and these rules, who have invested in the business provided that the business shall report up to and no more than \$2,000,000 total for the calendar year 2005 that

shall have been invested by accredited investors in the manner prescribed by Act 400 in order to obtain a tax credit for the accredited investors of no more than \$1,000,000 total for the tax year ending the previous December 31.

2. All tax credit amounts reported to the secretary shall be fully credited to the accredited investor unless the total of all such investments shall exceed \$10,000,000 and the total of such credits shall exceed \$5,000,000 in which case the secretary shall prorate the total amount of investment and tax credits earned and advise each accredited investor of the amount of his credit for the tax year ending December 31, no later than February 28 of the following year.

3. The secretary shall provide the accredited investor with all other necessary and appropriate certificates as provided by statute and as shall assist the Department of Revenue in its determination of applicability of the credit. No credit certificates shall be issued until after a determination has been made as to whether or not there is a necessity for prorating of the credits as provided above. When issued, the certificates shall include the Louisiana taxpayer identification number of the accredited investor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:229 (February 2006), amended LR 32:

Family Impact Statement

These proposed Rules should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D, or on family formation, stability and autonomy. There should be no known or foreseeable effect on: the stability of the family; the authority and rights of parents regarding the education and supervision of their children; the functioning of the family; on family earnings and family budget; the behavior and responsibility of children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to: Richard House, Executive Counsel, Legal Division, Louisiana Department of Economic Development, P. O. Box 94185, Baton Rouge, LA 70804-9185; or physically delivered to: Capitol Annex Building, Second Floor, 1051 North Third Street, Baton Rouge, LA, 70802. All comments must be submitted (mailed and received) by 5 p.m., on Friday, July 28, 2006.

Michael J. Olivier
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Angel Investor Tax Credit 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 into this Program. Current staff of the Department will be sufficient to process and monitor these Rules within this Program. There will be no increase in costs or savings. Funding for this Program will come from the regular authorized appropriations received by the Department.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State General Fund revenues will decrease by \$1 million in Fiscal Year 2006-2007 if the program is fully subscribed. Full participation will increase this amount to \$2 million in Fiscal Year 2007-2008. The amount of lost revenue will increase by one million dollars each year through Fiscal Year 2010-2011. Revenue decreases in Fiscal Year 2008-09 are \$3 million, in Fiscal Year 2009-10 are \$4 million, and in Fiscal Year 2010-11 are \$5 million.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated additional costs to directly affected persons or non-governmental groups. The economic benefits of these rules will inure to Louisiana-based investors who will receive tax credits for their investments in Louisiana-based early stage businesses. The purpose of these rules is to provide definition of key terms provided for by the statute in order to advise the public and to provide for the efficient administration of the statute.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Investments by Louisiana-based investors as contemplated by the Rule will enhance this State's economic development through the formation of new and the expansion of existing businesses, which investments in Louisiana will help create and/or retain jobs for Louisiana citizens and thereby enhance and expand economic development throughout Louisiana. By taking advantage of such business opportunities which may otherwise be exported out of Louisiana, local development, expansion and operation of such businesses will create increased competition among businesses and correspondingly increase employment prospects for Louisiana residents throughout the state. These potential effects on employment will be offset to some extent by reduced employment resulting from lower government expenditures, both directly in the public sector and indirectly in the private sector.

Richard House
Executive Counsel
0606#060

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for
State Certification of School Personnel
(LAC 28:CXXXI.Chapters 1-10)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. Bulletin 746 will be printed in codified format as Part CXXXI of the Louisiana Administrative Code. This document replaces any previously advertised versions. Bulletin 746 has not been updated for many years; this revision will give clear, precise information on the guidelines for Louisiana certification. Bulletin 746 will assist individuals, principals, school districts, higher education personnel, and policy makers with policy adopted by the state board and will identify all certification guidelines for Louisiana school employees and administrators.

Title 28

EDUCATION

**Part CXXXI. Bulletin 746—Louisiana Standards
for State Certification of School Personnel**

Chapter 1. Introduction

§101. Purpose

A. Certification is a licensing process whereby qualified professionals become legally authorized to teach or to perform designated duties in K-12 schools under the jurisdiction of the Louisiana Board of Elementary and Secondary Education (BESE). The certification process provides a systematic and nondiscriminatory procedure for the credentialing of teachers and other school personnel.

B. Certification policies and statutes are designed to identify and support high quality teachers in all Louisiana classrooms; promote higher standards in the teaching profession; and provide for growth and development of the teaching profession. The Louisiana Department of Education, Division of Teacher Certification and Higher Education, implements and maintains teacher certification procedures as mandated by legislation and BESE policy.

C. Certification policies are adopted and implemented in a manner, and with a timeline, that allows for smooth transition from old to new requirements. Any certification change made by the BESE shall include implementation dates to be specified at the time of recommendation to the BESE for action. In particular, changes in Praxis exam scores will allow for a 12-month period from the date of adoption by the BESE to the effective date.

D. When revised certification policy requirements necessitate a program change at the college level, a notice shall be given to those institutions of higher education that have teacher preparation programs so that catalogs can be revised and incoming freshman can be notified of the changes.

E. This bulletin will serve as a reference for current state policy relative to initial certification and to certification endorsement options for those who wish to become teachers, those who are practicing teachers, personnel from both school districts and institutions of higher education, and anyone else who may seek certification assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Chapter 2. Louisiana Teacher Preparation Programs

§201. Overview

A. Louisiana Revised Statutes 17:7 provides for the duties, functions, and responsibilities of the board of Elementary and Secondary Education (BESE). Specifically, 17:7(6)(a)(i) states that BESE shall prescribe qualifications and provide for certification of teachers in accordance with applicable law, and that such qualifications and requirements shall ensure that certification shall be a reliable indicator of minimum current ability and proficiency of the teacher to educate at the grade level and in the subject(s) to which the teacher is assigned.

B. Louisiana teacher preparation programs are jointly reviewed by the Louisiana Board of Regents and by the BESE in a program approval process that culminates in

formal adoption of each approved program. The BESE first approves certification structures that specify minimum semester hours, types of coursework, and other guidelines to be included in a teacher preparation program. Louisiana institutions of higher education and private program providers then propose programs designed to these specifications for official approval by the state through the program approval process. For a listing of state-approved teacher preparation programs by grade level and content area, see the Teach Louisiana website at teachlouisiana.net.

C. When a candidate has successfully completed a state-approved program and met state testing and grade point average certification requirements, the program provider recommends the candidate for certification.

NOTE: The Louisiana Department of Education will accept no final grade below a "C" in coursework within the approved undergraduate program, with the exception of the general education requirements. All coursework used for certification purposes must be for regular credit and not of a remedial or developmental nature.

D. There are two types of teacher preparation programs:

1. A *traditional teacher preparation program* is a Bachelor of Arts or Bachelor of Science degree program that includes general education courses, a certification focus area, professional education courses, field experiences, and student teaching in a school setting.

2. An *alternate teacher preparation program* is a pathway designed for candidates with a minimum of a baccalaureate degree earned at a regionally accredited institution. Applicants must demonstrate content mastery for admission to an alternate program, which combines professional knowledge with field experiences, including a student teaching experience or a one year supervised internship in a school setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Subchapter A. Traditional Teacher Preparation Programs

§203. Introduction

A. For the traditional teacher preparation program certification structures that BESE has adopted, the following notes apply.

1. Students must spend a minimum of 270 clock hours in student teaching, with at least 180 of such hours spent in actual teaching. A substantial portion of the 180 hours shall be on an all-day basis.

2. In addition to the student teaching experience, the student should be provided actual teaching experience (in addition to observations) in classroom settings during the sophomore, junior, and senior years within schools with varied socioeconomic and cultural characteristics. It is recommended that pre-service teachers be provided a minimum of 180 hours of direct teaching experience in field-based settings prior to student teaching.

3. Three of the flexible hours allowed in the program structure must be in the "humanities." This must occur to meet general education requirements for the board of regents.

4. If students do not possess basic technology skills, they should be provided coursework or opportunities to develop those skills early in their program.

5. Minimum credit hours have been listed. Programs may use the flexible hours to add more content hours to the various elements of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§205. Minimum Requirements for Approved Regular Education Programs for Grades PK-3: Adopted May 24, 2001; Effective July 1, 2002

A. For certification as a teacher in grades pre-kindergarten through third (PK-3) in the state of Louisiana, the focus is on the areas of Early Childhood, Reading/Language Arts, and Mathematics.

1. General Education—39 semester hours: Requirements provide the prospective PK-3 teacher with basic essential knowledge and skills.

English	12 semester hours
Mathematics	9 semester hours
Sciences	9 semester hours
Social studies	6 semester hours
Arts	3 semester hours

2. Focus on Early Childhood, Reading/Language Arts, and Mathematics—33 semester hours: Requirements provide a greater depth of knowledge in early childhood education.

Nursery school and kindergarten coursework	12 semester hours
Reading/language arts (Additional Content and Teaching Methodology)	12 semester hours
Mathematics	9 semester hours
Knowledge of the Learner and the Learning Environment, with the Emphasis on Early Childhood	15 semester hours

a. Requirements provide the prospective PK-3 teacher with a fundamental understanding of the learner and the teaching and learning process. Coursework should address the needs of the regular and the exceptional child, as follows:

- i. child/adolescent development/psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

3. Methodology and Teaching—15 semester hours: Requirements provide the prospective PK-3 teacher with fundamental pedagogical skills.

Teaching methodology	6 semester hours
Student teaching	9 semester hours
Flexible hours for the university's use	22 semester hours
Total required hours in the program	124 semester hours

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§207. Minimum Requirements for Approved Regular Education Programs for Grades 1-5: Adopted May 24, 2001; Effective July 1, 2002

A. For certification as a teacher in elementary grades 1-5 in the state of Louisiana, the focus is on the areas of Reading/Language Arts and Mathematics.

1. General Education—54 semester hours. Requirements provide the prospective elementary grades 1-5 teacher with basic essential knowledge and skills.

English	12 semester hours
Mathematics	12 semester hours
Sciences	15 semester hours
Social studies	12 semester hours
Arts	3 semester hours

2. Focus on Reading/Language Arts and Mathematics—21 semester hours. Requirements provide the prospective elementary grades 1-5 teacher with fundamental pedagogical skills.

Reading/language arts (additional content and teaching methodology)	12 semester hours
Mathematics (additional content and teaching methodology)	9 semester hours
Knowledge of the Learner and the Learning Environment, with the Emphasis on the Elementary School Student	15 semester hours

a. Requirements provide the prospective elementary grades 1-5 teacher with a fundamental understanding of the learner and the teaching and learning process. Coursework should address the needs of the regular and the exceptional child, as follows:

- i. child/adolescent development or psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

3. Methodology and Teaching: 15 semester hours. Requirements provide the prospective elementary grade 1-5 teacher with fundamental pedagogical skills.

Teaching methodology	6 semester hours
Student teaching	9 semester hours
Flexible hours for the university's use	19 semester hours
Total required hours in the program	124 semester hours

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§209. Minimum Requirements for Approved Regular Education Programs for Grades 4-8: Adopted May 24, 2001; Effective July 1, 2002

A. For certification as a teacher in middle grades 4-8 in the state of Louisiana, the focus is on two in-depth teaching areas.

1. General Education—54 semester hours. Requirements provide prospective middle grades 4-8 teachers with basic essential knowledge and skills.

English	12 semester hours
Mathematics	12 semester hours
Sciences	15 semester hours
Social Studies	12 semester hours
Arts	3 semester hours

2. Focus Area #1—19 hours total combined general education and focus area coursework.

English	7 or more hours
Mathematics	7 or more hours
Social Studies	7 or more hours
Science	4 or more hours

3. Focus Area #2—19 hours total combined general education and focus area coursework.

English	7 or more hours
Mathematics	7 or more hours
Social Studies	7 or more hours
Science	4 or more hours

4. Knowledge of the Learner and the Learning Environment, with the Emphasis on the Middle School Student—15 semester hours.

a. Requirements provide the prospective middle grades 4-8 teacher with a fundamental understanding of the learner and the teaching and learning process. Coursework should address the needs of the regular and the exceptional child:

- i. child/adolescent development/psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

5. Methodology and Teaching—24 semester hours. Requirements provide the prospective middle grades 4-8 teacher with fundamental pedagogical skills.

Teaching methodology	9 semester hours
Reading	6 semester hours
Student teaching	9 semester hours
Flexible hours for the university's use	19 semester hours
Total required hours in the program	124 semester hours

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§211. Minimum Requirements for Approved Regular Education Programs for Grades 6-12: Adopted May 24, 2001; Effective July 1, 2002

A. For certification as a secondary teacher in grades 6-12 in the state of Louisiana, the focus is on content, with a primary teaching area and a secondary teaching area.

1. General Education—30 semester hours. Requirements provide prospective secondary grades 6-12 teachers with basic essential knowledge and skills.

English	6 semester hours
Mathematics	6 semester hours
Sciences	9 semester hours
Social Studies	6 semester hours
Arts	3 semester hours

2. Primary Teaching Area—A total of 31 hours of combined general education and focus area coursework. These focus hours prepare a prospective secondary teacher of grades 6-12 in the content area essential to the primary certification area.

English, Social Studies, or Mathematics	25 or more hours
-or-	
Science	22 or more hours
-or-	
Other focus areas	31 or more hours

3. Secondary Teaching Area—A total of 19 hours of combined general education and focus area coursework. These focus hours prepare a prospective teacher of grades 6-12 with the essential knowledge to be certified in a secondary teaching area.

English, social studies, or mathematics	13 or more hours
-or-	
Science	10 or more hours
-or-	
Other focus areas	19 or more hours

NOTE: To achieve certification in the secondary teaching focus area, a candidate must either pass the content specialty Praxis exam or comply with endorsement guidelines for add-on certification as specified in Chapter 6 of this bulletin.

4. Knowledge of the Learner and the Learning Environment, with the Emphasis on the Secondary School Student—15 semester hours.

a. Requirements provide the prospective secondary grades 6-12 teacher with a fundamental understanding of the learner and the teaching/learning process. Coursework should address the needs of the regular and the exceptional child:

- i. child/adolescent development or psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

5. Methodology and Teaching—18 semester hours. Requirements provide the prospective secondary grade 6-12 teacher with fundamental pedagogical skills.

Teaching methodology	6 semester hours
Reading	3 semester hours
Student teaching	9 semester hours
Flexible hours for the university's use	17-26 semester hours
Total required hours in the program	124 semester hours

NOTE: The following areas are approved primary teaching focus areas, to include a minimum of 31 semester hours of credit: Agriculture; Biology; Business; Chemistry; Computer Science; Earth Science; English; Environmental Science; Family and Consumer Sciences; a specific Foreign Language; General Science; Marketing; Mathematics; Physics; Social Studies; Speech; Technology Education.

NOTE: The following areas are approved secondary teaching focus areas, to include a minimum of 19 semester hours of credit: Biology; Business; Chemistry; Computer Science; Earth Science; English; Environmental Science; a specific Foreign Language; Journalism; Marketing; Mathematics; Physics; Social Studies; Speech.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§213. College of Arts/Humanities/Sciences Degree Pathway to Secondary Education Certification (Grades 6-12): Adopted November 18, 2003; Effective January 1, 2004

A. This certification structure identifies courses that candidates must complete if pursuing a degree through the College of Arts/Humanities/Sciences, with an education minor, to become certified to teach secondary grades 6-12.

1. General Education—30 semester hours. These requirements provide prospective secondary grades 6-12 teachers with basic essential knowledge and skills.

English	6 semester hours
Mathematics	6 semester hours
Sciences	9 semester hours
Social Studies	6 semester hours
Arts	3 semester hours

2. Focus Areas—Content Area (semester hours can include general education coursework, if appropriate, and additional coursework)—31 semester hours.

3. Focus Areas—Education—33 semester hours.

a. Knowledge of the Learner and the Learning Environment with the Emphasis on the Secondary School Student—15 semester hours:

- i. adolescent development or psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

b. Methodology and Teaching—18 semester hours. Requirements provide the prospective secondary grades.

- i. 6-12 teacher with fundamental pedagogical skills:
- ii. teaching methodology (six semester hours);
- iii. reading (three semester hours);
- iv. student teaching (nine semester hours).

4. Flexible hours for the university's use—30-39 semester hours. The number of flexible hours is dependent upon the number of general education courses in English, mathematics, science, and social studies that can be applied toward the major. The number of hours for a content area focus should be a minimum of 31 hours, and the total curriculum (including flexible hours) should be 124 hours.

5. Total required hours in the program 124 semester hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§215. Minimum Requirements for Approved Regular Education All-Level Programs for Grades K-12: Adopted November 2003; Effective August 1, 2005

A. General Education—A minimum of 30 semester hours of credit designed to develop a broad cultural

background. The work must be taken in the following five areas.

English	6 semester hours
Mathematics	6 semester hours
Sciences	9 semester hours
Social Studies	6 semester hours
Arts	3 semester hours

B. Focus Area

Art	31 semester hours of Art coursework
Dance	31 semester hours of Dance coursework
Health and Physical Education	31 semester hours of Health and Physical Education coursework
Vocal Music	31 semester hours of Vocal Music coursework
Instrumental Music	31 semester hours of Instrumental Music coursework
Vocal and Instrumental Music	50 semester hours vocal and instrumental music coursework
Foreign Language	31 semester hours of the language (If French, at least 12 hours must be earned through a two (2) semester residence in a university abroad or through two (2) summers of intensive immersion study on a Louisiana campus, an out-of-state university, or abroad)

C. Knowledge of the Learner and the Learning Environment—18 semester hours.

1. Coursework should address needs of the regular and exceptional child and certification grade categories PK-3, 1-5, 4-8, and 6-12:

- a. child development;
- b. adolescent psychology;
- c. educational psychology;
- d. the learner with special needs;
- e. classroom organization and management;
- f. multicultural education.

D. Methodology and Teaching—18 semester hours.

Reading	3 semester hours
Teaching methodology	6 semester hours
Student teaching	9 semester hours
Flexible hours for university use	22 semester hours
Total required hours in the program	124 semester hours

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§217. Minimal Requirements for Approved Teacher Education Programs for Teachers of Mild/Moderate Impairments 1-12; Effective September 1, 1998

A. General Education*—a minimum of 46 semester hours of credit designed to develop a broad cultural background. The work must be taken in the five areas listed below.

1. English—12 semester hours, including three semester hours in grammar and three semester hours in composition.
2. Social Studies (anthropology, economics, geography, history, political science, psychology, sociology, and survey of social science)—12 semester hours, including

at least three semester hours in United States history and three semester hours in geography (other than the geography of a state).

3. Science—12 semester hours, including at least three semester hours in biological science and at least three semester hours in physical science.

4. Mathematics—six semester hours.

5. Health and Physical Education—four semester hours.

B. *Universities that wish to require three hours of computer science should require a minimum of six hours in mathematics and a minimum of nine hours in science.

C. Professional Education—a minimum of 27 semester hours of credit, taken in the four areas listed below.

1. History of education, introduction to education, foundations of education, and/or philosophy of education—three semester hours.

2. Educational psychology and/or principles of teaching—three semester hours.

3. Student teaching in elementary or secondary mild/moderate*—nine semester hours.

4. Professional teacher education courses—12 semester hours, as follows:

a. child or adolescent psychology—three semester hours;

b. teaching of reading—nine semester hours, including at least three semester hours of credit for a practicum or laboratory situation involving work with children and materials of instruction.

*In the event that student teaching cannot be done in a mild/moderate classroom, student teaching must be done in at least two categorical situations (MR, LD, OH, ED, SL) in the public and/or nonpublic schools supervised according to certification requirements for supervisor of student teachers referred to in Bulletin 746 and according to mandates R.S. 17:7.1-R.S. 17:7.2. For students pursuing a double major in regular and special education, the student teaching requirement will be fulfilled according to mandates of R.S. 17:7.1-R.S. 17:7.2 and will be equally divided between regular education and special education.

D. Specialized Academic Education, Elementary and Secondary—33 semester hours of credit, as follows.

1. General Knowledge—three semester hours in one of the following:

a. Introduction to Education of the Exceptional Child; or

b. Introduction to Education of Students with Mild/Moderate Disabilities.

2. Methods and Materials—nine semester hours, including 60 contact hours of field experiences, as follows:

a. Vocational and Transition Services for Students with Disabilities—three semester hours;

b. Methods of Teaching Students with Learning and Behavior Problems—three semester hours;

c. Methods of Teaching Basic Subjects to Students with Mild/Moderate Disabilities—three semester hours.

3. Management—six semester hours, including at least 60 contact hours of field experiences, as follows:

a. Methods of Classroom Organization and Management—three semester hours;

b. Approaches to Managing Students with Mild/Moderate Disabilities—three semester hours.

4. Practicum in Assessment—three semester hours.

5. Mainstreaming/Inclusive Education Practicum, including at least 60 contact hours—three semester hours.

NOTE: For students pursuing a double major in regular education and special education, the student teaching in regular education will fulfill the requirement for the practicum.

6. Professional Electives—nine semester hours.

NOTE: Electives must include competencies in inclusive education and coordination with regular education and be approved by the Dean of the College of Education.

E. Specialized Academic Education: Secondary: The secondary teacher of students with mild/moderate disabilities who is to award Carnegie units in various subjects must meet minimal requirements for the various subjects in addition to the general education and professional education requirements as outlined in Bulletin 746 minimal requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§219. Minimum Requirements for Approved Blended General/Special Education Mild-Moderate Program for Grade Levels 1-5: Adopted September 14, 2004; Effective July 1, 2007.

A. Students who complete an approved blended general/special education mild/moderate program for elementary grade levels 1-5 are eligible for certification in the areas of mild/moderate and elementary grades 1-5. The program focus is on the areas of Reading/Language Arts and Mathematics.

1. General Education—54 semester hours. Requirements provide the prospective elementary grades 1-5 teacher with basic essential knowledge and skills.

English	12 semester hours
Mathematics	12 semester hours
Sciences	15 semester hours
Social studies	12 semester hours
Arts	3 semester hours

2. Focus Area, Special Education and Content—39 semester hours.

Additional Content and Teaching Methodology	
Reading/language arts	12 semester hours
Mathematics	9 semester hours
Special Education Content*	18 semester hours

*NOTE: Council for Exceptional Children (CEC) performance-based standards for accreditation and licensure must be met.

3. Knowledge of the Learner and the Learning Environment, with Emphasis on the Elementary School Student—15 semester hours.

a. Requirements provide the prospective elementary grades 1-5 teacher with a fundamental understanding of the learner and the teaching and learning process. Coursework should address the needs of the regular and the exceptional child:

- i. child/adolescent development or psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

4. Methodology and Teaching—15 semester hours.

a. Requirements provide the prospective elementary grades 1-5 teacher with fundamental pedagogical skills.

Teaching methodology (science and social studies must be addressed)	6 semester hours
Student teaching*	9 semester hours
*(50 percent of the student teaching must include working with and actual teaching of students with disabilities)	
Flexible hours for the university's use	19 semester hours
Total required hours in the program	124 semester hours

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§221. Minimum Requirements for Approved Blended General/Special Education Mild-Moderate Program for Grade Levels 4-8: Adopted September 14, 2004; Effective July 1, 2007.

A. Students who complete an approved blended general/special education mild/moderate program for middle grades 4-8 are eligible for certification in the areas of mild/moderate and the selected middle grades 4-8 content area. The program focus is on special education and one middle school content area.

1. General Education—54 semester hours. Requirements provide the prospective middle grades 4-8 teacher with basic essential knowledge and skills.

English	12 semester hours
Mathematics	12 semester hours
Sciences	15 semester hours
Social studies	12 semester hours
Arts	3 semester hours

2. Focus Area, Special Education and Content—37 semester hours (combined general education and focus area content semester hours should equal 19).

Middle School Content Area (English, mathematics, science, or social studies)	19 semester hours
Special Education Content*	18 semester hours

*NOTE: Council for Exceptional Children (CEC) performance-based standards for accreditation and licensure must be met.

3. Knowledge of the Learner and the Learning Environment, with the Emphasis on the Middle School Student—15 semester hours.

a. Requirements provide the prospective middle grades 4-8 teacher with a fundamental understanding of the learner and the teaching/learning process. Coursework should address the needs of the regular and the exceptional child:

- i. child/adolescent development or psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

4. Methodology and Teaching—21 semester hours. These requirements provide the prospective middle grades 4-8 teacher with fundamental pedagogical skills.

Reading	6 semester hours
Teaching methodology	6 semester hours
Student teaching	9 semester hours
(50 percent of the student teaching must include working with and actual teaching of students with disabilities)	
Flexible hours for the university's use	9-12 semester hours
Total required hours in the program	124 semester hours

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§223. Minimum Requirements for Approved Blended General/Special Education Mild-Moderate Program for Grade Levels 6-12: Adopted September 14, 2004; Effective July 1, 2007.

A. Students who complete an approved blended general/special education mild/moderate program for secondary grade levels 6-12 are eligible for certification in the areas of mild/moderate and in the selected secondary grades 6-12 content area. The program focus is on special education and one high school content area.

1. General Education—30 semester hours. These requirements provide the prospective secondary grades 6-12 teacher with basic essential knowledge and skills.

English	6 semester hours
Mathematics	6 semester hours
Sciences	9 semester hours
Social studies	6 semester hours
Arts	3 semester hours

2. Focus Area, Special Education and Content—49 semester hours (combined general education and focus area content semester hours should equal 31).

Secondary school content area	31 semester hours
Special education content	18 semester hours

*NOTE: Council for Exceptional Children (CEC) performance-based standards for accreditation and licensure must be met.

3. Knowledge of the Learner and the Learning Environment—15 semester hour.

a. These requirements provide the prospective secondary grades 6-12 teacher with a fundamental understanding of the learner and the teaching/learning process. Coursework should address the needs of the regular and the exceptional child:

- i. child/adolescent development or psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

4. Methodology and Teaching—18 semester hours. These requirements provide the prospective secondary grades 6-12 teacher with fundamental pedagogical skills.

Reading	3 semester hours
Teaching methodology	6 semester hours
Student teaching*	9 semester hours
*(50 percent of the student teaching must include working with and actual teaching of students with disabilities)	
Flexible hours for the university's use	12-21 semester hours
Total required hours in the program	124 semester hours

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§225. Minimum Requirements for Approved Early Interventionist Special Education Birth to Five Years Program: Adopted November 18, 2004; Effective January 1, 2007.

A. For Louisiana certification as a teacher for Early Interventionist: Birth to Five Years, the focus of the program is on early childhood and early interventionist.

1. General Education—48 semester hours. These requirements provide the prospective early interventionist teacher with basic essential knowledge and skills.

English	12 semester hours
Mathematics	12 semester hours
Sciences	12 semester hours
Social studies	9 semester hours
Arts	3 semester hours

2. Focus Area—The Young Child: 30 semester hours.

Nursery school and kindergarten.	9 semester hours
Reading content.	3 semester hours
Special education content* (with emphasis on infants, toddlers, and preschoolers): Foundations In early childhood education and early intervention; physical and medical management; motor speech/language development; sensory and communication differences; understanding and working with families	18 semester hours

*NOTE: Council for Exceptional Children (CEC) performance-based standards for accreditation and licensure must be met.

3. Knowledge of the Learner and the Learning Environment, with the Emphasis on Infants, Toddlers, and Preschoolers—15 semester hours.

a. These requirements provide prospective Early Interventionist teachers with a fundamental understanding of the learner and the teaching/learning process. Coursework should address the needs of the regular and the exceptional child:

- i. child development/psychology;
- ii. learning environments/diversity/behavior analysis;
- iii. curriculum;
- iv. assessment;
- v. interdisciplinary and interagency teaming and consultation.

4. Methodology and Teaching—15 semester hours. These requirements provide the prospective early interventionist teacher with fundamental pedagogical skills.

Reading methodology	6 semester hours
Teaching methodology (early intervention methods infant, toddler, preschool), understanding and facilitating play, teaching mathematics	9 semester hours
Student teaching (infant, toddler, preschool areas)	9 semester hours
Flexible hours for the university's use	7 semester hours
Total required hours in the program	124 semester hours

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§227. Minimal Guidelines for Approved Teacher Education Program for Speech, Language, and Hearing Specialists

A. For certification as a Speech, Language, and Hearing Specialist through a traditional teacher preparation program, emphasis is placed upon general, professional, and special education coursework.

1. General Education—46 semester hours designed to develop a broad cultural background. The work must be taken in the five areas listed below.

English, including at least three semester hours in grammar and three semester hours in composition	12 semester hours
Social studies (anthropology, economics, geography, history, political science, sociology, and survey of social science), including at least three semester hours in United States history	12 semester hours
Science, including at least three semester hours in biological science, three semester hours in physical science, and three semester hours in anatomy and physiology	12 semester hours
Mathematics	6 semester hours
Health and physical education	4 semester hours

a. Universities that wish to require three semester hours of computer science should require a minimum of six semester hours in mathematics and a minimum of nine semester hours in science.

2. Professional Education—33 semester hours, which must be taken in the four areas listed below.

a. History of education, introduction to education, foundations of education, and/or philosophy of education—3 semester hours.

b. Educational psychology and/or principles of teaching—3 semester hours.

c. Student teaching in speech, language, and hearing therapy with individuals from birth to 22 years of age, in public or nonpublic schools—9 semester hours.

i. Student teaching must be supervised according to certification requirements for supervisor of student teachers referred to in Bulletin 746 and according to the mandates of R.S. 17:7.1-R.S. 17:7.2.

d. At least 18 hours of professional education, to include the following.

Adolescent psychology	3 semester hours
Child psychology	3 semester hours
Introduction to exceptional children	3 semester hours
Teaching of reading	3 semester hours

3. Special Education Requirements for Speech, Language, and Hearing Services (*Indicates those courses recommended to be taught at the bachelor's level)

a. Basic Requirements

i. *Educational and/or psychological tests and measurements—3 semester hours.

ii. *Counseling methods for teaching or psychological counseling—3 semester hours.

iii. *Abnormal psychology (e.g., Psychology of adjustment, mental hygiene, psychology of the emotionally disturbed)—3 semester hours.

b. Basic Professional Courses:

i. *American phonetics—3 semester hours.

ii. *Anatomy and physiology of the speech and hearing mechanism—3 semester hours.

iii. *Normal speech and language acquisition (to include cultural and regional variations)—3 semester hours.

iv. Voice science and/or acoustics—3 semester hours.

v. *Methods and materials in speech, language, and hearing therapy in public schools—3 semester hours.

c. Hearing and Hearing Disorders

i. *General foundations in audiology (including hearing testing)—3 semester hours.

ii. Advanced hearing testing—3 semester hours.

iii. *Aural rehabilitation—3 semester hours.

d. Speech and Language Disorders: A minimum of 30 hours, to include the following:

NOTE: No more than six of the following semester hours may be counted in clinical practicum credits.

i. *Survey or introduction to communicative disorders—3 semester hours;

ii. *Articulation disorders—3 semester hours;

iii. *Language disorders—3 semester hours;

iv. *Disorders of rhythm (to include stuttering)—3 semester hours;

v. *Voice disorders—3 semester hours;

vi. Cleft palate, orofacial disorders—3 semester hours;

vii. Neurological disorders (cerebral and peripheral neurological disorders)—3 semester hours;

viii. Aphasia—3 semester hours;

ix. Diagnosis and diagnostic practicum with speech and language disorders—3 semester hours;

x. A minimum of 30 semester hours must be earned at the graduate level, excluding six semester hours of practicum.

e. A minimum of 375 clock hours of supervised clinical practicum is required, of which at least 100 clock hours must have been earned at the undergraduate level.

These hours must include experiences with individuals from birth to 21 years of age and shall include at a minimum the following distribution of hours or the distribution of hours as specified for clinical practicum by the American Speech-Language-Hearing Association (ASHA). A minimum of:

i. 50 hours in diagnosis;

ii. 50 hours in hearing, testing, and auditory rehabilitation;

iii. 75 hours in language disorders;

iv. 30 hours in articulation disorders;

v. 30 hours in rhythm disorders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Subchapter B. Alternate Teacher Preparation Programs §231. Introduction

A. Current BESE policy allows for alternate certification pathways listed in this section. Previous policy was limited

to the alternate program pathway entitled "Post-Baccalaureate Program." In the period in which the State transitions from previous policy to current policy, the following are deadline dates for candidates enrolled in a Louisiana post-baccalaureate alternate program prior to implementation of the current Practitioner Teacher, Master's Degree, and Non-master's/Certification-Only alternate certification programs.

B. Candidates in Early Childhood Education, Elementary, Secondary, and Mild/Moderate Special Education

1. Spring Semester 2003—last date for students to be accepted into Post-Baccalaureate Programs.

2. August 31, 2006—last date for candidates who were already in the Post-Baccalaureate Programs to complete those programs.

C. Candidates in the all-level (K-12) areas of art, dance, foreign language, health and physical education, and music:

1. Spring Semester 2005—last date for students to be accepted into Post-Baccalaureate Programs.

2. August 31, 2008—last date for candidates who are already in Post- Baccalaureate Programs to complete those programs.

D. Candidates in the areas of Early Interventionist, Hearing Impaired, Significant Disabilities, and Visual Impairments/Blind:

1. Spring Semester 2006—last date for candidates to be accepted into Post-Baccalaureate Programs.

2. August 31, 2009—last date for candidates who are already in Post-Baccalaureate Programs to complete those programs.

E. The alternate program certification structures shown below became effective on July 1, 2002, and supersede previous alternate program guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements)

A. State-approved private providers and Louisiana colleges or universities with an approved teacher education program may choose to offer a Practitioner Teacher Program for certification in Grades PK-3, 1-5, 4-8, 6-12, All-Level K-12 (art, dance, foreign language, health and physical education, and music), or Mild-Moderate Special Education. The Practitioner Teacher Program is a streamlined certification path that combines intensive coursework and full-time teaching.

B. Admission to the Program. Program providers work with district personnel to identify Practitioner Teacher Program candidates who will be employed by districts during fall and spring. For admission, candidates must:

1. possess a non-education baccalaureate degree from a regionally accredited university;

2. have 2.50 or higher grade point average (GPA) on a 4.00 scale to enter a private provider program;

3. have 2.20 or higher grade point average (GPA) on a 4.00 scale to enter a college or university program;

4. pass the Praxis Pre-Professional Skills Tests (PPSTs) in reading, writing, and mathematics. Candidates

who already possess a graduate degree will be exempted from this requirement;

5. pass the Praxis content specific examinations:

a. candidates for grades PK-3: pass Elementary Education: Content Knowledge (#0014);

b. candidates for grades 1-5 (regular education and mild/moderate): pass Elementary Education: Content Knowledge (#0014);

c. candidates for grades 4-8 (regular education and mild/moderate): pass the middle school subject-specific licensing examination(s) for the content area(s) to be certified;

d. candidates for grades 6-12 (regular education and mild/moderate): pass the secondary subject-specific examination(s) for the content area(s) to be certified. Special education mild/moderate candidates seeking admission to an alternate program must pass a Praxis core subject area exam (English/language arts, foreign language, mathematics, the sciences, or social studies). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area;

e. candidates for all-level K-12 areas of art, dance, foreign language, health and physical education, and music: pass the subject-specific examination for content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program. The provider must develop a process to ensure that candidates demonstrate necessary performance skills in the all-level certification area;

6. meet other non-course requirements established by college or university.

C. Teaching Preparation (Summer)

1. All teachers will participate in field-based experiences in school settings while completing the summer courses (or equivalent contact hours).

2. Grades PK-3 practitioner teachers will successfully complete courses or equivalent contact hours that focus on child development or psychology, family and community relationships, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies before starting their teaching internships. (12 credit hours or equivalent 180 contact hours)

3. Grades 1-5, 4-8, and 6-12 practitioner teachers will successfully complete courses or equivalent contact hours that focus on child or adolescent development or psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies before starting their teaching internships. (9 credit hours or equivalent 135 contact hours)

4. Mild/Moderate Special Education practitioner teachers will successfully complete courses or equivalent contact hours that focus on special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for mild/moderate exceptional children, and vocational and transition services for students with disabilities. (9 credit hours or equivalent 135 contact hours)

5. All-Level K-12 practitioner teachers will successfully complete courses or equivalent contact hours that focus on child and adolescent psychology, the diverse learner, classroom management and organization, assessment, instructional design, and instructional strategies across grade levels K-12 before starting their teaching internships. (9 credit hours or equivalent 135 contact hours)

D. Teaching Internship and First-Year Support: 12 credit hours or equivalent 180 contact hours.

1. Practitioner teachers assume full-time teaching positions in districts. During the school year, candidates participate in two seminars (during the fall and during the spring) that address immediate needs of the Practitioner Teacher Program teachers, and receive one-on-one supervision through an internship provided by the program providers.

2. Practitioner teachers participating in the LaTAAP will receive support from school-based mentor teachers provided by the Louisiana Teacher Assistance and Assessment Program (LaTAAP) and principals. Practitioner teachers who are not participating in the LaTAAP or who have successfully completed the LaTAAP will be provided a mentor by the program provider.

3. For all-level areas (art, dance, foreign language, health and physical education, and music), field experiences should be provided across grades K-12.

E. Teaching Performance Review (End of First Year)

1. Program providers, principals, mentors, and practitioner teachers form teams to review first-year teaching performance of practitioner teachers and determine the extent to which the practitioner teachers have demonstrated teaching proficiency.

2. If weaknesses are cited, teams will identify additional types of instruction to address areas of need. Prescriptive plans that require from one to nine credit hours of instruction, or 15 to 135 equivalent contact hours, will be developed for practitioner teachers.

F. Prescriptive Plan Implementation (Second Year)—One to nine credit hours, or 15 to 135 contact hours. Candidates who demonstrate areas of need will complete prescriptive plans.

G. Total Hours Required in the Program

1. Grades PK-3 Program—24-33 credit hours (or equivalent 360-495 contact hours).

2. Grades 1-5, 4-8, 6-12, All-Level (K-12), and Mild/Moderate Special Education Programs—21-30 credit hours (or equivalent 315-450 contact hours).

H. Praxis Review (Second Year). Program providers will offer review sessions to prepare practitioner teachers to pass remaining components of the Praxis.

I. Program Requirements must be met within a three year time period. For certification purposes, private providers and colleges or universities will submit signed statements to the Department of Education indicating that the student completing the Practitioner Teacher Program alternative certification path met the following requirements:

1. passed the PPST components of the Praxis (Note: This test was required for admission);

2. completed all program requirements including the internship with a 2.50 or higher GPA (this applies to candidates in a university program);

3. completed prescriptive plans (if weaknesses were demonstrated);

4. passed the Praxis specialty examination for the area(s) of certification. (Note: This test was required for admission):

a. grades PK-3: Elementary Education: Content Knowledge (#0014);

b. grades 1-5 (regular and special education): Elementary Education: Content Knowledge (#0014);

c. grades 4-8 (regular and special education): Middle school subject-specific licensing examination(s) for the content area(s) to be certified;

d. grades 6-12 (regular and special education): Secondary subject-specific examination(s) for the content area(s) to be certified. Special education mild/moderate candidates must pass a Praxis core subject area exam (English/language arts, foreign language, mathematics, the sciences, or social studies). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program;

e. all-level K-12 areas (art, dance, foreign language, health and physical education, and music): Subject-specific examination(s) for content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program;

5. passed the pedagogy examination (Praxis):

a. grades PK-3: Early Childhood Education (#0020);

b. grades 1-5: Principles of Learning and Teaching K-6 (#0522);

c. grades 4-8: Principles of Learning and Teaching 5-9 (#0523);

d. grades 6-12: Principles of Learning and Teaching 7-12 (#0524);

e. all-level K-12 Certification: Principles of Learning and Teaching K-6, 5-9, or 7-12;

f. mild/moderate special education: Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Mild to Moderate Disabilities (#0542);

6. all candidates entering an alternate certification program after May 1, 2004, must demonstrate proficiency in the Reading Competencies as adopted by the BESE through either of the following:

a. successfully complete the same number of semester hours in reading as required for undergraduate teacher preparation programs:

i. early childhood PK-3 or elementary 1-5 programs, nine (9) hours;

ii. middle grades 4-8 programs, six hours;

iii. secondary 6-12 or all-level K-12 programs, three hours;

iv. special education areas (Early Interventionist, Hearing Impaired, Mild/Moderate 1-12, Significant Disabilities, or Visually Impaired), nine hours; or

b. pass a reading competency assessment.

J. Ongoing Support (Second and Third Year): Program providers will give support services to practitioner teachers during their second and third years of teaching. Support types may include online support, internet resources, special seminars, etc.

K. Professional License: A practitioner teacher will be issued a Practitioner License in a specific level and area upon entrance to the program. The practitioner teacher is restricted to the specific level and area as designated on the Practitioner License. He/she will be issued a Level 1 Professional License upon successful completion of all program requirements. After three years of teaching in the area of certification and successful completion of the Louisiana Teacher Assistance and Assessment Program, he/she will be eligible for a Level 2 license.

L. Undergraduate, Graduate Courses; Graduate Programs. Universities may offer the Practitioner Teacher Program courses at the undergraduate or graduate level. Efforts should be made to allow students to use graduate hours as electives if they are pursuing a graduate degree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§235. The Master's Degree Program Alternative Path to Certification (Minimum Requirements)

A. A Louisiana college or university with an approved teacher education program may choose to offer an alternative certification program that leads to a master's degree. The college or university may offer the master's degree program as either a Master of Education or a Master of Arts in Teaching. Master's Degree Programs may offer certification in Grades PK-3, 1-5, 4-8, 6-12, All-Level K-12 (art, dance, foreign language, health and physical education, music), Early Interventionist Birth to Five Years, Mild/Moderate, Significant Disabilities 1-12, Hearing Impaired K-12, and Visual Impairments/Blind K-12.

B. For all special education programs, the Council for Exceptional Children (CEC) performance-based standards for accreditation and licensure must be met.

C. Admission to the Program. To be admitted, candidates must:

1. possess a non-education baccalaureate degree from a regionally accredited university;
2. have a 2.50 or higher grade point average (GPA) on a 4.00 scale;
3. pass the Praxis Pre-Professional Skills Tests (PPSTs) in reading, writing, and mathematics (individuals who already possess a graduate degree will be exempted from this requirement);
4. pass the Praxis content-specific subject area examination:
 - a. candidates for PK-3 (regular education)—Elementary Education: Content Knowledge (#0014);
 - b. candidates for Grades 1-5 (regular education and mild/moderate)—Elementary Education: Content Knowledge (#0014);
 - c. candidates for Grades 4-8 (regular education and mild/moderate)—the middle school subject-specific licensing examination(s) for the content area(s) to be certified;

d. candidates for Grades 6-12 (regular education and mild/moderate)—the secondary subject-specific examination(s) for the content area(s) to be certified. Special education mild/moderate candidates seeking admission to an alternate program must pass a Praxis core subject area exam (English/language arts, foreign language, mathematics, the sciences, or social studies). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area;

e. candidates for All-Level K-12 areas of art, dance, foreign language, health and physical education, and music—the subject-specific examination(s) for the content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program. The provider must develop a process to ensure that candidates demonstrate necessary performance skills in the all-level certification area;

f. Candidates for special education Early Interventionist Birth to Five Years, Significant Disabilities 1-12, Hearing Impaired K-12, Visual Impairments/Blind K-12—Elementary Education: Content Knowledge (#0014);

5. meet other non-course requirements established by the college/university.

D. Program Requirements

1. Knowledge of Learner and the Learning Environment: 15 credit hours.

a. Grades PK-3, 1-5, 4-8, 6-12—Child or adolescent development or psychology; the diverse learner; classroom management/organization; assessment; instructional design and instructional strategies.

b. Special education Mild/Moderate—Special needs of the mild/moderate exceptional child; classroom management; behavioral management; assessment and evaluation; methods and materials for mild/moderate exceptional children; vocational and transition services for students with disabilities.

c. All-Level (grades K-12)—Coursework across grade levels K-12, as follows: Child and adolescent psychology; the diverse learner; classroom management/organization; assessment; instructional design and instructional strategies.

d. Special Education Early Interventionist Birth to Five Years (coursework specific to infants, toddlers, and preschoolers)—Child development or psychology; learning environment and behavior analysis; motor, sensory, and communication differences; teaming, physical, and medical management; understanding and working with families; communication and literacy in early intervention.

e. Special Education Significant Disabilities 1-12 (coursework specific to needs of children with significant disabilities)—Assessment and evaluation, including IEP and ESYP; communication strategies; behavior support; collaborative techniques and family partnerships; physical support, health and safety; special education law; characteristics of individuals with significant disabilities.

f. Special education Hearing Impaired K-12 (coursework specific to the needs of general education students)—Assessment and evaluation; special needs of

students with disabilities; transition; instructional strategies and planning in the content areas; instructional strategies in literacy; education law, special education law, school structure; technology in schools; diversity in schools.

g. Special education Visual Impairments/Blind K-12 (coursework specific to the needs of visually impaired students)—Educational implications of low vision and blindness; orientation and mobility for the classroom teacher; assessment/evaluation techniques, including functional vision evaluation and reading media assessment; assistive technology for the visually impaired; education law, special education law, school structure; transition.

2. Methodology and Teaching: 12 to 15 credit hours.

a. For Grades PK-3, 1-5, 4-8, 6-12, All-Level K-12 (art, dance, foreign language, health and physical education, and music), and special education mild/moderate: Methods courses and field experiences.

NOTE: For All-Level K-12 areas (art, dance, foreign language, health and physical education, and music), experiences should be provided across grades K-12.

b. For special education Early Interventionist Birth to Five Years (coursework specific to needs of infants, toddlers, and preschoolers)—Curriculum; assessment; early intervention methods; understanding and facilitating play; teaching of reading and mathematics.

c. For special education Significant Disabilities 1-12 (coursework specific to needs of children with significant disabilities, across grades 1-12)—Curriculum development and modifications; transition planning; instructional strategies; inclusive education practices.

d. For special education Hearing Impaired K-12 (coursework specific to needs of children with hearing impairments across grades K-12)—Language development and linguistic principles in language acquisition; speech development, speech reading, audition training; assessment and evaluation; instructional strategies; audiology, and audiology training; anatomy and physiology of the hearing mechanism; auditory assistive devices; history and psychology of deafness; assistive devices and technology; proficiency in either signed, cued, or oral communication.

e. For special education Visual Impairments/Blind K-12 (coursework specific to needs of visually impaired students, across grades K-12)—Instructional strategies; Braille code, teaching Braille reading (with proficiency as defined in LA State Competencies); Nemeth code, teaching Braille mathematics; using slate and stylus.

3. Student Teaching or Internship—6-9 credit hours

NOTE: For all-level K-12 areas of art, dance, foreign language, health and physical education, and music, experiences should be provided across grades K-12.

4. Total hours required in the program—33-39 credit hours

E. Certification Requirements. Colleges/universities will submit signed statements to the Louisiana Department of Education indicating that the student completing the Master's Degree Program alternative certification path met the following requirements:

1. passed PPST components of Praxis (as required for admission).

2. completed all coursework in the Master's Degree alternate certification program with a 2.50 or higher grade point average (GPA).

3. passed the specialty examination (Praxis) for the area of certification (this test was required for admission):

a. grades PK-3 (regular education)—Elementary Education: Content Knowledge (#0014);

b. grades 1-5 (regular education and mild/moderate)—Elementary Education: Content Knowledge (#0014);

c. grades 4-8 (regular education and mild/moderate)—Middle school subject-specific licensing examination for content area to be certified;

d. grades 6-12 (regular education and mild/moderate)—Secondary subject-specific examination for content area(s) to be certified. Special education mild/moderate candidates must pass a Praxis core subject area exam (English/language arts, foreign language, mathematics, the sciences, or social studies). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program;

e. all-level K-12 Certification—Subject-specific examination for content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program;

f. Special Education Early Interventionist (Birth to Five Years), Significant Disabilities 1-12, Hearing Impaired K-12, and Visual Impairments/Blind K-12—Elementary Education: Content Knowledge (#0014) specialty examination;

4. passed the pedagogy examination (Praxis):

a. grades PK-3—Early Childhood Education (#0020);

b. grades 1-5—Principles of Learning and Teaching K-6 (#0522);

c. grades 4-8—Principles of Learning and Teaching 5-9 (#0523);

d. grades 6-12—Principles of Learning and Teaching 7-12 (#0524);

e. all-level K-12 Certification—Principles of Learning and Teaching K-6, 5-9, or 7-12;

f. Special Education Mild/Moderate—Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Mild to Moderate Disabilities (#0542);

g. Special Education Early Interventionist Birth to Five Years—Education of Exceptional Students: Core Content Knowledge (#0353) and Early Childhood Education (#0020);

h. Special Education Significant Disabilities 1-12—Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Severe to Profound Disabilities (#0544);

i. Special Education Hearing Impaired K-12—Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Hearing Impairment (#0271);

i. Special Education Visual Impairments/Blind K-12—Education of Exceptional Students: Core Content Knowledge (#0353);

5. prior to receiving a Level 1 or higher professional teaching certificate, a candidate who entered an alternate certification program after May 1, 2004, is required to demonstrate proficiency in the Reading Competencies as adopted by the BESE through either of the following:

a. successfully complete the same number of semester hours in reading as required for undergraduate teacher preparation programs:

- i. early Childhood PK-3 or Elementary 1-5 programs, nine hours;
- ii. middle Grades 4-8 programs, 6 hours;
- iii. secondary 6-12 or All-Level K-12 programs, 3 hours;
- iv. special Education areas (Early Interventionist, Hearing Impaired, Mild/Moderate 1-12, Significant Disabilities, or Visually Impaired), nine hours; or

b. pass a reading competency assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§237. Non-Masters/Certification-Only Program Alternative Path to Certification

A. This program is designed to serve candidates who may not elect participation in or be eligible for certification under either the Practitioner Teacher Alternate Certification Program or the Master's Degree Alternate Certification Program. The program may also be accessible in some areas of the state in which the other alternate certification programs are not available.

B. Non-Master's/Certification-Only Programs may offer certification in Grades PK-3, 1-5, 4-8, 6-12, All-Level K-12 (art, dance, foreign language, health and physical education, and music), Early Interventionist Birth to Five Years, Mild/Moderate, Hearing Impaired K-12, Significant Disabilities 1-12, and Visual Impairments/ Blind K-12.

C. For all special education programs, the Council for Exceptional Children (CEC) performance-based standards for accreditation and licensure must be met.

D. Admission to the Program—Candidates must:

1. possess a non-education baccalaureate degree from a regionally accredited university;
2. have a 2.20 or higher grade point average (GPA) on a 4.00 scale;
3. pass the Praxis Pre-Professional Skills Tests (PPSTs). Candidates who already possess a graduate degree will be exempted from this requirement;
4. pass the Praxis content-specific subject area examination:
 - a. candidates for PK-3 (regular education)—Elementary Education: Content Knowledge (#0014);
 - b. candidates for Grades 1-5 (regular education and mild/moderate)—Elementary Education: Content Knowledge (#0014);
 - c. candidates for Grades 4-8 (regular education and mild/moderate)—Pass the middle school subject-specific examination for the content area(s) to be certified;
 - d. candidates for Grades 6-12 (regular education and mild/moderate)—Pass the secondary subject-specific examination for the content area(s) to be certified. Special education mild/moderate candidates seeking admission to an

alternate program must pass a Praxis core subject area exam (English/language arts, foreign language, mathematics, the sciences, or social studies). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area;

e. candidates for All-Level K-12 areas of art, dance, foreign language, health and physical education, and music—Pass the subject-specific examination for the content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program. Provider must develop a process to ensure that candidates demonstrate necessary performance skills in the all-level certification area;

f. candidates for special education Early Interventionist Birth to Five Years, Significant Disabilities 1-12, Hearing Impaired K-12, and Visual Impairments/Blind K-12—Elementary Education: Content Knowledge (#0014).

E. Program Requirements and Structure

1. Knowledge of the Learner and the Learning Environment—12 hours. All courses for regular and special education will integrate effective teaching components, content standards, technology, reading, and portfolio development. Field-based experiences will be embedded in each course. Courses must address the following:

a. Grades PK-3, 1-5, 4-8, 6-12—child/adolescent development or psychology, the diverse learner, classroom management/organization/ environment, assessment, instructional design, and reading/ instructional strategies that are content and level appropriate;

b. Special Education Mild/Moderate (1-5, 4-8, 6-12)—special needs of the special education mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for Special Education Mild/Moderate exceptional children, vocational and transition services for students with disabilities;

c. All-Level K-12 areas—child psychology and adolescent psychology; the diverse learner; classroom management/organization/environment; assessment; instructional design; and reading/instructional strategies (all coursework should address grade levels K-12);

d. Special Education Early Interventionist birth to five years (coursework specific to infants, toddlers, and preschoolers)—child development or psychology; foundations in early childhood education; teaming, physical, and medical management; understanding and working with families; communication and literacy in early intervention;

e. Special Education Significant Disabilities 1-12 (coursework specific to needs of children with significant disabilities)—assessment and evaluation; communication strategies; behavior support; collaborative techniques and family partnerships; physical support, health and safety; special education law; characteristics of individuals with significant disabilities;

f. Special Education Hearing Impaired K-12 (coursework specific to the needs of general education students)—assessment and evaluation; special needs of students with disabilities; transition; instructional strategies

and planning in the content areas; instructional strategies in literacy; education law, special education law, school structure; technology in schools; diversity in schools;

g. Special Education Visual Impairments/Blind K-12 (coursework specific to the needs of visually impaired students)—educational implications of low vision and blindness; orientation and mobility for the classroom teacher; assessment/evaluation techniques, including functional vision evaluation and reading media assessment; assistive technology for the visually impaired; education law, special education law, school structure; transition.

2. Methodology and Teaching: Content-specific methods courses and field/clinical experiences, six hours.

a. For Grades PK-3, 1-5, 4-8, 6-12, All-Level K-12 (art, dance, foreign language, health and physical education, and music), and special education mild/moderate—methods courses to include case studies and field experiences. NOTE: For All-Level K-12 areas (Art, Dance, Foreign Language, Health and Physical Education, and Music), experiences should be provided across grades K-12.

b. For special education Early Interventionist Birth to Five Years (coursework specific to needs of infants, toddlers, and preschoolers)—curriculum; assessment; early intervention methods (including understanding and facilitating play); teaching of reading and mathematics.

c. For special education Significant Disabilities 1-12 (coursework specific to the needs of children with significant disabilities)—curriculum development and modifications; transition planning; instructional strategies; inclusive education practices.

d. For special education Hearing Impaired K-12 (coursework specific to needs of children with hearing impairments, across grades K-12)—language development and linguistic principles in language acquisition; speech development, speech reading, audition training; assessment and evaluation; instructional strategies; audiology and audiology training; anatomy and physiology of the hearing mechanism; auditory assistive devices; history and psychology of deafness; assistive devices and technology; proficiency in either signed, cued, or oral communication.

e. For special education Visual Impairments/Blind K-12 (coursework specific to needs of visually impaired students, across grades K-12)—instructional strategies; Braille code, teaching Braille reading (with proficiency as defined in LA State Competencies); Nemeth code, teaching Braille mathematics; using slate and stylus.

3. Internship or Student Teaching—Six hours, to include participant-oriented methodology seminars.

a. For all-level K-12 areas (art, dance, foreign language, health and physical education, and music), internship or student teaching experiences should be provided across grades K-12.

b. If the candidate has accumulated three years of successful teaching experience in an approved Louisiana school in the area(s) of certification, the university may substitute the three years of successful teaching experience for the required internship or student teaching portion of the program. Experience accumulated by elementary education certification candidates must be in core content areas at appropriate grade levels. Successful experience is determined by the following:

i. recommendation for certification from the most recent employing school district;

ii. verification of assessment results:

(a) in the case of a public school candidate, successfully complete the Louisiana Teacher Assistance and Assessment Program (LaTAAP);

(b) in the case of a nonpublic school candidate, provide evidence of successful completion of a teacher assessment program.

4. Prescriptive Plan—one to nine hours. The prescriptive plan can be pre-planned courses for individual programs or can be individualized courses for the candidate who demonstrates areas of need, not to exceed nine semester hours.

5. Total hours required in the program—24-33 credit hours.

F. Certification Requirements. Colleges or universities will submit signed statements to the Louisiana Department of Education that indicate the student completing the Non-Master's/Certification-Only alternative certification path met the following requirements:

1. passed the PPST components of the Praxis (Note: These tests were required for admission). Individuals who already possess a graduate degree will be exempted from this requirement;

2. completed all coursework in the Non-Master/s alternate certification program with a 2.50 or higher GPA;

3. passed the specialty examination (Praxis) for the area(s) of certification (Note: This test was required for admission);

a. grades PK-3 (regular education)—Elementary Education: Content Knowledge (#0014);

b. grades 1-5 (regular education and mild/moderate)—Elementary Education: Content Knowledge (#0014);

c. grades 4-8 (regular education and mild/moderate)—Middle school subject-specific licensing examination for area(s) to be certified;

d. grades 6-12 (regular education and mild/moderate) and all-level K-12 certification—subject-specific examination for content areas to be certified. Special education mild/moderate candidates must pass a Praxis core subject area exam (English/language arts, foreign language, mathematics, the sciences, or social studies). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program;

e. all-level K-12 certification—subject-specific examination for content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program;

f. Special Education Early Interventionist (birth to five years), Significant Disabilities 1-12, Hearing Impaired K-12, and Visual Impairments/Blind K-12—Elementary Education: Content Knowledge (#0014);

4. passed the pedagogy examination (Praxis):

a. grades PK-3—Early Childhood Education (#0020);

b. grades 1-5—Principles of Learning and Teaching K-6 (#0522);

c. grades 4-8—Principles of Learning and Teaching 5-9 (#0523);

d. grades 6-12—Principles of Learning and Teaching 7-12 (#0524);

e. all-level K-12 certification—Principles of Learning and Teaching K-6, 5-9, or 7-12;

f. Special Education Mild/Moderate—Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Mild to Moderate Disabilities (#0542);

g. Special Education Early Interventionist Birth to Five Years—Education of Exceptional Students: Core Content Knowledge (#0353) and Early Childhood Education (#0020);

h. Special Education Significant Disabilities 1-12—Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Severe to Profound Disabilities (#0544);

i. Special Education Hearing Impaired K-12—Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Hearing Impairment (#0271);

j. Special Education Visual Impairments/Blind K-12—Education of Exceptional Students: Core Content Knowledge (#0353);

k. prior to receiving a Level 1 or higher professional teaching certificate candidates entering an alternate certification program after May 1, 2004, are required to demonstrate proficiency in the reading competencies as adopted by the BESE through either of the following options:

i. successfully complete same number of semester hours in reading as required for undergraduate teacher preparation programs;

ii. early childhood PK-3 or elementary 1-5 programs, nine hours;

iii. middle grades 4-8 programs, six hours;

iv. secondary 6-12 or all-level K-12 programs, three hours;

v. special education areas (Early Interventionist, Hearing Impaired, Mild/Moderate 1-12, Significant Disabilities, or Visually Impaired), nine hours; or

5. pass a reading competency assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§239. The State as a Private Provider

A. The Louisiana Department of Education, Division of Teacher Certification and Higher Education, may act as a program provider in directing certification efforts of candidates who meet these criteria.

1. Candidate must accumulated three years of successful experience in an approved Louisiana school in the area(s) of certification, which experience can be used by the Louisiana Department of Education in lieu of the internship or student teaching portion of the program. Experience accumulated by elementary education certification candidates must be in core content areas at appropriate grade levels.

2. Successful experience is determined by the following:

a. in the case of a public school candidate, successfully complete the Louisiana Teacher Assistance and Assessment Program (LaTAAP);

b. in the case of a nonpublic school candidate, provide evidence of successful completion of a teacher assessment program.

B. Candidate must have experienced difficulty in completing alternate program requirements, through no fault of his/her own.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Chapter 3. Teaching Authorizations and Certifications

§301. Overview

A. An individual must have an official teaching authorization to provide instructional or other designated services in the Louisiana K-12 schools. Louisiana issues three categories of teaching authorizations: Standard; Nonstandard; and Ancillary. The first three sections of this chapter are devoted to these categories; a fourth section presents a policy entitled "Special Considerations for Teachers Called to Active Military Duty."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Subchapter A. Standard Teaching Authorizations

§303. Introduction

A. There are six types of standard teaching authorizations issued by the State of Louisiana:

1. professional Level 1, 2, and 3 certificates;
2. type C, B, and A certificates;
3. out-of-state certificate;
4. foreign language special certificate PK-8;
5. practitioner 1, 2, 3, and 4 licenses; and
6. standard certificates for teachers in non-public schools.

B. A Level 1 certificate is the entry-level professional certificate typically held during the first three years of the teaching career while a teacher completes the state's Louisiana Teacher Assistance and Assessment Program (LaTAAP) and gains experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§305. Professional Level Certificates

A. Issued beginning July 1, 2002, at three levels. Level 1 is the entry-level professional certificate, valid for three years and allowing the holder to complete the Louisiana Teacher Assistance and Assessment Program (LaTAAP) and accrue three years of teaching experience in the area of certification. The Level 2 and Level 3 certificates are valid for five years, with renewal involving completion of a specified number of Continuing Learning Units (CLUs) of professional development.

1. Level 1 Professional Certificate—valid for three years.

a. Eligibility Requirements

i. Louisiana graduate:

(a). successfully complete a state-approved traditional or alternate teacher preparation program;

(b). have a minimum 2.50 grade point average (GPA) on a 4.00 scale;

(c). present appropriate scores on the NTE core battery (common exams) or the corresponding Praxis exams (Pre-Professional Skills Tests in reading, writing, and mathematics); the Principles of Learning and Teaching (PLT) or other pedagogy exam required for the area(s) of certification; and the specialty area exam in the certification area in which the teacher preparation program was completed or in which the initial certificate was issued; and

(d). be recommended by a state-approved university or private program provider for certification.

b. Out-of-State Graduate

i. Eligibility requirements:

(a). possess a minimum of a baccalaureate degree from a regionally accredited college or university;

(b). hold a standard out-of-state teaching certificate; or if no certificate was issued, a letter from the State Department of Education in the state of origin verifying eligibility in that state for a certificate in the certification area(s);

(c). pass all parts of Praxis exam(s) required for Louisiana certification:

(i). present appropriate scores on the NTE core battery (common exams) or the corresponding Praxis exams (Pre-Professional Skills Tests in reading, writing, and mathematics); the Principles of Learning and Teaching (PLT) or other pedagogy exam required for the area(s) of certification; and the specialty area exam in the certification area in which the teacher preparation program was completed or in which the initial certificate was issued;

(ii). if applicant has obtained National Board Certification (NBC) in corresponding areas for which certification is being sought as well as certification/licensure in the state of origin, the examination required for NBC will be accepted to fulfill the testing requirements for certification.

(d). has completed student teaching, an internship, or three years of teaching experience in the candidate's area of certification; and

(e). has not been out of teaching in the five years immediately preceding first employment or application for a Louisiana certificate.

ii. A candidate who is certified in another state can qualify for exclusion from the Praxis exam(s) required for Louisiana certification under the following criteria.

(a). He/she meets all requirements for Louisiana certification except the Praxis exam requirements; has at least four years of successful teaching experience in another state, as determined by the board; and teaches on an out-of-state certificate for one year in a Louisiana public school system.

(b). The teacher's employing authority must verify that he/she has completed one year of successful teaching experience in a Louisiana public school and that he/she has been recommended for further employment.

(c). The employing authority must request that he/she be granted a valid Louisiana teaching certificate.

2. Renewal Guidelines. A Level 1 certificate is valid for three years and may be renewed once. While holding a Level 1 certificate, a teacher must successfully complete the LaTAAP and accrue three years of teaching experience in the area of certification.

B. Level 2 Professional Certificate—valid for five years and renewable with Continuing Learning Units (CLUs) of approved professional development during the five year period immediately preceding request for renewal.

1. Eligibility requirements:

a. hold or meet eligibility requirements for a Level 1 certificate;

b. successfully complete the Louisiana Teacher Assistance and Assessment Program (LaTAAP); and

c. accrue three years of experience in area(s) of certification in an approved educational setting.

2. If the Level 2 certificate is the applicant's first certificate, a state-approved teacher preparation program provider must submit the request.

3. If the Level 1 certificated teacher qualifies for advancement to a Level 2 certificate, the request for the higher certificate must be submitted directly to the Louisiana Department of Education by the employing authority.

C. Level 3 Professional Certificate—valid for five years and renewable with Continuing Learning Units (CLUs) of approved professional development during the five year period immediately preceding request for renewal.

1. Eligibility requirements:

a. hold or meet eligibility requirements for a Level 2 certificate;

b. a master's degree from a regionally accredited college or university;

c. five years of experience in area(s) of certification in an approved educational setting.

2. If the Level 3 certificate is applicant's first certificate, a state-approved teacher preparation program provider must submit the request.

3. If the Level 2 certificated teacher qualifies for advancement to a Level 3 certificate, the request for the higher certificate must be submitted directly to the Louisiana Department of Education by the employing authority.

D. Renewal Guidelines for Level 2 and Level 3 Certificates

1. A teacher must complete 150 continuing learning units (CLUs) of district-approved and verified professional development over the five year time period during which he/she holds the certificate, or during the five year time period immediately preceding the request for renewal. The Louisiana employing authority must request renewal of a Level 2 or Level 3 certificate.

2. A teacher with an existing Level 2 or Level 3 teaching certificate may renew that certificate based upon completion of NBC during the period of certificate validity, as satisfaction in full of the 150 CLUs required for renewal.

3. If the holder of an expired Level 2 or Level 3 certificate has not earned the required 150 CLUs of professional development, the expired certificate may be reactivated upon request of the employing authority (at the level that was attained prior to expiration) for a period of one year, during which time the certificate holder must present

evidence of successful completion of the required 150 CLUs to the Division of Teacher Certification and Higher Education. Failure to complete necessary CLUs during the one year reactivation period will result in an expired certificate that cannot be reinstated until evidence is provided of completed professional development requirements.

4. A continuing learning unit (CLU) is a professional development activity that builds capacity for effective, research-based, content-focused teaching and learning that positively impacts student achievement. As a unit of measure, the CLU is used to quantify an educator's participation in a district- or system-approved, content-focused professional development activity aligned with the educator's individual professional growth plan.

a. Educators may earn one CLU for each clock hour of active engagement in a district- or system-approved high quality professional development activity. Each educator is responsible for maintaining required documentation and for reporting earned CLUs in a manner prescribed by the district or system. Earned CLUs transfer across Local Education Agencies (LEAs).

b. An educator who holds a Level 2 or Level 3 Professional license is responsible for maintaining documentation regarding acquisition of 150 CLUs for purposes of renewal and for completing the necessary paperwork every five years to renew his/her license. Upon submission of the renewal application to the State, the district or system must provide an assurance statement signed by the superintendent or his/her designee, with the required listing of earned CLUs as documented by the educator seeking licensure.

E. Process for Reinstating Lapsed Level 1, 2, 3 Certificate

1. A certificate will lapse for disuse if the holder allows a period of five consecutive calendar years to pass in which he/she is not a regularly employed teacher for at least one semester, or 90 consecutive days.

2. To reinstate a lapsed certificate, the holder must present evidence that he/she earned six semester hours of credit in state-approved courses (see Appendix C) during the five year period immediately preceding request for reinstatement.

3. If the holder did not earn six semester hours or equivalent, the lapsed certificate may be reactivated upon request (at the level that was attained prior to disuse) for a period of one year, during which time the holder must complete reinstatement requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§307. Type C, B, and A Certificates

A. Effective July 1, 2002, these certificates are no longer issued for initial certification. The Type C certificate is valid for three years to allow time for the holder to complete the Louisiana Teacher Assistance and Assessment Program (LaTAAP) and to accrue three years of teaching experience in the candidate's area(s) of certification. Teachers who hold Type B and Type A lifetime certificates will continue to hold these certificates.

B. Type C Certificate—valid for three years.

1. Eligibility Requirements:

a. successfully complete a state-approved traditional or alternate teacher preparation program;

b. a minimum 2.50 GPA on a 4.00 scale;

c. present appropriate scores on the NTE core battery (common exams) or the corresponding Praxis exams—the Pre-Professional Skills Tests (PPST) in reading, writing, and mathematics; the Principles of Learning and Teaching (PLT) or other pedagogy exam required for the area(s) of certification; and the specialty area exam in the certification area(s) in which the teacher preparation program was completed or in which the initial certificate was issued;

d. be recommended by a university or private program provider for certification; or meet the requirements of an out-of-state certified teacher (see below for requirements for the Out-of-State Certificate).

2. Renewal Guidelines. The Type C certificate may be renewed for an additional three year period upon the request of the Louisiana employing authority, subject to the approval of the Division of Teacher Certification and Higher Education.

C. Type B Certificate—a lifetime certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue in which he is not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or the certificate is not revoked by the State Board of Elementary and Secondary Education (BESE).

1. Eligibility requirements:

a. hold or meet eligibility requirements for a Type C certificate;

b. successfully complete the Louisiana Teacher Assistance and Assessment Program (LaTAAP); and

c. three years of experience in area(s) of certification in an approved educational setting.

2. The request for the higher certificate must be submitted directly to the Louisiana Department of Education by the employing authority.

D. Type A Certificate—a lifetime certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue in which he/she is not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or the certificate is not revoked by the State Board of Elementary and Secondary Education (BESE).

1. Eligibility Requirements:

a. hold or meet eligibility requirements for a Type C certificate;

b. successfully complete the LaTAAP;

c. a master's degree from a regionally accredited institution of higher education; and

d. five years of experience in area(s) of certification in an approved educational setting.

2. The request for the higher certificate must be submitted directly to the Louisiana Department of Education by the employing authority.

E. Process for Reinstating Lapsed Type C, B, and A Certificates

1. A certificate will lapse for disuse if the holder allows a period of five consecutive calendar years to pass in which he/she is not a regularly employed teacher for at least one semester, or 90 consecutive days.

2. To reinstate a lapsed certificate, the holder must present evidence that he/she earned six semester hours of credit in state-approved courses (see Appendix C) during the five year period immediately preceding request for reinstatement.

3. If the holder did not earn six semester hours or equivalent, the lapsed certificate may be reactivated upon request (at the level that was attained prior to disuse) for a period of one year, during which time the holder must complete reinstatement requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§309. Out-of-State (OS) Certificate

A. An Out-of-State (OS) Certificate, valid for a three year period, is not renewable. It is issued to a teacher who has completed an out-of-state teacher preparation program and either holds or is eligible for a certificate in the state in which the program was completed. The teacher is not initially eligible for a Level 1, 2, or 3 Louisiana certificate but meets Louisiana certification requirements with the exception of the Praxis/National Teacher Exam requirements. It provides a transition period that permits the holder to be employed in Louisiana K-12 schools while he/she complies with Louisiana Praxis/NTE requirements or meets Praxis exclusion eligibility requirements. For continued employment as a teacher in a Louisiana school system after the three year period has elapsed, the OS certificate holder must fulfill guidelines for a Level 1 or higher-level certificate.

B. Eligibility requirements:

1. baccalaureate degree from a regionally accredited college or university;

2. completed a teacher preparation program in another state;

3. standard teaching certificate issued by the state in which the teacher preparation program was completed; or if no certificate was issued, a letter from the State Department of Education verifying eligibility in that state for a certificate in the certification area(s);

4. completed student teaching or internship in a certification area, or in lieu of student teaching or internship has three years of successful teaching experience in a certification area; and

5. if applicant earned a degree five or more years prior to the date of application, he/she must have been a regularly employed teacher for at least one semester, or 90 consecutive days, within the five year period immediately preceding first employment in Louisiana or application for a Louisiana certificate. Lacking this experience, he/she must earn six semester hours of credit in state-approved courses (see Appendix C) during the five year period immediately preceding application.

C. Advancing from OS to Professional Level 1, 2, or 3 Certificate

1. Pass all parts of Praxis exam(s) required for Louisiana certification:

a. present appropriate scores on the NTE core battery (common exams) or the corresponding Praxis exams (Pre-Professional Skills Tests in reading, writing, and mathematics); the Principles of Learning and Teaching (PLT) or other pedagogy exam required for the area(s) of certification; and the specialty area exam in the certification area in which the teacher preparation program was completed or in which the initial certificate was issued;

b. if applicant has obtained National Board Certification (NBC) in corresponding areas for which certification is being sought as well as certification/licensure in the state of origin, the examination required for NBC will be accepted to fulfill the testing requirements for certification;

c. a candidate who is certified in another state can qualify for exclusion from the Praxis exam(s) required for Louisiana certification under these criteria:

i. he/she meets all requirements for Louisiana certification except the Praxis exam requirements; has at least four years of successful teaching experience in another state, as determined by the board; and teaches on an OS certificate for one year in a Louisiana public school system;

ii. the teacher's Louisiana employing authority verifies that he/she has completed one year of successful teaching experience in a Louisiana public school and that he/she has been recommended for further employment; and

iii. the employing authority requests that he/she be granted a valid Louisiana teaching certificate.

iv. Louisiana Teacher Assistance and Assessment Program (LaTAAP) Exclusion Options

(a). For an out-of-state teacher to be considered for LaTAAP exclusion, the Request for Exclusion and Release of Evaluation Information Form must be completed, signed, and returned to the employing school system within six weeks of employment. The teacher's signature indicates willingness to release the results of previous evaluation information to the Louisiana Department of Education. An unsigned form will automatically deny a request for exclusion.

(b). Out-of-state teachers who provide NBC or appropriate evaluation results from their immediate previous teaching assignment will be exempt from participation in LaTAAP. Appropriate evaluation results shall be defined as satisfactory annual evaluation results identified by and certified by the immediate previous out-of-state school district(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§311. Foreign Language Special Certificate PK-8

A. Valid for three years and renewable once for an additional three years, with evidence of an offer of employment in a Louisiana school district.

B. This certificate may be issued to a foreign associate teacher who participates in the Louisiana Department of Education (LDE) Foreign Associate Teacher Program, and who teaches Foreign Language in the Elementary School (FLES) in grades PK-8 and/or foreign language immersion in grades PK-8.

C. This certificate allows the holder to receive the same benefits as any other regularly certified teacher.

D. Eligibility guidelines:

1. a bachelor's degree in education or equivalent preparation in education from a foreign country. The status of this degree will be determined by the Louisiana Department of Education (LDE), Division of Student Standards and Assessments. If LDE staff cannot make a degree equivalent determination, the candidate's credentials must be evaluated by the American Association of Collegiate Registrars and Admissions Officers (AACRAO). In the case of an AACRAO evaluation, the determination must be on "safe script" paper and must include a course-by-course evaluation;

2. a teaching certificate in the foreign country for the certification area and/or grade level that the candidate will teach in Louisiana;

3. evidence of two years of successful teaching experience in the country of origin; and

4. a native speaker of the language to be taught.

E. Renewal Guidelines. May be renewed for an additional three year period upon request of the Louisiana employing authority, subject to the approval of the Division of Teacher Certification and Higher Education.

F. A teacher may hold a Foreign Language Special certificate for no more than six years. After three years on such a certificate, the teacher may apply for a Louisiana Level 1 professional teaching certificate. To receive a Level 1 teaching certificate, the teacher must meet all certification requirements, including Praxis examinations for the area(s) and level(s) of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§313. Practitioner Licenses

A. Practitioner licenses may be issued for one school year, renewed annually, and held a maximum of three years while the holder completes an alternate program. Upon completion of the three years of employment on this certificate, the holder must fulfill guidelines for a Level 1 or higher-level certificate for continued employment in a Louisiana school system.

B. Practitioner License 1—issued to a candidate who is admitted to and enrolled in a state-approved Practitioner Teacher Program.

1. Eligibility requirements:

a. baccalaureate degree from regionally accredited college or university;

b. 2.50 or higher grade point average (GPA) on a 4.00 scale to enter a private provider program; or a 2.20 or higher grade point average (GPA) on a 4.00 scale to enter a college or university program; and

c. passing scores on Praxis Pre-Professional Skills Tests (PPST) and current Praxis content area exam(s). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program. Candidates possessing a graduate degree from a regionally accredited college or university will be exempted from the PPST requirement.

NOTE: Special education mild/moderate certification candidates must qualify for admission to alternate programs by passing a Praxis specialty area exam. Secondary education candidates (grades 6-12) must pass a Praxis core subject area

exam. If there is no content Praxis exam adopted by the State in the specific secondary core subject area, candidates must demonstrate content mastery by presenting 31 semester credit hours in the core subject area.

2. The approved teacher preparation program provider must submit the request for the initial practitioner license directly to the Louisiana Department of Education.

3. Renewal Requirements. The candidate must remain enrolled in the Practitioner Teacher Program and fulfill a minimum of six semester hours of coursework or equivalent contact hours per year (to the extent that required semester hours remain in the program to be completed), teaching assignments, and prescribed activities identified by the program provider.

4. Program requirements must be completed within the three year maximum that the license can be held.

C. Practitioner License 2—issued to a candidate who is admitted to and enrolled in a state-approved Non-Master's/Certification-Only Alternate Certification Program.

1. Eligibility requirements:

a. baccalaureate degree from regionally accredited college or university;

b. a 2.20 GPA on a 4.00 scale; and

c. passing scores on Praxis Pre-Professional Skills Tests (PPST) and current Praxis content area exam(s). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program. Candidates possessing a graduate degree from a regionally accredited college or university will be exempted from the PPST requirement.

NOTE: Special education mild/moderate certification candidates must qualify for admission to alternate programs by passing a Praxis specialty area exam. Secondary education candidates (grades 6-12) must pass a Praxis core subject area exam. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area.

2. The request for the initial practitioner license as well as renewals of the license must be submitted directly to the Louisiana Department of Education by the employing authority.

3. Renewal Requirements. The candidate must remain enrolled in the Non-Master's/Certification-Only Alternate Certification Program and fulfill a minimum of nine semester hours of coursework per year (to the extent that required semester hours remain in the program to be completed), teaching assignments, and prescribed activities identified by the program provider.

4. Program requirements must be completed within the three year maximum that the license can be held.

D. Practitioner License 3—issued to a candidate who is admitted to and enrolled in a state-approved Master's Degree Alternate Certification Program.

1. Eligibility requirements:

a. baccalaureate degree from regionally accredited college or university;

b. 2.50 GPA on a 4.00 scale; and

c. passing scores on Praxis Pre-Professional Skills Tests (PPST) and current Praxis content area exam(s). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program. Candidates possessing a graduate

degree from a regionally accredited college or university will be exempted from the PPST requirement.

NOTE: Special education mild/moderate certification candidates must qualify for admission to alternate programs by passing a Praxis specialty area exam. Secondary education candidates (grades 6-12) must pass a Praxis core subject area exam. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area.

2. The request for the initial practitioner license as well as renewals of the license must be submitted directly to the Louisiana Department of Education by the employing authority.

3. Renewal Requirements: The candidate must remain enrolled in the Master's Degree Alternate Certification Program and fulfill a minimum of nine semester hours of coursework per year (to the extent that required semester hours remain in the program to be completed), teaching assignments, and prescribed activities identified by the program provider.

4. Program requirements must be completed within the three year maximum that the license can be held.

E. Practitioner License 4

1. Eligibility requirements:

a. current enrollment in (or has completed) an Alternate Post-Baccalaureate Program; cannot be enrolled in a redesigned program (Practitioner Teacher, Master's Degree, or Non-Master's/Certification-Only Alternate Program);

b. passed the Praxis Pre-Professional Skills Tests (PPSTs) and current Praxis content area exam(s). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program;

c. has achieved a 2.50 GPA on a 4.00 scale; and

d. has not yet completed all requirements for full certification.

2. The request for the initial practitioner license as well as renewals of the license must be submitted directly to the Louisiana Department of Education by the employing authority.

3. Renewal Requirements: Program requirements must be completed within the three year maximum that the license can be held. A candidate must remain enrolled in the alternate program, if applicable, and address his/her specific certification deficiency in all areas that apply:

a. if deficient in coursework, candidate must fulfill a minimum of six semester hours of coursework per year (to the extent that required semester hours remain in the program to be completed);

b. if deficient in Praxis requirements for the area of certification, he/she must attempt any remaining exams at least twice per year; or

c. if deficient in program requirements for the internship, he/she must demonstrate progress toward fulfillment of these requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§315. Standard Certificates for Teachers in Nonpublic Schools

A. A standard certificate with an asterisk (*) following the certificate type is issued to a teacher in a non-public school setting who has not participated in the state's Louisiana Teacher Assistance and Assessment Program (LaTAAP). The asterisk (*) refers to a statement printed at the bottom of the certificate: "If this teacher enters a public school system in Louisiana, he/she will be required to successfully complete the state teacher assessment program."

B. Level 2* (2-asterisk) Certificate—valid for five years and renewable with Continuing Learning Units (CLUs) of approved professional development during the five year period immediately preceding request for renewal.

1. Eligibility requirements:

a. a Louisiana Level 1 certificate;

b. successfully taught for three years in area(s) of certification;

c. completed a teacher assessment program for three years at the same nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the Level 2* certificate must be submitted directly to the Louisiana Department of Education by the Louisiana employing authority.

3. The Level 2* certificate is valid in a nonpublic school setting. If the teacher enters a Louisiana public school system, he/she will be required to successfully complete the Louisiana Teacher Assistance and Assessment Program. Upon employment in a public school system, this teacher must begin to complete 150 clock hours of professional development over a five year period to renew the higher level certificate.

C. Level 3* (3-asterisk) Certificate—valid for five years and renewable with Continuing Learning Units (CLUs) of approved professional development during the five year period immediately preceding request for renewal.

1. Eligibility requirements:

a. a Louisiana Level 1 or Level 2* certificate;

b. successfully taught for five years in the area(s) of certification;

c. master's degree from a regionally accredited college or university; and

d. completed a teacher assessment program for three consecutive years at the same nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the Level 3* certificate must be submitted directly to the Louisiana Department of Education by the Louisiana employing authority.

3. The Level 3* certificate is valid in a nonpublic school setting. If the teacher enters a Louisiana public school system, he/she will be required to successfully complete the Louisiana Teacher Assistance and Assessment Program. Upon employment in a public school system, this teacher must begin to complete 150 clock hours of professional development over a five year period to renew the higher level certificate.

D. Type B* (B-asterisk) Certificate—a lifetime nonpublic school certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue in which he is not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or certificate is not revoked by the Louisiana Board of Elementary and Secondary Education (BESE).

1. Eligibility requirements:
 - a. a Louisiana Type C certificate;
 - b. successfully taught for three years in area(s) of certification; and
 - c. completed a teacher assessment program for three consecutive years at the same nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the Type B* certificate must be submitted directly to the Louisiana Department of Education by the Louisiana employing authority

3. The Type B* certificate is valid for life of continuous service in a nonpublic school setting. If the teacher enters a Louisiana public school system, he/she will be required to successfully complete the Louisiana Teacher Assistance and Assessment Program.

E. Type A* (A-asterisk) Certificate—a lifetime nonpublic school certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue in which he is not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or certificate is not revoked by the State Board of Elementary and Secondary Education (BESE).

1. Eligibility requirements:
 - a. a Louisiana Type C, Type B, or Type B* certificate;
 - b. successfully taught for five years in the area(s) of certification;
 - c. master's degree from a regionally accredited college or university;
 - d. completed a teacher assessment program for three consecutive years at the same nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the Type A* certificate must be submitted directly to the Louisiana Department of Education by the Louisiana employing authority.

3. The Type A* certificate is valid for life of continuous service in a nonpublic school setting. If this teacher enters a Louisiana public school system, he/she will be required to successfully complete the Louisiana Teacher Assistance and Assessment Program.

F. Renewal Guidelines for Level 2* and Level 3* Certificates

1. A teacher must complete 150 continuing learning units (CLUs) of district-approved and verified professional development over the five year time period during which he/she holds the certificate, or during the five-year time period immediately preceding the request for renewal. The request for the Level 2* or Level 3* certificate must be

submitted directly to the Louisiana Department of Education by the Louisiana employing authority.

2. A teacher with an existing Level 2* or Level 3* teaching certificate may renew that certificate based upon completion of NBC during the period of certificate validity, as satisfaction in full of the 150 CLUs required for renewal.

3. If the holder of an expired Level 2* or Level 3* certificate has not earned the required 150 CLUs of professional development, the expired certificate may be reactivated upon request of the Louisiana employing authority (at the level that was attained prior to expiration) for a period of one year, during which time the certificate holder must present evidence of successful completion of the required 150 CLUs to the Division of Teacher Certification and Higher Education. Failure to complete necessary CLUs during the one year reactivation period will result in an expired certificate that cannot be reinstated until evidence is provided of completed professional development requirements.

4. A Continuing Learning Unit (CLU) is a professional development activity that builds capacity for effective, research-based, content-focused teaching and learning that positively impacts student achievement. As a unit of measure, the CLU is used to quantify an educator's participation in a district- or system-approved, content-focused professional development activity aligned with the educator's individual professional growth plan.

- a. Educators may earn one CLU for each clock hour of active engagement in a high quality professional development activity approved by the employing authority. Each educator is responsible for maintaining required documentation and for reporting earned CLUs in a manner prescribed by the employing authority. Earned CLUs transfer across Local Education Agencies (LEAs).

- b. An educator who holds a Level 2* or Level 3* professional license is responsible for maintaining documentation regarding acquisition of 150 CLUs for purposes of renewal and for completing the necessary paperwork every five years to renew his/her license. Upon submission of the renewal application to the State, the employing authority must provide an assurance statement signed by the superintendent or his/her designee, with the required listing of earned CLUs as documented by the educator seeking licensure.

G. Reinstating Lapsed Levels 2* or 3*, Types B* or A* Certificates

1. If the holder of a Level 2*, Level 3*, Type B*, or Type A* certificate allows a period of five consecutive calendar years to pass in which he/she is not a regularly employed teacher for at least one semester, or 90 consecutive days, the certificate will lapse for disuse.

2. To reinstate a lapsed certificate, the holder must present evidence that he/she earned six semester hours of credit in state-approved courses (see Appendix C) during the five year period immediately preceding request for reinstatement.

3. If the holder did not earn six semester hours or equivalent, the lapsed certificate may be reactivated upon request (at the level that was attained prior to disuse) for a period of one year, during which time the holder must complete reinstatement requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Subchapter B. Nonstandard Teaching Authorizations

§321. Introduction

A. There are four types of nonstandard teaching authorizations issued in Louisiana: Temporary Authority to Teach (TAT); Out-of-Field Authorization to Teach (OFAT); Temporary Employment Permit (TEP); and Nonpublic Temporary Certificate (T). Nonstandard authorizations are of a temporary nature but may be renewed under specified guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§323. Temporary Authority to Teach (TAT)

A. Temporary Authority to Teach (TAT)—issued for one school year, renewed annually, and held a maximum of three years while the holder pursues alternate certification program admission requirements or certification requirements. Upon completion of the three years of employment on this certificate, for continued employment as a teacher in a Louisiana school system, the holder must fulfill guidelines for a Practitioner License or a higher-level certificate.

B. An applicant must have passing scores on the Praxis Pre-professional Skills Tests (PPSTs) Reading and Writing examinations and at least a 2.0 GPA. Applicants who meet this eligibility standard can apply for a TAT based on the following four conditions of eligibility.

1. Condition 1: Issued to an applicant who graduates from a teacher preparation program, does not pass all Praxis exams, and who has not previously qualified for a Louisiana standard teaching authorization.

a. Renewal Guidelines 1: The teacher must take the necessary Praxis examinations at least twice a year.

2. Condition 2: Issued to an applicant who holds a minimum of a baccalaureate degree from a regionally-accredited institution, who applies for admission to a Practitioner Teacher or other alternate program, but does not pass the Praxis examination(s) required for admission to the program, and/or has a minimum of a 2.0 GPA but does not have the required 2.20 GPA for admission to an alternate program:

a. Renewal Guidelines. Teacher must successfully complete a minimum of six credit hours per year in the subject area(s) that he/she is attempting to pass on the Praxis and take the necessary examinations at least once a year; and/or

b. Renewal Guidelines. The teacher must successfully complete a minimum of six credit hours per year to raise the GPA to a 2.20 as required for admission to an alternate program.

3. Condition 3: Issued to an applicant who holds a minimum of a baccalaureate degree from a regionally-accredited college or university and is hired after the start of an available alternate certification program.

a. Renewal Guidelines 3: The teacher must take the appropriate Praxis examinations required for admission to an

alternate certification program and, if successful, apply for admission to the alternate program.

4. Condition 4: Issued to an applicant who has a minimum of a 2.35 GPA on a 4.00 scale and has completed all other requirements for certification.

a. Renewal Guidelines 4: Teacher must successfully complete a minimum of six credit hours per year to obtain the required 2.50 GPA on a 4.00 scale that is required for certification purposes.

C. TAT Stipulations

1. Districts may recommend that teachers be given the one year TAT according to the stipulated eligibility and renewal conditions.

2. Districts submit the application and provide an affidavit signed by the local superintendent verifying that good faith efforts for recruiting certified personnel have been made, including posting all positions for which TATs are issued on the Teach Louisiana website; that "there is no regularly certified, competent, and suitable person available for the position;" and that applicant is the best-qualified person for the position.

D. If an applicant fails to complete required renewal guidelines, the TAT will not be renewed. Exception to this policy will be considered in the case of a serious medical condition.

1. Medical Excuse: When serious medical problems of the teacher or his/her immediate family exist, a doctor's statement is required with a letter of assurance from the teacher that the unmet requirements will be completed prior to the beginning of the next school year. See Appendix D of this bulletin for the form entitled "Certification of Teacher's or Family Member's Serious Health Condition" and for definition of "Serious Health Condition" as set forth under the Family and Medical Leave Act of 1993.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§325. Out-of-Field Authorization to Teach (OFAT)

A. Out-of-Field Authorization to Teach (OFAT)—issued for one school year, renewable annually, and may be held a maximum of three years while the holder pursues endorsement (add-on) certification requirements. If the teacher is actively pursuing certification in the field and the Louisiana Department of Education has designated the area as an area that requires extensive hours for completion, up to two additional years of renewal may be granted.

B. Eligibility Requirements: Issued to an applicant who holds a valid Louisiana Out-of-State Certificate; Temporary Employment Permit; or a Type C, Type B, Type A, Level 1, Level 2, or Level 3 teaching certificate but is teaching outside of the certified area(s).

C. Renewal Requirements: Teacher must successfully complete one of the following:

1. six semester hours per year in the area(s) that he/she is teaching;

2. the Praxis exam(s) required for certification in the area(s) that he/she is teaching. Under this stipulation, the exam(s) must be attempted at least twice per year.

NOTE: The coursework and Praxis exam(s) required for certification will be per official evaluation provided by the Division of Teacher Certification and Higher Education.

D. OFAT Stipulations

1. Districts must submit the application and provide an affidavit signed by the local superintendent verifying that good faith efforts for recruiting certified personnel have been made, including consulting the Teach Louisiana website; that "there is no regularly certified, competent, and suitable person available for the position;" and that the applicant is the best-qualified person for the position.

2. If the teacher is actively pursuing certification in the field and the Louisiana Department of Education designates the area as an area that requires extensive hours for completion, up to two additional years of renewal may be granted. Designated areas are as follows.

a. Applicants pursuing certification in Academically Gifted, Significant Disabilities, Early Interventionist, Hearing Impaired, and Visual Impairments/Blind may be granted two additional years of renewal.

b. Applicants pursuing certification in Mild/Moderate may be granted one additional year of renewal.

3. If an applicant fails to complete the required renewal guidelines, the OFAT will not be renewed. Exception to this policy will be considered in the case of a serious medical condition or the unavailability of required coursework.

a. Medical Excuse. When serious medical problems of the teacher or his/her immediate family exist, a doctor's statement is required with a letter of assurance from the teacher that the unmet requirements will be completed prior to the beginning of the next school year. See Appendix D of this bulletin for the form entitled "Certification of Teacher's or Family Member's Serious Health Condition" and for definition of "Serious Health Condition" as set forth under the Family and Medical Leave Act of 1993.

b. Required Courses not Available. Documentation that necessary coursework was not available must be provided in the form of letters of verification from all universities in the accessible geographic area of the teacher's domicile. The university letter must verify that the necessary coursework was not offered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§326. Temporary Employment Permit (TEP)

A. Temporary Employment Permit (TEP)—Issued for one school year, renewable annually, and may be held a maximum of three years while the holder pursues satisfaction of state Praxis requirements. Upon completion of the three years of employment on this certificate, for continued employment in a Louisiana school system, the holder must fulfill guidelines for a Level 1 or higher-level certificate.

B. Eligibility Guidelines 1: Issued to an applicant who meets all certification requirements with the exception of passing all portions of the NTE Commons examination completed prior to February 20, 1985, but who scores within 10 percent of the composite score required for passage of all exams.

NOTE: This was formerly classified as an Emergency Permit.

1. The Louisiana employing authority must submit the application to the Department of Education.

2. The Louisiana employing authority must submit a signed affidavit to the State Department of Education stipulating that there is no other applicant meeting all certification requirements who is available for employment for a specific teaching position.

3. Granting of this permit shall not waive the requirement that the person successfully complete the exam.

C. Eligibility Guidelines 2: Issued to an individual who meets all certification requirements with the exception of passing one of the components of the NTE/Praxis examination(s) completed after February 20, 1985, but who has an aggregate score equal to or above the total required on all NTE/Praxis exams for the area of certification. The individual must submit the application and all required materials to the Department of Education.

D. Renewal Requirements: An individual can be reissued a permit two times only if evidence is presented that the required exam has been retaken twice within one year from the date the permit was last issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§327. Nonpublic Temporary Certificate (T)

A. Nonpublic Temporary Certificate (T)—valid for one year; renewable.

B. Eligibility Guidelines. This certificate is granted to teachers practicing in a nonpublic school setting who need temporary credentialing to meet nonpublic school standards.

C. Renewal Guidelines. The holder must earn six semester hours of professional coursework annually. Exception to this policy will be considered in the case of serious medical condition or unavailability of required coursework.

D. Medical Excuse. When serious medical problems of the teacher or immediate family exist, a doctor's statement is required with a letter of assurance from the teacher that the unmet requirements will be completed prior to the beginning of the next school year. See Appendix D of this bulletin for the form entitled "'Certification of Teacher' or Family Member's Serious Health Condition" and for definition of "Serious Health Condition" as set forth under the Family and Medical Leave Act of 1993.

E. Required Courses Not Available. Documentation that necessary coursework was not available must be provided in the form of letters of verification from all universities in the accessible geographic area of the teacher. The university letter must verify that the necessary coursework was not offered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Subchapter C. Ancillary Teaching Certificates

§341. Introduction

A. Ancillary certificates are issued by Louisiana for those who provide teaching, support, administrative, or supervisory services to children in K-12 schools. See Chapter 4 of this bulletin for an explanation of ancillary certificates issued for those who provide support services in K-12 schools. See Chapter 7 of this bulletin for an

explanation of ancillary certificates issued for those who provide administrative and supervisory services in K-12 schools. There are three types of ancillary teaching certificates: Ancillary Artist or Talented Certificate; Nonpublic Montessori Teacher Certificate; and Certificate for Family and Consumer Sciences—Occupational Programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§343. Artist or Talented Certificate

A. An Ancillary Artist or Talented certificate is issued to an applicant who has earned an advanced degree in an artistic or talented field, or who has produced evidence of creative accomplishments over an extended period of time. An Ancillary Artist or Ancillary Talented certificate allows the holder to provide artistic and/or creative services in a regular classroom to children at any age level.

B. Artists Certificate (Art, Creative Writing, Drama, Dance, Music, Theatre, Visual Arts)—valid for one year.

1. Eligibility requirements:

a. a written request from the Louisiana employing authority indicating that the person will be employed once the certification is granted;

b. substantive evidence of artistic and/or creative accomplishment over an extended period of time, submitted in the form of newspaper articles, brochures, catalogs, playbills, programs, magazines, published music, letters from accomplished peers, etc. (photographs, slides and actual artwork are not acceptable).

2. Renewal Guidelines. The Louisiana employing school district must request renewal of this certificate for each school year of employment at the time of re-employment.

3. The person holding such certification is not eligible for tenure.

C. Talented Certificate (Music, Theatre, or Visual Arts)—Valid for continuous service in one school system.

1. This certificate allowing the certificate holder to provide talented services is valid only for the period and district of employment.

2. Certification is granted only in the specific talented area requested (visual art, music, or theatre).

3. Eligibility requirements:

a. master's degree in Art, Music, Theatre Liberal Arts, or Theatre Education; or substantive evidence of artistic and/or creative accomplishment over an extended period of time, submitted in the form of newspaper articles, brochures, catalogs, playbills, programs, magazines, published music, letters from accomplished peers, etc. (photographs, slides and actual artwork are not acceptable);

b. written request from the Louisiana employing authority indicating that the person will be employed as a talented teacher once the certification is granted; and

c. the individual must have a minimum of one year of successful experience working with students in the specific arts area and at the level for which employment is being sought.

4. Renewal Guidelines: If the holder of this certificate changes school systems, the Louisiana employing school district must request a change of job assignment.

5. Persons holding a talented certificate are not eligible for tenure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§345. Nonpublic Montessori Teacher Certificate

A. Nonpublic Montessori Teacher Certificate—Valid for life of continuous service.

B. Louisiana Montessori teachers will be certified and issued Louisiana Montessori teaching certificates by the Louisiana Department of Education.

C. Eligibility guidelines:

1. For a Type C Montessori Certificate—The teacher shall have completed training from one of the following:

- a. American Montessori Society;
- b. Association Montessori Internationale;
- c. St. Nicholas Training Course of London;
- d. The Montessori World Education Institute;
- e. Montessori Institute of America;
- f. Southwestern Montessori Training Institute;
- g. Any other training course jointly approved by the Louisiana Board of Elementary and Secondary Education and the Louisiana Montessori Association.

2. For a Type B Montessori Certificate:

a. at least one year of successful teaching experience in a Montessori school; and

b. completed training from one of the following:

- i. American Montessori Society
- ii. Association Montessori Internationale
- iii. St. Nicholas Training Course of London
- iv. The Montessori World Education Institute
- v. Montessori Institute of America
- vi. Southwestern Montessori Training Institute
- vii. Any other training course jointly approved by the Board of Elementary and Secondary Education and the Louisiana Montessori Association

3. For Type A, Junior Class A, and Junior Montessori certificates:

a. a bachelor's degree from a regionally accredited college or university;

b. at least one year of successful teaching experience in a Montessori school; and

c. completed training from one of the following:

- i. American Montessori Society;
- ii. Association Montessori Internationale;
- iii. St. Nicholas Training Course of London;
- iv. The Montessori World Education Institute;
- v. Montessori Institute of America;
- vi. Southwestern Montessori Training Institute;
- vii. Any other training course jointly approved by the Board of Elementary and Secondary Education and the Louisiana Montessori Association.

D. The certificate lapses for disuse if the holder allows a period of five consecutive calendar years to pass in which he/she is not a regularly employed teacher for at least one semester, or 90 consecutive days. To reinstate a lapsed certificate, the holder must present evidence that he/she earned six semester hours of credit in state-approved courses (see Appendix C) during the five year period immediately preceding request for reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§346. Family and Consumer Sciences (Occupational Programs)

A. An ancillary certificate issued in Family and Consumer Sciences (Occupational Programs) authorizes an individual to teach in the areas of child care, clothing service, food service, housing and interior design, and institutional home management.

B. Provisional Certification: Valid for three years.

1. Eligibility requirements:

- a. bachelor's degree in a Family and Consumer Sciences specialty area;
- b. 12 semester hours in professional education courses, to include organization and administration of Family and Consumer Sciences occupational programs; and
- c. minimum of 2,000 hours of successful work experience in the area of occupational certification.

2. Renewal Guidelines. May be renewed upon request of the Louisiana employing authority.

C. Permanent Certification. Valid for life with continuous service.

1. Eligibility requirements:

- a. completed requirements for provisional certification;
- b. three years of teaching experience in Family and Consumer Sciences occupational programs; and
- c. reinstatement of a lapsed certificate: If the certificate holder allows a period of five consecutive calendar years to pass in which he/she is not a regularly employed teacher for at least one semester (90 consecutive days), the certificate lapses for disuse. To reinstate a lapsed certificate, the holder must present evidence that he/she earned six semester hours of credit in state-approved courses during the five year period immediately preceding request for reinstatement (see Appendix C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Subchapter D. Special Considerations for Teachers Called to Active Military Duty

§361. Introduction

A. A teacher employed on a Louisiana certificate of any type who is called to active military duty will not be penalized for the time spent in active service. He or she must present copies of official documents indicating beginning and ending dates of active military duty when applying for renewal or extension of the certificate.

B. For the period of military service:

1. renewal guidelines specifying required coursework and/or Praxis exams for temporary certificates will be waived;

2. renewal guidelines specifying Continuing Learning Units (CLUs) for Level 2 and Level 3 certificates will be waived; and

3. additional time commensurate with the amount of time spent in active duty will be allowed on the temporary or regular certificate, in terms of the school year(s) or portion thereof spent in active military service.

C. Once the time spent has been restored to an individual who was called to active duty, the renewal guidelines for temporary and/or regular certificates will be effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Chapter 4. Ancillary School Service Certificates

§401. Introduction

A. An individual must have an official authorization from the state to provide services to children in a Louisiana school setting. An ancillary certificate allows a qualified person who is not a certified teacher to provide such services. The holder of an ancillary certificate is authorized to perform only those services that are specifically stated on the certificate in the school systems of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Subchapter A. Child Nutrition Program Supervisor

§403. Introduction

A. Child Nutrition Program Supervisor—Valid for life with continuous service.

B. Basic Eligibility Requirements: A master's degree in home economics, institutional management, nutrition, dietetics, business administration, food technology, or public health nutrition from a regionally accredited institution of higher education.

C. Eligibility Requirements in Areas of Specialty

1. Specialty in food service:

a. a minimum of three years of successful experience in home economics education or quantity food service management; and

b. a minimum of 21 semester hours—six semester hours in nutrition related to humans, three semester hours in quantity food preparation, and 12 semester hours in at least four of the following subjects:

- i. Quantity Food Service;
- ii. Organization and Management;
- iii. Quantity Food Service Equipment and Layout;
- iv. Accounting;
- v. Statistics;
- vi. Microbiology;
- vii. Food Service or Technology.

2. Specialty in nutrition:

a. a minimum of three years of successful experience in teaching, nutrition education, public health nutrition, clinical or administrative dietetics, cooperative extension, or food service management;

b. graduate and/or undergraduate course work, as follows:

i. nutrition, 18 semester hours—six semester hours in nutrition related to humans, and 12 semester hours

may include nutrition, physiology, biochemistry, microbiology, or bacteriology;

- ii. foods, nine semester hours;
- iii. statistics, research methodology, or evaluative techniques, three semester hours; and
- iv. a minimum of 12 semester hours in at least two of the following subjects:

(a). Quantity Food Preparation or Quantity Cookery;

- (b). Child or Adolescent Psychology;
- (c). Communication and Speech;
- (d). Educational Materials and/or Methods;
- (e). Personnel or Institutional Management.

D. Reinstatement of a lapsed Certificate: If certificate holder allows a period of five consecutive calendar years to pass in which he/she is not regularly employed as a Child Nutrition Program Supervisor for at least one semester, or 90 consecutive days, he/she must present evidence of having earned six semester hours of credit in state-approved courses (see Appendix C). The six semester credit hours must be earned during the five year period immediately preceding reinstatement.

E. A special provisional certificate, Acting Child Nutrition Program Supervisor, may be issued to an individual employed in this capacity.

1. Eligibility Requirements. A baccalaureate or master's degree in home economics, institutional management, nutrition, dietetics, business administration, food technology, or public health nutrition from a regionally accredited institution of higher education.

2. Renewal Guidelines. Valid for one year and renewable each year thereafter upon presentation of six semester hours of applicable credit toward completion of all requirements for permanent certification as a Child Nutrition Program Supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§405. Counselor K-12 (Counselor in a School Setting)

A. Counselor K-12 (Counselor in a School Setting)—Valid for three years; upon verification by employer of three years of successful experience as a school counselor, the certificate becomes valid for life of continuous service.

B. Eligibility requirements:

1. master's degree in school counseling from a regionally accredited institution, or a master's degree with the equivalent hours and courses required for a master's degree in school counseling; and

2. graduate training must include 24 semester hours of professional courses distributed so that at least one course will be taken in each of the basic areas listed below:

- a. Principles and Administration of School Counseling Programs;
- b. Career and Lifestyle Development;
- c. Individual Appraisal;
- d. Counseling Theory and Practice;
- e. Group Processes;
- f. Human Growth and Development;

- g. Social and Cultural Foundations in Counseling;
- h. Supervised Practicum in a School Setting.

C. Renewal Guidelines. If certificate holder allows a period of five consecutive calendar years to pass in which he/she is not a regularly employed educator for at least one semester [90 consecutive days], the certificate lapses for disuse. To reinstate a lapsed certificate, the holder must present evidence that he/she earned six semester hours of credit in state-approved courses during the five year period immediately preceding request for reinstatement (see Appendix C).

D. Professional Counselor in the School Setting: Applicant must meet the above requirements for counselor in a school setting and hold current licensure as a Licensed Professional Counselor in Louisiana (LPC), in accordance with Act 892 L.S. 1987 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§407. Educational Interpreter and/or Transliterater: Effective December 6, 2001

A. An Educational Interpreter and/or Transliterater is an individual who facilitates communication within an instructional environment via an enhanced visual and/or tactile mode between and among deaf/hard of hearing and hearing individuals in situations in which those individuals are unable to communicate with one another using a speech and hearing mode.

B. These certifications are issued to individuals who have at least a standard high school diploma or a General Equivalency Diploma (GED) and who meet the guidelines outlined in this document.

C. Provisional Certificate

1. Eligibility Requirements—fulfill one of the following:

- a. complete an accredited interpreter preparation program with a minimum of a certificate of completion;
- b. certification as a cued speech transliterater from a national or state recognized organization or certifying body;

c. certification as a sign language interpreter/transliterater by a national or state organization or certifying body;

d. advanced level or higher, as measured by the Sign Language Proficiency Interview (SLPI) or Sign Communication Proficiency Interview (SCPI); or

e. specified level or higher as measured on the Pre-Hiring Assessment of the Educational Interpreter Performance Assessment (EIPA) or the Cued American English Competency Screening expressive and receptive.

2. Renewal Guidelines. Valid for one year and renewable at the request of a Louisiana employing authority

D. Qualified Certificate

1. Issued to persons who meet the criteria for certification as an educational interpreter or transliterater.

2. The certificate has endorsement areas of Elementary and/or Secondary, indicating competency in one of the following modes of sign language systems: American Sign Language (ASL), Manually Coded English (MCE), Signing Exact English (SEEII), or Cued Speech.

3. Eligibility requirements:
 - a. candidate satisfies conditions for ancillary provisional certificate and meets the criteria for this certificate; or
 - b. candidate was providing interpreter or transliterator services prior to the implementation of these standards (December 6, 2001), as verified by the Division of Special Populations, and satisfies one of the following:
 - i. 20 hours of professional development accrued beginning December 6, 2001;
 - ii. interpreters shall pass the Educational Interpreter Performance Assessment, Written Test;
 - iii. passes the standardized videotape version of the Educational Interpreter Performance Assessment at a level of 3.0; transliterators shall pass the Cued Language Transliterator State level Assessment.

4. Renewal Guidelines

- a. May be renewed every five years if the applicant satisfactorily completes six semester hours of credit or the equivalent of continuing professional development (90 contact hours).
- b. The six hours of credit or 90 equivalent clock hours shall be directly and substantively related to one or more of the permits or certificates held by applicant or related to the applicant's professional competency.
- c. These hours shall be accrued beginning the date of issuance of the Ancillary Qualified Certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§409. School Librarian

A. School Librarian—valid for five years.

1. Eligibility requirements:
 - a. master's degree in library science from a regionally accredited institution; and
 - b. passing score on Praxis Library Media Specialist examination (#0310).
2. Renewal guidelines:
 - a. complete 150 continuing learning units of district-approved and verified professional development over the five year time period during which the certificate is held.
 - b. the Louisiana employing authority must request renewal of an Ancillary School Librarian Certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§411. School Nurse

A. Type C School Nurse—valid for three years.

1. Eligibility requirements:
 - a. current Louisiana licensure as a registered professional nurse; and
 - b. minimum of two years experience as a registered nurse.
2. Renewal Guidelines. May be renewed once for a three year period, upon presentation of a copy of current Louisiana licensure as a registered professional nurse and upon request of Louisiana employing authority.

B. Type B School Nurse—valid for five years.

1. Eligibility requirements:
 - a. current Louisiana licensure as a registered professional nurse; and
 - b. three years of experience as a Type C School Nurse.
2. Renewal guidelines:
 - a. six semester hours earned in nursing, education, or other health-related subjects completed since the Type B certificate was issued; and
 - b. current Louisiana licensure as a registered professional nurse.

C. Type A School Nurse—valid for life with continuous service.

1. Eligibility requirements:
 - a. current Louisiana licensure as a registered professional nurse;
 - b. baccalaureate degree in nursing or a health-related field from a regionally accredited college or university; and
 - c. five years experience as a certified Type B school nurse.
2. Renewal guidelines:
 - a. six semester hours of nursing, education, or other health-related subjects completed since the Type A certificate was issued; and
 - b. current Louisiana licensure as a registered professional nurse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§413. Social Worker

A. Social Worker—issued to individuals with master's degrees in social work or social welfare.

B. Provisional School Social Worker—valid for three years.

1. Eligibility requirements:
 - a. a provisional Graduate Social Work Certificate (GSW) issued under R.S. 37:2701 et seq;
 - b. an individual must work under the supervision of a Licensed Clinical Social Worker (LCSW) for a minimum of one hour per week if providing clinical social work services.
2. Renewal guidelines: nonrenewable.

C. Qualified School Social Worker

1. Eligibility requirements—one of the following:
 - a. Licensed Clinical Social Worker (LCSW), in accordance with R.S.37:2701 et seq.
 - b. Certificate as a Graduate Social Worker (GSW), in accordance with R.S. 37:201et seq.; receive a minimum of one hour per week of supervision by a LCSW, if providing clinical social work services; and have work experience in one or more of the following social work practice settings within the past five years:
 - i. school setting;
 - ii. mental health setting;
 - iii. correction setting;
 - iv. family/child/community service agency;

- v. medical social services in which social services were delivered to families and children;
- vi. private clinical practice in which social work services were delivered to adults, children, and families; or
- vii. have graduate Social Worker field experience in the above Social Work practice settings plus two years of work experience, to be judged by the Louisiana State Board of Certified Social Work Examiners.

2. This certificate is valid provided the holder maintains current Louisiana licensure as a Social Worker. A social worker who changes employing school systems must provide a copy of his/her current Louisiana license to serve as a social worker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§415. Special Education Examiners (Required by R.S. 17:1941)

A. State statute requires that each school district have assessment teams for the purpose of identifying and evaluating the individual needs of each child with exceptionalities. These teams may include any number of the specialists outlined in this Section.

NOTE: Persons serving on multidisciplinary teams who have competent authority numbers may continue to serve in this capacity.

B. Audiologist

1. Provisional certificate—valid for three years.

a. Eligibility requirements:

- i. master's degree in audiology or equivalent, as specified in R.S. 37:2651 et seq.;
- ii. must work under supervision of a licensed audiologist.

b. Renewal guidelines: nonrenewable.

2. Qualified Licensed Audiologist—valid for life with continuous service.

a. Eligibility requirements:

- i. master's degree in audiology or equivalent, as specified in R.S. 37:2651 et seq.
 - ii. current Louisiana licensure as an Audiologist.
- b. Renewal guidelines: holder must present current Louisiana credential as a licensed Audiologist.

C. Educational Diagnostician. This is not an ancillary certification area but rather an endorsement to a standard certificate. See certification guidelines for Educational Diagnostician in Chapter 6 of this bulletin.

D. School Psychologist

1. Standard certificate—valid for five years.

a. Eligibility requirements—one of the following:

- i. completion of a school psychology training program that meets requirements of the current Standards for Training and Field Placement Programs in School Psychology established by the National Association of School Psychologists;
- ii. evidence of current and continuous certification as a Nationally Certified School Psychologist.

b. Levels

i. Level A—Applicants must meet requirements for the standard certificate and possess a doctoral degree (such as Ph.D., Ed. D., or Psy.D.) from a regionally accredited institution in school psychology or in psychology

with a program of study emphasizing child development and knowledge and skills in education and assessment.

ii. Level B—Applicants must meet requirements for the standard certificate and possess a master's or specialist degree from a school psychology training program in a regionally accredited institution.

c. Renewal Guidelines: The standard certificate must be renewed by the expiration date, every five years. A one month grace period is allowed before the certificate is considered lapsed. The certificate may be renewed upon completion of the following:

i. at least one year of experience, or equivalent, as a school psychologist;

ii. one of the following:

(a). six semester hours of additional graduate credit in any of the areas specified in the Standards for Training and Field Placement Programs in School Psychology established by the National Association of School Psychologists;

(b). an equivalent number of Continuing Professional Development/Education Units (9.0 CEU or 90 contact hours) in a variety of activities designed to maintain and expand a school psychologist's skills, and to ensure the provision of quality services;

(c). a combination of graduate credit hours and Continuing Professional Development/Education Units equivalent to six semester hours (each semester hour equals 1.5 Continuing Professional Development/Education Units), for a total of 9.0 Continuing Professional Development/Education Units;

(d). evidence of current and continuous certification as a Nationally Certified School Psychologist since the last date of state certification or renewal.

2. Provisional Certificate—Valid for one year and renewable once for the completion of internship for the standard Level A or B certificate.

a. Eligibility requirements:

i. completed academic preparation in school psychology that meets requirements of current Standards for Training and Field Placement Programs in School Psychology established by the National Association of School Psychologists, except for the internship. The internship shall be completed during the time of the provisional certificate, in accordance with internship requirements in current Standards for Training and Field Placement Programs in School Psychology established by the National Association of School Psychologists;

ii. holder of a lapsed standard Level A or B certificate who has not met requirements for certification renewal.

b. Renewal Guidelines: May be renewed for one additional year when necessary to complete the internship, and upon written request of applicant and of the director of the training program or intern supervisor.

3. Lapsed School Psychologist certificates may be reinstated upon verification that the following conditions have been met. Credits submitted must have been earned within the five years of the last renewal request. A provisional certificate may be awarded for a one year period, during which time the individual must meet renewal requirements for the standard certificate:

a. at least one year of experience or equivalent as a school psychologist;

b. one of the following:

i. six semester hours of additional graduate credit in any of the areas specified in the Standards for Training and Field Placement Programs in School Psychology established by the National Association of School Psychologists;

ii. an equivalent number of Continuing Professional Development/Education Units (9.0 CEU or 90 contact hours) in a variety of activities designed to maintain and expand a school psychologist's skills, and to ensure the provision of quality services;

iii. a combination of graduate credit hours and Continuing Professional Development/Education Units equivalent to six semester hours (each semester hour equals 1.5 Continuing Professional Development/Education Units), for a total of 9.0 Continuing Professional Development/Education Units;

iv. evidence of current and continuous certification as a Nationally Certified School Psychologist since the last date of State certification or renewal.

E. Supervisor of School Psychological Services—eligibility guidelines:

1. hold valid Louisiana Level A or Level B School Psychologist certification under current requirements; and

2. have at least three years of supervised experience as a school psychologist, of which at least two years have been in Louisiana.

F. Speech Pathology Assistant—valid for three years and renewable.

1. The word *assistant* designates that direct supervision by a certified and licensed speech/language pathologist is required.

2. Ancillary Speech/Language Pathology Assistant certificates authorize service as a speech pathology assistant only, not as a regular classroom teacher.

3. Eligibility requirements:

a. an earned baccalaureate degree in speech/language pathology from a regionally accredited institution;

b. completed at least 100 clock hours of supervised clinical practicum.

4. Renewal guidelines:

a. may be renewed by request of the Louisiana employing authority;

b. certificate may be changed to "valid for life with continuous service" with verification of three years of service as a speech therapist.

5. Reinstatement of a Lapsed Certificate. If certificate holder allows a period of five consecutive calendar years to pass in which he/she is not a regularly employed speech pathology assistant for at least one semester, or 90 consecutive days, the certificate lapses for disuse. To reinstate a lapsed certificate, the holder must present evidence that he/she earned six semester hours of credit in state-approved courses during the five year period immediately preceding the request for reinstatement (see Appendix C).

G. Speech Pathologist

1. Provisional Certificate in Speech Pathology—valid for three years.

a. Eligibility requirements: master's degree from a regionally accredited college or university in speech pathology.

b. Renewal guidelines: nonrenewable.

2. Qualified Certificate in Speech Pathology—valid for life with continuous service, provided holder maintains current Louisiana license to serve as a speech pathologist.

Eligibility Requirements:

a. master's degree from a regionally accredited college or university in speech pathology, as specified under Speech Pathology Guidelines; and

b. a valid Louisiana license to serve as a speech pathologist.

3. Reinstatement of a Lapsed Certificate. If certificate holder allows a period of five consecutive calendar years to pass in which he/she is not regularly employed as a school speech pathologist for at least one semester, or 90 consecutive days, he/she must present evidence of having earned six semester hours of credit in state-approved courses (see Appendix C). The six semester credit hours must be earned during the five year period immediately preceding reinstatement.

H. Speech Therapist/American Speech and Hearing Association (ASHA)—A person who provides speech therapy services to students with speech and/or language impairments. Valid for three years.

1. Eligibility requirements—one of the following:

a. verification that applicant holds ASHA Certificate of Clinical Competence;

b. ASHA verification that individual has met requirements for Certificate of Clinical Competence (with possible exception of the clinical fellowship year); or

c. verification from the director of an ASHA-certified training program, in which the applicant has completed a master's degree, that ASHA requirements for the Certificate of Clinical Competence have been met (with the possible exception of the clinical fellowship year).

2. For those persons who have not completed the clinical fellowship year, this designation will be so noted on the certificate.

3. Renewal Guidelines

a. Louisiana employing authority may request renewal of the certificate.

b. Certificate may be changed to "valid for life with continuous service" with verification of three years of service as a speech therapist.

4. Reinstatement of a Lapsed Certificate: If certificate holder allows a period of five consecutive calendar years to pass in which he/she is not regularly employed as a speech therapist in a school setting for at least one semester, or 90 consecutive days, the certificate lapses for disuse. To reinstate a lapsed certificate, the holder must present evidence that he/she earned six semester hours of credit in state-approved courses during the five year period immediately preceding request for reinstatement (see Appendix C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Subchapter B. School Therapists

§421. Overview

A. School Art Therapist—Valid as long as holder remains in the same school system.

1. Eligibility requirements:

a. evidence of successful completion of accredited art therapy degree program, and current registration/membership in the American Art Therapy Association;

b. requirements of the educational program:

i. three semester hours, Introduction to Education of Exceptional Children;

ii. three semester hours, Psychology of Exceptional Children.

c. 50 percent of preclinical experience must have been directed toward a population aged zero through 21 years, in both institutional and school settings;

2. Renewal Guidelines. The Louisiana employing authority must request renewal at the time of any change of employment systems.

B. Dance Therapist—valid as long as holder remains in same school system.

1. Master's Level

a. Eligibility requirements:

i. master's degree in dance therapy;

ii. requirements of the educational program:

(a) three semester hours, Introduction to Education of Exceptional Children; and

(b) three semester hours, Psychology of Exceptional Children;

iii. current registration or membership in the American Dance Therapy Association.

b. Renewal Guidelines: The Louisiana employing authority must request a renewal at the time of any change of employment systems.

2. Bachelor's Level

a. Eligibility requirements:

i. bachelor's degree in dance therapy;

ii. requirements of the educational program:

(a) three semester hours, Introduction to Education of Exceptional Children; and

(b) three semester hours, Psychology of Exceptional Children.

iii. Practicum for two semesters in both a clinical and a school setting. Fifty percent of the practicum must involve work with a population aged zero through 21 years; and

iv. Current registration or membership the American Dance Therapy Association.

b. Renewal Guidelines. The Louisiana employing authority must request renewal at the time of any change of employment systems.

C. Music Therapist—valid as long as holder remains in same school system.

1. Eligibility requirements:

a. evidence of successful completion of an accredited music therapy degree program, and registration by the National Association of Music Therapy, Inc.;

b. meet the following course requirements of the music therapy component of the degree program:

c. three semester hours, Introduction to Education of Exceptional Children;

d. three semester hours, Psychology of Exceptional Children; and

e. recreational music; school music;

f. fifty percent of pre-clinical and clinical experiences should be directed toward a population aged zero through 21 years, in both institutional and school settings.

2. Renewal Guidelines. The Louisiana employing authority must request renewal at the time of any change of employment systems.

D. Occupational Therapist

1. Provisional Certification—valid for two years.

a. Eligibility Requirements. A temporary license to practice occupational therapy in Louisiana in compliance with R.S. 37:3009, as administered by the Louisiana State Board of Medical Examiners.

b. Renewal guidelines: nonrenewable.

2. Full Certificate—valid for five years; renewable.

a. Eligibility requirements:

i. a valid license to practice occupational therapy in Louisiana in compliance with R.S. 37:3001-3014, as administered by the Board of Medical Examiners; and

ii. two years of successful work experience as an occupational therapist with children, and the recommendation of applicant's employer;

b. Renewal Guidelines: Applicant must present copy of current licensure, and request by the Louisiana employing authority.

E. Physical Therapist

1. Provisional Certification—valid for two years.

a. Eligibility Requirements. A temporary license to practice physical therapy in compliance with R.S. 37:2402, as administered by the Louisiana State Board of Physical Therapy Examiners.

b. Renewal guidelines: nonrenewable.

2. Full Certificate—valid for five years.

a. Eligibility requirements:

i. a valid Louisiana license to practice physical therapy in compliance with R.S. 37:2402, as administered by the Louisiana State Board of Physical Therapy Examiners; and

ii. two years of successful work experience as a physical therapist with children, and the recommendation of applicant's employer;

b. Renewal guidelines: current licensure, and request of the Louisiana employing authority.

F. Recreational Therapist—valid as long as individual is employed in the same school system.

1. Master's Level

a. Eligibility requirements:

i. evidence of successful completion of an accredited recreation therapy degree program, and registration with the National Therapeutic Society;

ii. requirements as part of recreation therapy degree program:

(a). three semester hours, Introduction to Education of Exceptional Children; and

(b). three semester hours, Psychology of Exceptional Children;

iii. 50 percent of pre-clinical and clinical experiences should be directed toward a population aged zero through 21 years in both institutional and school settings.

b. Renewal Guidelines. The Louisiana employing authority must request renewal at the time of any change of employment systems.

2. Bachelor's Level

a. Eligibility requirements:

i. evidence of successful completion of an accredited recreation therapy degree program, and registration with the National Therapeutic Society; and

ii. requirements as part of Recreation Therapy Degree Program:

(a). three semester hours, Introduction to Education of Exceptional Children; and

(b). three semester hours, Psychology of Exceptional Children;

iii. fifty percent of preclinical and clinical experiences should be directed toward a population aged zero through 21 years in both institutional and school settings;

iv. current registration/membership in the National Therapeutic Society, with a rating on level no lower than Therapeutic Recreation Leader (TRL);

b. Renewal Guidelines. The Louisiana employing authority must request renewal at the time of any change of employment locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Chapter 5. Standards for Secondary Career and Technical Trade and Industrial Education Personnel

§501. Introduction

A. Career and Technical Trade and Industrial Education (CTTIE) certificates authorize employment for instructors of CTTIE classes. The applicant being certified under requirements found in this bulletin may teach CTTIE programs (e.g., Auto Mechanics, Carpentry, Certified Nursing Assistant, Welding) in secondary grades 9-12 only. CTTIE does not apply to Technology Education (Industrial Arts).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§503. CTTIE Certificate Types

A. Vocational Technical Industrial Education (VTIE) Certificates—Issued prior to July 1, 2004.

1. Vocational Temporary (VT)—Valid for one year; renewable for a maximum of five years while holder completes required coursework.

2. Vocational Permanent (VP)—Lifetime certificate for continuous service.

B. Career and Technical Trade and Industrial Education (CTTIE) Certificates—Issued between July 1, 2004, and June 30, 2006.

1. CTTIE Temporary Certificate (CT)—Valid for one year; renewable for a maximum of five years while holder completes required coursework.

2. CTTIE Permanent Certificate (CP)—Lifetime certificate for continuous-service.

C. Career and Technical Trade and Industrial Education Certificates 1 and 2 (CTTIE-1, CTTIE-2)—Issued beginning July 1, 2006.

1. CTTIE-1 Certificate—Valid for one year; renewable for a maximum of five years while holder completes required coursework.

2. CTTIE-2 Certificate—Valid for five years and renewable. To qualify for this certificate, an individual must meet requirements for a CTTIE-1 certificate and have earned the appropriate CTTIE coursework.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§505. CTTIE-1 and CTTIE-2 Certificates

A. CTTIE-1 and CTTIE-2 certificates are issued to instructors in the areas of Trade and Industrial Education (T&I), Health Professions, and Jobs for America's Graduates (JAG). CTTIE courses are not required prior to issuance of an initial CTTIE-1 certificate.

B. Trade and Industrial Education Instructor (e.g., Carpentry, Air Conditioning/Refrigeration, Culinary Arts, Cosmetology, Graphic Arts, Electronics, Plumbing, Welding) Eligibility Requirements

1. Applicant must hold a high school diploma, or have passed an equivalency test approved by the State Department of Education.

2. Applicant must have a minimum of four years of successful full-time experience in the selected career and technical field:

a. at least one full year of the work experience must have been served within the five years immediately prior to certification;

b. graduates of community and technical colleges may receive credit for up to two years of occupational experience if the training is in the area for which the applicant is applying; and

c. graduates with a bachelor's degree from a regionally accredited college or university will be given credit for two of the four years of experience. The remaining two years of work experience must be continuous and full-time.

3. If requested by the Louisiana Department of Education, applicant must show that one year of the required work experience has been at a level above starting requirements and that he/she has progressed in knowledge and skills of the trade.

4. Applicants holding current approved industry-based certification or who pass the approved NOCTI exam if industry-based certification is not available may be given credit for two of the required four years of work experience. An industry-based certification may not be combined with educational attainment to qualify for a waiver from all required work experience, except as stipulated in Paragraph 5 below.

5. Applicants with an earned baccalaureate degree and who hold an industry-based certification in an information technology area may also apply years of teaching experience toward the required work experience.

6. Applicants with prior teaching experience at a postsecondary institution in the selected CTTIE field may apply those years of teaching at a postsecondary institution toward the required work experience.

7. In addition to CTTIE certification, a current license must be held when a state or national license is required in the workplace. A state or national license will be recognized as an industry-based certification.

C. Certified Nursing Assistant (CNA) Eligibility Requirements

1. Applicant must be a professional diploma nursing program graduate with current Louisiana licensure as a registered nurse or practical nurse.

2. Applicant must have a minimum of two of the past four years of experience in staff nursing or nursing education (school nurses must have staff nursing experience within five years of the date of application).

3. Licensed practical nurses may serve as a certified nursing assistant instructor under the direct supervision of a registered nurse.

4. All instructors must have a "Train the Trainer Certificate" and meet Certified Nursing Assistant Regulations, as mandated by the Louisiana Department of Health and Hospitals (DHH).

D. Emergency Medical Technician/First Responder

1. An Emergency Medical Technician (EMT) instructor must be a paramedic in good standing with the Emergency Medical Services (EMS) Board or be a registered nurse with current license as well as EMT-Basic certification and be in good standing with the EMS Board.

2. First Responder instructors must meet one of the following:

a. EMT-basic or paramedic in good standing with the State EMS Board;

b. registered nurse with current license and First Responder Certification or Emergency Medical Technician Certification and is in good standing with the State EMS Board; or

c. secondary instructor with a valid Louisiana secondary teacher certificate and participate in the Department of Education's First Responder Training conducted during the Super Summer Institute (SSI) and be in good standing with the State EMS Board.

E. Other Health Professions/Related Fields Instructor (e.g., Dental Assistant, Sports Medicine, Pharmacy Technician, Patient Care Technician)—Eligibility Requirements

1. Applicant must be a graduate of an approved program in the area to be taught, with current state license or national certification where required. Nutrition instructors in

nursing programs may meet certification requirements with a degree in Family and Consumer Sciences and a minimum of 12 semester hours in Foods and Nutrition.

2. Applicant must have a minimum of two years of occupational experience in the area in which he/she is to teach. One year of this experience must have been served within the last five years.

3. Pharmacy Technician instructors shall have a valid Louisiana secondary mathematics or science certification or CTTIE certification in a health occupations field and must provide proof of participation in the Department of Education's SSI Pharmacy Technical Session.

4. Sports Medicine instructors shall have a Bachelor of Science degree in sports medicine or athletic training and have received a state or national certification as an athletic trainer and meet all CTTIE requirements.

5. All instructors must meet requirements mandated by the Louisiana Department of Health and Hospitals (DHH).

F. Health Professions, Department Head—Eligibility Requirements

1. Applicant must be a professional diploma nursing program graduate with current Louisiana licensing as a Registered Nurse.

2. Applicant must have a minimum of three years teaching experience as a certified Practical Nursing Instructor in Louisiana, as specified by DHH.

G. Jobs for America's Graduates (JAG) Louisiana Job Specialist eligibility requirements (one of the following):

1. a bachelor's degree from a state-approved and regionally accredited college or university, preferably in education, business administration, marketing, or related field, plus two years of full-time work experience, preferably in business, marketing, or related field; or

2. a high school diploma or general equivalency diploma (GED) plus five years of full-time work experience, preferably in business, marketing, or related field. (Exceptions to the number of required years of experience may be approved by the Board of Elementary and Secondary Education.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§507. VTIE, CTTIE, and CTTIE-1 Certificates

Renewal Guidelines

A. Holder must earn at least three semester hours in professional coursework each year until a minimum number of required semester hours have been completed, as follows:

1. with no degree—15 semester hours;

2. with an associate degree—12 semester hours;

3. with a baccalaureate or graduate degree—nine semester hours;

4. with a degree in education—six semester hours.

B. The coursework must be completed from the following approved list:

1. New Instructor Workshop (mandatory for all instructors);

2. Foundations of Vocational Technical Education;

3. Preparation of Vocational Technical Education Instructional Materials;

4. Management of the Vocational Technical Education Classroom(s)/Laboratory(ies);
5. Occupational Safety and Health;
6. Testing and Evaluation in Vocational Technical Education;
7. Teaching Special Needs Students in Vocational Technical Education;
8. Methods of Teaching Vocational Technical Education;
9. Occupational Analysis and Course Development;
10. Ethics and Diversity in the Workplace/Classroom;
11. Computer Technology in the Classroom.

C. If a state or national license is required in the workplace, a current license must be held. A state or national license will be recognized as an industry-based certification.

D. Upon successful completion of the required hours, and upon written request, a VTIE or a CTTIE temporary certificate was converted to a permanent CTTIE certificate until June 30, 2006. After June 30, 2006, certificates for all holders of VTIE, CTTIE, and CTTIE-1 certificates who are completing the required hours will be converted to five year CTTIE-2 certificates upon written request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§509. CTTIE-2 Certificates Renewal Guidelines

A. Certificate holder must complete 150 continuing learning units (CLUs) of district-approved and district-verified professional development over the five year time period during which the certificate is held.

B. The Louisiana employing authority must request renewal of the certificate directly from the State Department of Education.

C. If holder of an expired certificate has not earned the required 150 CLUs of professional development, the expired certificate may be reactivated upon request of the Louisiana employing authority (at the level that was attained prior to expiration) for a period of one year, during which time holder must complete the required 150 CLUs and present evidence of successful completion to the Division of Teacher Certification and Higher Education. Failure to complete necessary CLUs during the one year reactivation period will result in an expired certificate that cannot be reinstated until evidence is provided of completed professional development requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§511. Process for Reinstating Lapsed CTTIE or VTIE Certificates

A. If holder allows a period of five consecutive calendar years to pass in which he/she is not a regularly employed teacher for at least one semester, or 90 consecutive days, the certificate will lapse for disuse.

B. To reinstate a CTTIE or VTIE certificate if a license is required in the workplace, holder must present evidence that he/she has a current state or national license. Holder

must also present evidence that he/she earned six semester hours of credit in state-approved courses (see III.B.) during the five year period immediately preceding request for reinstatement.

C. If a license is not required in the workplace, to reinstate a CTTIE or VTIE certificate the holder must present evidence that he/she earned six semester hours of credit in state-approved courses (see III.B.) during the five year period immediately preceding request for reinstatement.

D. If holder did not earn the required six semester hours, the lapsed certificate may be reactivated upon request (at the level that was attained prior to disuse) for a period of one year, during which time the holder must complete reinstatement requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Chapter 6. Endorsements to Existing Certificates

§601. Introduction

A. Endorsement areas are permanent authorizations added to a teaching certificate. Upon completing all requirements for an additional area of certification, as outlined in this bulletin, the holder of a valid Louisiana teaching certificate may have the certificate authorization extended to include the newly achieved qualifications. For endorsement purposes, the following notes apply:

1. when a generalized reference is made to a Praxis exam, this means the current applicable exam(s) in policy, with the current established passing score(s);
2. semester hours earned to add certification areas and/or levels to an existing certificate cannot include repeat (or duplicate) coursework;
3. a National Board Certified (NBC) teacher with an existing Louisiana teaching certificate is eligible for the addition (add-on) or endorsement to his/her certificate of the corresponding area for which NBC is held.

B. A formal request for an additional authorization on a certificate must be directed to the Louisiana Department of Education, Division of Teacher Certification and Higher Education. For authorizations that require coursework, an official transcript from a regionally accredited institution must accompany the request. The final authority for approval of an additional authorization is the Louisiana Department of Education.

C. This Chapter has been divided into three sections, as follows:

1. regular education level and area endorsements;
2. special education level and area endorsements; and
3. all other endorsement areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Subchapter A. Regular Education Level and Area Endorsements

§603. Introduction

A. The following requirements must be completed to add an education certification level and/or a certification area to an existing valid teaching certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§605. Requirements to add Early Childhood (Grades PK-3)

A. Individuals holding a valid elementary certificate (e.g., 1-4, 1-5, 1-6, or 1-8) must achieve one of the following:

1. passing score for Praxis Early Childhood Education exam (#0020); or

2. 12 semester hours of combined Nursery School and Kindergarten coursework.

B. Individuals holding a valid upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary school certificate (e.g., 6-12, 7-12, 9-12), special education certificate (other than Early Interventionist), or an All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, music) must achieve the following:

1. passing score for Praxis Elementary Education: Content Knowledge exam (#0014);

2. passing score for Praxis Early Childhood Education exam (#0020) OR accumulate 12 credit hours of combined Nursery School and Kindergarten coursework;

3. nine semester hours of reading coursework.

C. Individuals holding a valid Early Interventionist Certificate must achieve the following:

1. passing score for Praxis Elementary Education: Content Knowledge exam (#0014);

2. 12 credit hours of combined Nursery School and Kindergarten coursework (art, math, science, social studies); and

3. nine semester hours of reading coursework.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§607. Requirements to add Elementary (Grades 1-5)

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3) must achieve the following:

1. passing score for Praxis Elementary Education: Content Knowledge exam (#0014);

2. passing score for Praxis Principles of Learning and Teaching K-6 exam; and

3. nine semester hours of reading, 12 semester hours of mathematics, 12 semester hours of science, and 12 semester hours of social studies coursework.

B. Individuals holding a valid upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or all-level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. passing score for Praxis Elementary Education: Content Knowledge exam (#0014); or accumulate 12 semester hours of mathematics, 12 semester hours of science, 12 semester hours of English language arts, and 12 semester hours of social studies;

2. passing score for Praxis Principles of Learning and Teaching K-6 exam; and

3. nine semester hours of reading.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§609. Requirements to add Middle School (Grades 4-8) Specialty Area Endorsement for English, Mathematics, Science, or Social Studies

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or an All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. passing score for Praxis middle school specialty area exam in the specific content area; or accumulate 30 credit hours in the specialty content area;

2. passing score for Praxis Principles of Learning and Teaching 5-9 exam; and

3. six semester hours of reading.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§611. Requirements to add a Secondary (grades 6-12) Specialty Core Content Area as defined in the No Child Left Behind (NCLB) Act of 2001 [English, Math, Foreign Language, Science, and Social Studies]

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), or special education certificate must achieve the following:

1. passing score for Praxis secondary specialty area exam in the content area; or 30 credit hours in the specialty content area; and

2. passing Praxis score for Principles of Learning and Teaching 7-12 exam.

B. Individuals holding a valid secondary certificate (e.g., 6-12, 7-12, 9-12) or an All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music), achieve one of the following:

1. passing score for Praxis secondary specialty area exam(s) required for the content area; or

2. 30 credit hours in the specialty content area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§613. Requirements to Add a Non-NCLB Secondary (grades 6-12) Specialty Content Area [Agriculture, Business, Computer Science, Family and Consumer Sciences, Journalism, Marketing, Speech, Technology Education]

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-

6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), or special education certificate must achieve the following:

1. passing score for Praxis secondary specialty area exam in the content area; or 21 credit hours in the specialty content area; and
2. passing Praxis score for Principles of Learning and Teaching 7-12 exam.

B. Individuals holding a valid secondary certificate (e.g., 6-12, 7-12, 9-12) or an all-level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve one of the following:

1. passing score for the Praxis secondary specialty area exam; and
2. 21 credit hours in the specialty content area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§615. Requirements to Add an All-Level (K-12) Area [Art, Dance, Foreign Language, Health and Physical Education, and Music]

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or an all-level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve one of the following:

1. passing score for Praxis specialty area exam in the area of endorsement; and
2. 30 semester hours in the specialty area.

B. To Add a Second Music Area Endorsement: An individual already certified in either Instrumental Music or Vocal Music may add the second music area with coursework, as follows:

1. to add Instrumental Music, 12 semester hours to include brass, percussion, string, and woodwind instruments; or
2. to add Vocal Music, 12 semester hours to include piano and voice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Subchapter B. Special Education Level and Area Endorsements

§621. Requirements

A. The following requirements must be completed to add a special education certification level and/or area to an existing valid teaching certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§623. Requirements to add Academically Gifted

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g.,

4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or an All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve A-C below:

1. master's degree from an accredited institution of higher education;

2. 15 graduate semester hours of prescribed coursework from the following list, either within a master's degree program or as an add-on to an existing master's degree:

- a. characteristics/study of gifted individuals;
- b. methods of teaching the gifted;
- c. social and emotional needs of the gifted;
- d. creative thinking and problem solving or curriculum development for the gifted;
- e. educational technology;

3. three semester hours in a practicum for academically gifted; or an internship for college credit in academically gifted; or three years of successful teaching experience in academically gifted.

4. special notes relative to Academically Gifted Certification.

a. Academically gifted certification will be valid only in the teaching area(s) in which the individual is certified.

b. The secondary teacher of academically gifted students who is to award Carnegie Units in the secondary subject area(s) must be certified in the subject area(s) in which Carnegie Units are awarded.

c. Elementary and secondary teachers who are also certified in academically gifted may offer approved special education elective (enrichment) courses at either the elementary or secondary level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§625. Requirements to add Early Interventionist Birth to Five Years

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or an All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. passing score for Praxis exams: Early Childhood Education (#0020) and Education of Exceptional Children: Core Content Knowledge (#0353);

2. 18 credit hours that pertain to infants, toddlers, and preschoolers, as follows:

- a. foundations in early childhood education and early intervention;
- b. understanding and working with families of young children;
- c. assessment in early intervention;
- d. early intervention methods;
- e. teaming, physical and medical management in early intervention;
- f. communication and literacy in early intervention;

3. nine semester hours of reading coursework.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§627. Requirements to add Hearing Impaired K-12

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. 21 semester credit hours that pertain to children with hearing impairments, as follows:

2. introduction to special education;
3. physiological, psychosocial, historical, sociological, and cultural aspects of deafness;
4. language development that includes linguistic principles and assessment strategies in language acquisitions for deaf and hard of hearing;
5. speech and speech reading;
6. educational audiology, auditory assistive devices and technology;
7. instructional strategies and curriculum development for deaf and hard of hearing students;
8. communication methodology.

B. Three semester hours of internship of students with hearing impairments; or three years of successful teaching experience of students with hearing impairments;

C. Proficiency in signed, cued, or oral communication, as evidenced by one or more of the following means:

1. signed: one of the following:
 - a. Intermediate on the Educational Sign Skills Evaluation: Teacher (ESSE:T);
 - b. Advanced on the Signed Communication Proficiency Interview (SCPI);
 - c. Level III of the Educational Interpreter Performance Assessment;

2. Cued: mini-proficiency, as measured on the Basic Cued Speech Proficiency Rating Test (BCSPR c1983, Beaupre); or

3. oral: successfully passing an additional course in Methods in Oral/Auditory Education.

D. Passing score for Praxis exams: Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Hearing Impairment (#0271).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§629. Requirements to add Mild/Moderate

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or an All-Level K-12 certificate (art, dance, foreign language, health, physical education,

health and physical education, and music) must achieve the following:

1. 15 semester hours of special education coursework, as follows:

- a. methods/materials for mild/moderate exceptional children;
- b. assessment and evaluation of exceptional learners;
- c. behavioral management of mild/moderate exceptional children;
- d. vocational and transition services for students with disabilities;
- e. practicum in assessment and evaluation of M/M exceptional learners.

2. Passing score for Praxis exams: Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Mild Moderate Disabilities (#0542).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§631. Requirements to add Significant Disabilities 1-12

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. 21 semester hours that pertain to children with significant disabilities, as follows:

- a. assessment and evaluation;
- b. curriculum development, modifications, and transition planning;
- c. behavior support;
- d. instructional strategies;
- e. communication;
- f. collaborative techniques and family partnerships;
- g. characteristics of students with significant disabilities, physical support, health and safety;

2. three semester hours of internship of students with significant disabilities; or three years of successful teaching experience of students with significant disabilities; and

3. passing score for Praxis exams: Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Severe to Profound Disabilities (#0544).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§633. Requirements to add Visual Impairments/Blind K-12

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or All-Level K-12 certificate

(art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. 21 semester hours that pertain to children with visual impairments:

- a. educational implications of low vision and blindness;
- b. orientation and mobility for the classroom teacher;
- c. assessment and evaluation techniques, including functional vision evaluation and reading media assessment;
- d. assistive technology for students with visual impairments;
- e. instructional strategies and materials for students with visual impairments;
- f. introduction to Braille, including literary and Nemeth codes;
- g. Braille II;

2. three semester hours of internship of students who are visually impaired; or three years of successful teaching experience of students who are visually impaired or blind;

3. a passing score for Praxis Education of Exceptional Students: Core Content Knowledge exam (#0353).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Subchapter C. All Other Teaching Endorsement Areas

§641. Introduction

A. Information on endorsements for administrative and supervisory areas can be found in Chapter 7 of this bulletin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§643. Adapted Physical Education

A. Adapted physical education eligibility requirements:

1. valid Louisiana teaching certificate in physical education;
2. basic requirements—three semester hours in each of the following:
 - a. motor development and learning;
 - b. introduction to the study of exceptional children;
 - c. tests and measurements (physical education, or educational, or psychological);
3. specialized coursework requirements, as follows:
 - a. introducing physical education for all children with disabilities, three semester hours;
 - b. behavioral and educational impairment and physical education, two semester hours; plus practicum in behavioral and educational impairment and physical education, one semester hour (for a total of three semester hours);
 - c. chronic disability and physical education, two semester hours; plus practicum in chronic disability and physical education, one semester hour (for a total of three semester hours); and
 - d. the physical education curriculum for children with disabilities, three semester hours (Prerequisite: Courses in 1-2 above).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§645. Adult Education Instructor

A. Eligibility Requirements:

1. valid standard Louisiana teaching certificate; and
2. one of the following:
 - a. five years of adult education experience prior to implementation of certification requirements (September 1982); or
 - b. 12 semester hours, as follows:
 - i. introduction to or foundations of adult education, three semester hours;
 - ii. practicum in adult education, three semester hours; and
 - iii. six semester hours from the following areas:
 - (a). materials, methods, and/or curricular development in adult education;
 - (b). reading instruction in adult education;
 - (c). adult learning and development;
 - (d). use of community resources;
 - (e). administration and supervision of adult education;
 - (f). guidance and counseling in adult education;
 - (g). competency-based adult education;
 - (h). independent study, special problems, or issues in adult education.

B. An individual who holds certification both as an adult education instructor and as a parish/city supervisor of instruction may qualify to serve as Administrator and/or Supervisor of Adult Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§647. Aerospace Education

A. Aerospace education eligibility requirements:

1. valid Louisiana teaching certificate;
 - a. one of the following:
 - i. six semester credit hours in approved aerospace education; or
 - ii. valid private pilot's license or higher rating and at least three semester hours of credit in an approved aerospace education workshop.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§649. Bilingual Specialist

A. An elementary, secondary, or all-level certified foreign language teacher may be certified as a bilingual specialist upon completion of the following:

B. Bilingual Methods I (practical training in the teaching of language arts and social studies in a bilingual-bicultural setting)—three semester hours; and

C. Bilingual Methods II (practical training in the teaching of math and science in a bilingual-bicultural setting)—three semester hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§651. Child Search Coordinator

A. Eligibility requirements:

1. certification as a teacher, social worker, guidance counselor, school psychologist, psychologist, speech therapist, or other related special education field;
2. master's degree;
3. six semester hours in special education; and
4. three years of experience in the certified or licensed special education area.

B. Persons functioning as Child Search Coordinators prior to September 1, 1989, who are certified/licensed special education personnel are not bound by these requirements and will be certified, provided they are recommended for continuation of employment by the parish supervisor/director of special education and approved by the superintendent of the LEA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§655. Computer Literacy

A. Eligibility requirements:

1. elementary or secondary certificate; and
2. nine semester hours of coursework in educational technology or computer science.

B. For certified business education teachers who completed a data processing course and a word processing course that included computer applications, six semester hours of the requirement for computer literacy certification (A.1.b. and A.1.c.) may be waived.

C. A person who was successfully employed as a teacher of computer education for a minimum of three years prior to September 1, 1986, may be certified in computer literacy and have the authorization added to his/her Louisiana elementary or secondary teaching certificate, entitling him/her to teach computer literacy at the elementary or the secondary level, depending upon the level of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§657. Cooperative Office Education

A. Cooperative office education eligibility requirements:

1. hold a secondary teaching certificate in Business Education;
2. have completed six semester hours, to include Principles and/or Philosophy of Vocational Education and Cooperative Education Methods (Method and/or Techniques of Teaching Cooperative Education);
3. have a minimum of 1,500 hours of employment in business and office occupations approved by the Office of Vocational Education, Louisiana Department of Education. Partial fulfillment of this work experience may be met through completion of a practicum for credit (supervised work experience) offered by the institution concerned. Two hours will be credited for each hour of supervised practicum work experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§659. Counselor K-12 (Counselor in a School Setting)

A. Eligibility requirements:

1. valid teaching certificate;
2. master's degree in school counseling from a regionally accredited institution, or a master's degree with the equivalent hours and courses required for a master's degree in school counseling; and
3. graduate training must include 24 semester hours of professional courses distributed so that at least one course will be taken in each of the basic areas listed below:
 - a. Principles and Administration of School Counseling Programs;
 - b. Career and Lifestyle Development;
 - c. Individual Appraisal;
 - d. Counseling Theory and Practice;
 - e. Group Processes;
 - f. Human Growth and Development;
 - g. Social and Cultural Foundations in Counseling;
 - h. Supervised Practicum in a School Setting.

B. Renewal Guidelines: If certificate holder allows a period of five consecutive calendar years to pass in which he/she is not a regularly employed educator for at least one semester [90 consecutive days], the certificate lapses for disuse. To reinstate a lapsed certificate, the holder must present evidence that he/she earned six semester hours of credit in state-approved courses during the five year period immediately preceding request for reinstatement (see Appendix C).

C. Professional Counselor in the School Setting: Applicant must meet the above requirements for counselor in a school setting and hold current licensure as a Licensed Professional Counselor in Louisiana (LPC), in accordance with Act 892 L.S. 1987 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§661. Driver and Traffic Safety Education

A. Eligibility requirements:

1. valid Louisiana teaching certificate;
2. valid Louisiana driver's license;
3. driving record free of conviction of major accidents and/or repeated traffic violations; and
4. specialized education, as follows:
 - a. general safety education, three semester hours (basic safety information—home, school, traffic, community, and industrial safety—and general information on the psychology of accident prevention);
 - b. basic information course in driver education, three semester hours (investigation of problems facing drivers, such as those of pedestrians, cycles, alcohol and drugs, and traffic engineering; and study in the philosophy of driver education as it exists in our society); and
 - c. curricular innovations and instructional devices, three semester hours (in-depth study of driver education and traffic safety curricular materials, and familiarization with related instructional devices).

B. Conviction of repeated traffic violations or any major crime or accident involved in or related to the operation of a motor vehicle could result in revocation of this endorsement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§663. Educational Diagnostician (Special Education)

A. Eligibility requirements:

1. a minimum of a master's degree in education earned from a regionally accredited institution of higher education;

2. hold a valid Type B or Level 2 Louisiana teaching certificate, and meet one of the following guidelines:

a. hold generic special education certification, with at least one year of classroom teaching experience in a properly certified area of special education;

b. hold certification in at least two special education disability areas (e.g., mentally retarded, learning disabled), with at least one year of teaching experience in a properly certified area of special education. Academically gifted is not an accepted special education area;

3. reading credit, as follows:

a. elementary/middle grades majors: six semester hours in diagnosis and remediation of reading problems, three semester hours of which may be undergraduate coursework; or

b. secondary/all-level majors: nine semester hours of reading coursework, with six of the semester hours in diagnosis and remediation of reading problems and three of the semester hours in foundations of reading. Three of the required semester hours may be undergraduate coursework;

4. have completed a minimum of 21 semester hours of graduate credit, as follows:

a. applied learning theory, three semester hours;

b. behavioral intervention strategies, including systematic behavioral assessment (this course must include 25 child contact hours), three semester hours;

c. consulting teacher strategies, three semester hours;

d. precision assessment and diagnostic/prescriptive strategies, three semester hours;

e. test theory, three semester hours;

f. educational diagnosis, three semester hours; and

g. supervised internship, to include 100 child contact clock hours*, three semester hours.

*This course must include fieldwork involving the administration, scoring, and interpretation of norm-referenced and criterion-referenced individual educational tests; working with School Building Level Committees; teacher consultation, and implications for educational intervention through the development of the individualized assessment/intervention plan. This course may be completed while employed on a provisional endorsement.

B. Provisional Educational Diagnostician. A one year provisional endorsement as an Educational Diagnostician may be issued if all requirements have been completed, with the exception of the 100-contact-hour internship. The intern employed on a provisional endorsement must work under a certified Educational Diagnostician who has a minimum of five years of field experience in that position. At the time of employment, the Louisiana employing authority must submit verification of the supervision component. Until the internship is completed and the provisional status is removed

from the intern's certificate, the supervising Educational Diagnostician shall sign all reports and evaluations involving the intern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§665. Educational Technology Areas

A. Educational Technology Facilitation

1. Eligibility requirements:

a. valid Type B or Level 2 Louisiana teaching certificate (requires three years of teaching experience);

b. complete one of the following options:

i. Option A: a minimum of nine semester hours of graduate credit in educational technology (three semester hours per course):

(a) design and development of multimedia instructional units;

(b) educational telecommunications, networks, and the internet;

(c) technology leadership in schools; or

ii. Option B: a minimum of three online courses, to include:

(a) effective instructional technology: an introduction (this course focuses on the National Education Technology for Teachers Standards (NETS-T) and will include an introduction to educational telecommunications, networks and the Internet);

(b) effective instructional technology: building a portfolio of exemplars (this course focuses on building a portfolio of teacher and student work that demonstrates the understandings and skills as they relate to the NETS-T and the Louisiana K-12 Educational Technology Standards); and

(c) an additional course to be selected from a menu of department-approved online course offerings, which includes lessons by design; bridging the gap; universal design for learning—technology support for math and the K-12 classroom; and universal design for learning—technology support for reading and the K-12 classroom;

c. a certified teacher who serves as facilitator of educational technology at the building level may petition the Division of Teacher Certification and Higher Education to be granted an Educational Technology Facilitation endorsement if he/she met one of the following qualifications by August 31, 2002:

i. hold certification in computer literacy; earned an additional six semester hours in educational technology courses; and served as a facilitator of educational technology at the school, district, regional, or state level successfully for the past three years as verified by the employing authority; or

ii. served as a facilitator of educational technology at school, district, regional, or state level successfully for the past five years, as verified by the employing authority.

B. Educational Technology Leadership

1. Eligibility requirements:

a. valid Type A or Level 3 Louisiana teaching certificate [requires five years of teaching experience];

b. master's degree from a regionally accredited institution of higher education; and

c. minimum of 21 semester hours of graduate credit, as follows:

i. education technology coursework, nine semester hours:

(a). design and development of multimedia instructional units;

(b). educational telecommunications, networks, and the internet;

(c). technology leadership in schools;

ii. educational technology leadership coursework, 12 semester hours:

(a). technology planning and administration;

(b). professional development for K-12 technology integration;

(c). educational technology research, evaluation, and assessment;

(d). advanced telecommunications and distance education.

2. Persons who have met requirements B.1.a and B.1.c may be issued a non-renewable, non-extendable Educational Technology Leadership provisional certificate that is valid for three years.

3. Certified teachers who served as coordinators of educational technology at the district, regional, and/or state levels may petition the Division of Teacher Certification and Higher Education to be granted an Educational Technology Leadership certification if they met the following qualifications by August 31, 2002:

a. hold certification in computer literacy; earned an additional nine semester hours in educational technology courses; and served as a coordinator of educational technology above the building level (at the district, regional, or state level) for the past three years, as verified by the employing authority; or

b. served as a coordinator of educational technology above the building level (at the district, regional, or state level) successfully for the past five years, as verified by the employing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§667. English as a Second Language

A. Eligibility requirements:

1. valid standard teaching certificate; and

2. successful completion of the following coursework:

a. Methods for Teaching English as a Second Language, three semester hours (theories and practical approaches and techniques for teaching English as a second language to elementary, secondary, and adult education students);

b. Introduction to Language and Culture, three semester hours (the relationship of language acquisition to social and cognitive development);

c. Structure of the English Language, three semester hours (a study of the distinctive sound patterns and grammatical systems of American English); and

d. Curriculum Design for the Multicultural Classroom, three semester hours (adapting curricula for the multi-ethnic classroom as well as a review of existing English as a second language materials—elementary, secondary, and adult education levels).

B. English as a Second Language certification will be valid only in the teaching area(s) in which an individual is certified and in teaching English as a Second Language I, II, III, and IV elective courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§669. Montessori Teacher Certification

A. An authorization to teach Montessori at the age levels prescribed by the training institution may be added to a standard teaching certificate for teachers who have completed training from one of the following entities:

1. American Montessori Society;

2. Association Montessori Internationale;

3. St. Nicholas Training Course of London;

4. The Montessori World Education Institute;

5. Montessori Institute of America;

6. Southwestern Montessori Training Institute;

7. Any other course jointly approved by the State Board of Elementary and Secondary Education and the Louisiana Montessori Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§671. Reading Specialist

A. This certification will be valid for teaching and/or supervision of reading in grades 1-12.

B. Eligibility requirements:

1. valid Type B or Level 2 Louisiana teaching certificate;

2. advanced degree from a regionally accredited institution; and

3. included in or beyond the advanced degree of study must be 12 graduate hours of course work in reading education, including:

a. three semester hours of foundations or survey of reading instruction;

b. six semester hours of diagnosis and correction of reading difficulties, including a testing/tutorial practicum under the supervision of qualified personnel; and

c. reading in the content areas, three semester hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§673. School Librarian

A. School library service eligibility requirements:

1. valid Louisiana elementary or secondary teaching certificate;

2. 18 semester hours in library science, as follows:

a. elementary and/or secondary school library materials, nine semester hours;

b. organization, administration, and interpretation of elementary and/or secondary school library service, six semester hours; and

c. elementary and/or secondary school library practice, three semester hours.

NOTE: Persons who have already served three years as full-time school librarians and who completed all library science courses except elementary and secondary school library practice, may satisfy this requirement by a minimum one year, on-the-job internship with supervision provided by the Library Science faculty of the College of Education for six semester hours of credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Chapter 7. Administrative and Supervisory Credentials

§701. Overview

A. An individual who serves as an administrator and/or supervisor in Louisiana schools is required to obtain the appropriate credential for the area of assignment. A teacher already certified in Louisiana can have a leadership or supervisory endorsement added to an existing certificate.

B. This Chapter is divided into three parts, as follows:

1. Educational Leadership Certification Structure;
2. Administrative and Supervisory Endorsements that were superseded by the Educational Leadership Certification Structure, including a section showing educational leadership title equivalencies; and
3. all Other Supervisory Endorsements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Subchapter A. The Educational Leadership Certification Structure—Effective July 1, 2006

§703. Introduction

A. The Educational Leadership Certification structure, effective July 1, 2006, provides for four levels of leader certification: Teacher Leader; Educational Leader Level 1; Educational Leader Level 2; and Educational Leader Level 3. The Teacher Leader Endorsement is an option for a teacher to be identified as a teacher leader; it is not a state-required credential for a specific administrative position. The Educational Leader Level 1 license is an entry-level license for individuals seeking to qualify for school and/or district leadership positions (e.g., assistant principals, principals, parish or city supervisors of instruction, supervisors of child welfare and attendance, special education supervisors, or comparable school/district leader positions). An individual moves from a Level 1 to a Level 2 license upon completion of the Educational Leader Induction Program and the required years of experience. The Level 3 license qualifies an individual for employment as a district superintendent.

B. Educational leadership preparation programs, induction programs, and continuing learning units required for re-licensure are aligned with the following state and national standards:

1. Standards for School Principals in Louisiana;
2. Interstate School Leaders License Consortium [ISLLC] Standards for School Leaders; and
3. Educational Leadership Constituent Council [ELCC] Standards for Advanced Programs in Educational Leadership, the standards used by the National Council for the Accreditation of Colleges of Teachers Evaluation [NCATE] for university program reviews.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§705. Educational Leader Certificate Level 1

A. This is the certification authorization needed by those who fill school and district educational leadership positions (e.g., assistant principal, principal, parish or city supervisor of instruction, supervisor of child welfare and attendance, special education supervisor, or comparable school/district leader positions). This endorsement is valid for five years and is renewable every five years based upon successful completion and verification of required continuing learning units. An Educational Leader Certificate Level 1 may be obtained through either a master's degree path or through an alternate program path.

1. Master's Degree Path. To receive an entry-level certificate in educational leadership, the candidate must:

- a. hold or be eligible to hold a valid Louisiana Type A or Level 3 teaching certificate or have a comparable level out-of-state teaching certificate and five years of teaching experience in his/her area of certification;
- b. complete a competency-based graduate degree preparation program in the area of educational leadership from a regionally accredited institution of higher education; and
- c. have a passing score on the School Leaders Licensure Assessment (SLLA), in accordance with state requirements.

2. Alternate Program Path. The Alternate Program Path is for persons who already hold a master's degree and are seeking to add Educational Leader certification to a valid teaching certificate:

- a. hold or be eligible to hold a valid Louisiana Type A or Level 3 teaching certificate or have a comparable level out-of-state teaching certificate and five years of teaching experience in his/her area of certification;
- b. have previously completed a graduate degree program from a regionally accredited institution of higher education;
- c. meet competency-based requirements, as demonstrated by completion of an individualized program of educational leadership from a regionally accredited institution of higher education. An individualized program will be developed based on a screening of each candidate's competencies upon entering into the graduate alternative certification program; and
- d. have a passing score on the School Leaders Licensure Assessment (SLLA) in accordance with state requirements.

3. Renewal Requirements. For purposes of maintaining a valid endorsement, holders of an Educational Leader Level 1 endorsement are required to complete 150 continuing learning units of professional development consistent with the Individual Professional Growth Plan (IPGP) over a five year time period. The starting date of the five year cycle depends on the type of teaching certificate that the individual holds.

- a. If an individual holds a Louisiana Professional Teaching Certificate Level 3, then the renewal date is tied to the renewal date on the professional teaching certificate.

b. If an individual holds a Louisiana Type A Teaching Certificate or a comparable level out-of-state teaching certificate, then the renewal time period begins with the date of issue of the Educational Leader Level 1 endorsement.

4. Upon employment as a school/district educational leader, an individual with an Educational Leader Level 1 endorsement must enroll in the state-approved Educational Leader Induction Program under the direction of the Louisiana Department of Education. Once employed as a school/district educational leader, the individual has three years to complete the induction program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§707. Educational Leader Certificate Level 2

A. This endorsement is valid for five years and is renewable every five years based upon successful completion and verification of required continuing learning units.

1. To receive an Educational Leader Certificate Level 2, the individual must:

a. hold a valid Level 1 Educational Leader certificate, Louisiana provisional principal certification, or comparable level out-of-state educational leader certificate;

b. have five years of teaching experience in his/her area of certification;

c. have completed the Educational Leader Induction Program under the administration of the Louisiana Department of Education;

i. the induction period begins upon the candidate's first full-time administrative appointment (permanent or acting) as an assistant principal, principal, parish or city supervisor of instruction, supervisor of child welfare and attendance, or comparable school/district leader position;

ii. the Educational Leader Induction Program must be completed within a three year period;

d. have three years of educational leadership experience at the level of assistant principal or above.

2. Renewal Requirements: For purposes of maintaining a valid endorsement, holders of an Educational Leader Level 2 endorsement are required to complete 150 continuing learning units of professional development consistent with the Individual Professional Growth Plan (IPGP) over a five-year time period. The starting date of the five year cycle depends on the type of teaching certificate that the individual holds.

a. If an individual holds a Louisiana Professional Teaching Certificate Level 3, then the renewal date is tied to the renewal date on the professional teaching certificate.

b. If an individual does not hold a Louisiana Professional Teaching Certificate Level 3, but does hold an Educational Leader Level 1 endorsement, then the renewal date is tied to the renewal date on the Educational Leader Level 1 endorsement.

c. If an individual holds neither a Louisiana Professional Teaching Certificate Level 3 nor an Educational Leader Level 1 endorsement, then the renewal time period begins with the date of issue of the Educational Leader Level 2 endorsement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§709. Education Leader Certificate Level 3 (Superintendent)

A. This certification endorsement is required to serve as a school system superintendent or assistant superintendent. This certificate is valid for five years and is renewable every five years, based upon successful completion and verification of required continuing learning units.

1. Eligibility requirements:

a. valid Louisiana Level 2 Educational Leader certificate or one of the Louisiana administrative/supervisory certifications that preceded the 2006 Educational Leadership Certification structure;

b. five years of teaching experience in his/her area of certification;

c. five years of successful administrative or management experience in education at the level of assistant principal or above. The assistant principal experience would be limited to a maximum of two years of experience in that position; and

d. passing score on the School Superintendent Assessment (SSA), in keeping with state requirements.

2. Renewal Requirements: For purposes of maintaining a valid endorsement, holders of an Educational Leader Level 3 endorsement are required to complete 150 continuing learning units of professional development consistent with the Individual Professional Growth Plan (IPGP) over a five year time period. The starting date of the five year cycle depends on the type of teaching certificate that the individual holds.

a. If an individual holds a Louisiana Professional Teaching Certificate Level 3, then the renewal date is tied to the renewal date on the professional teaching certificate.

b. If an individual does not hold a Louisiana Professional Teaching Certificate Level 3, but does hold an Educational Leader Level 2 endorsement, then the renewal date is tied to the renewal date that is in use for the previous Educational Leader endorsement.

c. If an individual holds neither a Louisiana Professional Teaching Certificate Level 3, nor an Educational Leader Level 2 endorsement, then the renewal time period begins with the date of issue of the Educational Leader Level 3 endorsement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§711. Teacher Leader Endorsement (Optional)

A. As part of the educational leader certification structure, there is an option for a teacher to become certified as a teacher leader. Eligibility requirements:

1. valid Type B, Level 2, or higher Louisiana teaching certificate;

2. completion of a state-approved teacher leader program that requires, at minimum, the equivalent of six graduate hours, or 90 contact hours, including a combination of face-to-face and field-based professional development activities that:

- a. may include the use of a cohort approach;
- b. provides support from and monitoring by current outstanding administrators serving as mentors and/or facilitators;
- c. includes an electronic component (online and/or compressed video) to ensure each participant's access to key resources and to build a statewide network of qualified administrator candidates that could include the development of cohorts; and
- d. requires the development and presentation of a culminating portfolio that provides evidence that knowledge gained and skills acquired are aligned with national and state leader standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Subchapter B. Out-of-State Administrative Certification Structure

§721. Out-of-State Principal Level 1 (OSP1)

A. This is a standard, three year, non-renewable Louisiana certificate issued to an individual who holds out-of-state certification as a principal (or comparable educational leader certificate) and has not met Louisiana's Praxis and/or NTE requirements. It authorizes the individual to serve as a principal in a Louisiana public school system, and is issued when the individual anticipates immediate administrative employment in a Louisiana public school system.

1. Eligibility requirements:

- a. a valid out-of-state certificate as a principal or comparable educational leader certificate;
- b. a minimum of four years of successful experience as a principal in another state, as verified by the previous out-of-state school district(s) from satisfactory annual evaluation results;
- c. the candidate meets all other requirements for a Louisiana certificate as required by law or board policy.

2. An applicant who meets the above stated eligibility requirements shall not have to complete the required examinations or to submit scores from any examinations previously taken in another state as a prerequisite to the granting of certification as out-of-state principal level 2 (OSP2), provided that:

- a. the applicant completes one year of employment as a principal in a Louisiana public school system while holding the three-year OSP1 certificate; and
- b. the local superintendent (or designee) of the employing Louisiana public school system has recommended him/her for continued administrative employment in the following school year.

3. Upon employment as a principal or an assistant principal in a Louisiana public school system, an individual holding an OSP1 certificate must enroll or be enrolled in the state-approved Educational Leader Induction Program under the direction of the Louisiana Department of Education. The individual has three years to complete the induction program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§723. Out-of-State Principal Level 2 (OSP2).

A. This certificate is valid for five years and is renewable every five years, based upon successful completion and verification of required continuing learning units.

1. Eligibility requirements:

- a. a valid OSP1 certificate and satisfaction of Louisiana Praxis and/or NTE requirements;
- b. completed the Educational Leader Induction Program under the administration of the Louisiana Department of Education:
 - i. the induction period begins upon the candidate's first full-time administrative appointment (permanent or acting) as an assistant principal or principal;
 - ii. the Educational Leader Induction Program must be completed within a three year period;
- c. three years of educational leadership experience at the level of assistant principal or above.

2. Renewal Requirements. To maintain a valid OSP2 certificate, the holder is required to complete 150 continuing learning units of professional development consistent with the Individual Professional Growth Plan (IPGP) over a five year time period, beginning with issuance date of the OSP2 certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§725. Out-of-State Superintendent (OSS)

A. This special Out-of-State Superintendent (OSS) certificate is valid only for the employing Louisiana public school district requesting its issuance. It is valid for five years from date of first appointment as a superintendent and is renewable every five years.

1. Eligibility requirements:

- a. employed by a Louisiana public school system to serve as a superintendent or an assistant superintendent;
- b. a valid teaching certificate from another state with authorization to serve as a school superintendent;
- c. a master's degree from a regionally accredited institution of higher education;
- d. five years of successful administrative or management experience in education at the level of assistant principal or above. The assistant principal experience would be limited to a maximum of two years of experience in that position; and
- e. five years of successful teaching experience in a properly certified field.

2. Renewal Requirements. Over a five year time period from date of appointment as a superintendent, the holder of an OSS certificate must complete a minimum of 150 continuing learning units of professional development that is consistent with the leader's Individual Professional Growth Plan (IGP).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

**Subchapter C. Administrative and Supervisory
Endorsements Superseded by the
Educational Leadership Certification
Structure**

§741. Introduction

A. The effective date for implementation of redesigned leadership programs is July 1, 2006. After June 30, 2006, universities cannot admit candidates into a leadership/administration program that has not undergone the redesign and review process. Since some individuals will already be in the process of working toward one of the older leadership certifications (e.g., Principal, Supervisor, Superintendent), those individuals will be given a transition time to complete all coursework. Consequently, some universities may be admitting students into a redesigned educational leadership program and at the same time allowing students to pursue coursework that meets old certification requirements. Individuals attempting to add one of the older, job-specific certifications outlined in this section of Chapter 7 to their certificate can do so until December 31, 2008. The certificates identified below will not be issued after December 31, 2008:

1. Elementary School Principal;
2. Secondary School Principal;
3. Parish or City School Superintendent;
4. Parish or City School Supervisor of Instruction;
5. Parish or City School Supervisor/Director of Special Education;
6. Special School Principal;
7. Supervisor of Child Welfare and Attendance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§743. Elementary School Principal

- A. Eligibility requirements:
1. Type A or Level 3 Louisiana teaching certificate for the elementary school;
 2. master's degree from regionally accredited institution of higher education;
 3. five or more years of classroom teaching at elementary school level;
 4. score of 620 on the Educational Administration and Supervision Area Exam of the NTE (mandatory for individuals seeking initial certification as a principal on or after August 16, 1986);
 5. minimum of 30 semester hours of graduate credit, as follows:
 - a. educational administration and instructional supervision, nine semester hours:
 - i. Foundations of or Introduction to Educational Administration, or Theory of Educational Administration;
 - ii. Elementary School Principal;
 - iii. Principles of Instructional Supervision in the Elementary School;
 - b. professional education, 21 semester hours:
 - i. eighteen semester hours:
 - (a). Educational Research (three);
 - (b). History or Philosophy of Education (three);
 - (c). Elementary School Curriculum (three);
 - (d). School Law (three);
 - (e). School Finance (three);

- (f). School Personnel Administration (three);
- ii. three semester hours of educational administration electives to be selected from the following:
 - (a). School-Community Relations;
 - (b). School Facilities;
 - (c). Program Development and Evaluation (either in professional education or in areas outside of professional education).

B. Persons who meet requirements of Item A above are eligible for a provisional elementary school principal endorsement. Upon employment as a principal or assistant principal, an individual with provisional principal endorsement must enroll in the two year Principal Internship Program.

C. A regular elementary school principal endorsement will be added to the standard Type A certificate upon satisfactory completion of the two year Principal Internship Program.

D. Persons holding provisional or regular principal endorsements at the elementary school level may serve as principal of an elementary, middle, secondary, or combination grade-level school.

E. Elementary school assistant principals are required to meet the same standards as elementary school principals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§745. Secondary School Principal

- A. Eligibility requirements:
1. valid Type A or Level 3 Louisiana teaching certificate for the secondary school;
 2. master's degree from regionally accredited institution of higher education;
 3. five or more years of classroom teaching at secondary school level;
 4. score of 620 on the Educational Administration and Supervision Area Exam of the NTE (mandatory for individuals seeking initial certification as a principal on or after August 16, 1986);
 5. minimum of 30 semester hours of graduate credit, as follows:
 - a. Educational Administration and Instructional Supervision, nine semester hours:
 - i. Foundations of or Introduction to Educational Administration, or Theory of Educational Administration (three);
 - ii. Secondary School Principal (three);
 - iii. Principles of Instructional Supervision in the Secondary School (three);
 - b. Professional Education, 21 semester hours:
 - i. 18 semester hours, to include three semester hours from each of the following:
 - (a). Educational Research;
 - (b). History or Philosophy of Education;
 - (c). Secondary School Curriculum;
 - (d). School Law;
 - (e). School Finance;
 - (f). School Personnel Administration;
 - ii. three semester hours of educational administration electives to be selected from the following courses:

- (a). School-Community Relations;
- (b). School Facilities;
- (c). Program Development and Evaluation (either in professional education or in areas outside of professional education).

B. Persons who meet the requirements of Item A above are eligible for a provisional secondary school principal endorsement. Upon employment as a principal or assistant principal, an individual with provisional principal endorsement must enroll in the two year Principal Internship Program under the auspices of the Administrative Leadership Academy.

C. A regular secondary school principal endorsement will be added to the standard Type A certificate upon satisfactory completion of the two year Principal Internship Program.

D. Persons holding provisional or regular principal endorsements at the secondary school level may serve as principal of an elementary, middle, secondary, or combination grade-level school.

E. Secondary school assistant principals are required to meet the same standards as elementary school principals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§747. Parish or City School Superintendent

A. Eligibility requirements:

1. valid Type A or Level 3 Louisiana teaching certificate;
2. five years of successful school experience (state, parish, or city) as superintendent, assistant superintendent, supervisor of instruction, principal, or assistant principal in a State-approved system, or experience certified as equivalent to any of these by the Board of Elementary and Secondary Education. Assistant principal experience is limited to a maximum of two years of experience in that position;
3. master's degree from regionally accredited institution of higher education;
4. 48 semester hours of graduate credit:
 - a. 30 semester hours in educational administration and supervision of instruction, as follows:
 - i. 18 semester hours, to include three semester hours in each of the following areas:
 - (a). Foundations of (Introductory) Educational Administration; or Theory of Educational Administration;
 - (b). School Law;
 - (c). Principles of Instructional Supervision (Elementary or Secondary);
 - (d). School Community Relations;
 - (e). Principalship (Secondary or Elementary School);
 - (f). School Finance;
 - ii. 12 semester hours of electives in educational administration and instructional supervision from the following areas:
 - (a). School Facilities;
 - (b). School Personnel Administration;
 - (c). Group Dynamics;
 - (d). Office and Business Management;

(e). Clinical Supervision or Internship or Practicum in Educational Administration or Instructional Supervision;

(f). Program Development and Evaluation (in professional education or areas outside professional education).

5. professional education, 12 semester hours to include three semester hours in each of the following:

- a. Educational Research;
- b. History or Philosophy of Education;
- c. Elementary School Curriculum;
- d. Secondary School Curriculum;

6. electives from cognate fields outside of professional education, six semester hours, related to educational administration and supervision in business, political science, psychology, sociology, or speech.

B. Assistant superintendents who supervise any part of the instructional program are required to meet the same standards as superintendents.

C. Assistant superintendents for non-instructional areas (finance, management, facilities planning, and ancillary programs) shall be certified as a school superintendent or meet the following requirements:

1. a minimum of five years of demonstrated successful administrative experience at a managerial level in education and/or related fields, either in the public or private sector;

2. master's degree from a regionally accredited institution of higher education in educational administration, business administration, public administration, or a related area of study including but not limited to accounting, finance, banking, insurance and law;

3. responsibilities assumed by this category of administrators must be related to non-instructional programs, and experience obtained while at that level may not be used for meeting the certification requirements for superintendent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§749. Parish or City School Supervisor of Instruction

A. Eligibility requirements:

1. valid Type A or Level 3 Louisiana Teaching Certificate;
2. master's degree from regionally accredited institution of higher education; and
3. minimum of 33 semester hours of graduate credit, to include:
 - a. 15 semester hours in Educational Administration and Supervision:
 - i. Foundations and Theory of Educational Administration (three);
 - ii. Principles of Instructional Supervision (six);
 - iii. Elementary School Curriculum (three);
 - iv. Secondary School Curriculum (three);
 - b. Professional Education, 15 semester hours:
 - i. Educational Research (three);
 - ii. History or Philosophy of Education (three);
 - iii. School Law (three);

iv. six semester hours of electives from Instructional Evaluation, Statistics, Testing and Measurement, Learning Theory, or Program Development and Evaluation (in professional education or area/s outside professional education);

c. three semester hours to be selected from Practicum in Instructional Supervision or Internship in Instructional Supervision. Internship or clinical experience as an elementary or secondary school principal or instructional supervisor may be substituted for this requirement.

B. Persons who meet requirements of Paragraphs A.1, 2, and Subparagraph 3.a may be issued a non-renewable, non-extendable supervisor of instruction provisional certificate valid for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§751. Parish or City School Supervisor/Director of Special Education

A. Eligibility requirements:

1. valid Type A or Level 3 Louisiana teaching certificate with certification as a special education teacher;

2. five years of successful professional experience, at least three of which must have been in special education;

3. master's degree from regionally accredited institution of higher education;

4. minimum of 33 semester hours of graduate credit:

a. six semester hours of special education administration, with three semester hours in each area of special education administration that address the following competencies:

i. administration and organization of special education;

ii. special education compliance;

b. professional education, 24 semester hours of instructional supervision, to include three semester hours in each of the following:

i. Foundations and Theory of Educational Administration;

ii. Educational Research;

iii. History and Philosophy of Education;

iv. School Law;

v. School Finance;

vi. Curriculum;

vii. Principles of Instructional Supervision;

viii. three semester hours of electives to be selected from Instructional Evaluation, Statistics, Testing and Measurement, Learning Theory, or Program Development and Evaluation (in professional education or areas outside professional education);

c. three semester hours in either Practicum in Special Education Administration or Internship in Special Education Administration.

B. Persons who have met the requirements of Paragraphs A.1-3, three semester hours from A.4.a, and 12 semester hours from A.4.b may be issued a non-renewable, non-extendable Supervisor/Director of Special Education provisional certificate, valid for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§753. Special School Principal

A. Special School Principal Eligibility Requirements

1. Certification requirements for elementary or secondary school principal must be completed. The same certification standards as those required of principals apply if an individual is serving as an assistant principal;

2. graduate training in special education, including at least one course in administration/supervision of special education, and generic certification in one or more areas of exceptionalities served by that school; and

C. five years of successful professional experience, at least three years of which must have been in special education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§755. Supervisor of Child Welfare and Attendance and/or Visiting Teacher

A. Eligibility requirements:

1. valid Type A or Level 3 Louisiana teaching certificate;

2. master's degree from regionally accredited institution, including 15 semester hours of professional education at the graduate level to include three semester hours in each of the following areas:

a. principles of guidance and counseling;

b. supervision of child welfare and attendance

and/or visiting teacher work;

c. school law;

d. social psychology;

e. psychology of child growth and development or Human growth and development.

B. Social Workers licensed under R.S. 37:2701 et seq. may be certified as visiting teachers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Subchapter D. Educational Leadership Title Equivalencies

§761. Title Equivalencies

Administrative Guidelines from Bulletin 741	Certification Endorsement Prior to Educational Leader Licensure Structure	Certification under Educational Leader Licensure Structure
Superintendent	School Superintendent	Educational Leader Level 3
Assistant Superintendent	School Superintendent	Educational Leader Level 3
Special	Parish/City	Educational Leader Level 1
Education Supervisor	Supervisor/Director of Special Education	Educational Leader Level 2
Child welfare and Attendance Supervisor	Supervisor of Child welfare and Attendance and/or Visiting Teacher	Educational Leader Level 1 Educational Leader Level 2

Administrative Guidelines from Bulletin 741	Certification Endorsement Prior to Educational Leader Licensure Structure	Certification under Educational Leader Licensure Structure
Principal or Assistant Principal	Provisional Elementary Principal Elementary Principal Provisional Secondary Principal Secondary Principal Provisional Principal Principal Combination School Principal	Educational Leader Level 1 Educational Leader Level 2
Supervisor	Parish/City Supervisor of Instruction	Educational Leader Level 1 Educational Leader Level 2

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Subchapter E. All Other Supervisory Endorsements

§781. Introduction

A. In addition to those areas of supervision/administration embraced within the Educational Leader Certification Structure, the following supervisory endorsements are available to candidates holding a Louisiana teaching certificate:

1. Supervisor of School Libraries;
2. Supervisor of Parish or City Materials and Media Centers;
3. Supervisor of Student Teaching.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§783. Supervisor of School Libraries—Eligibility Requirements

A. Supervisor of school libraries eligibility requirements:

1. Type A or Level 3 Louisiana certificate authorizing school library service;
2. five or more years of successful experience as a school librarian;
3. master's degree in library science from a regionally accredited institution, including 12 semester hours of graduate training in library science and a minimum of 21 semester hours of undergraduate credit in library science.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§785. Supervisor of Parish or City Materials and/or Media Centers

A. Supervisor of parish or city materials and/or media centers eligibility requirements:

1. Type A or Level 3 Louisiana teaching certificate;
2. advanced degree from a regionally accredited institution;
3. 15 semester hours of graduate course work in non-book media:
 - a. utilization of audiovisual materials (three);

- b. media design and production (three);
- c. administration of media programs (three);
- d. six semester hours of electives from courses such as photography, educational television, programmed instruction, media research, advanced production techniques, and communication theory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§787. Supervisor of Student Teaching

A. This is no longer a required endorsement that must appear on a certificate.

B. To qualify to perform this supervisory service, a teacher must meet one of the following eligibility criteria:

1. valid Type A or Level 3 Louisiana certificate in the field of the supervisory assignment;
2. valid Type B or Level 2 Louisiana certificate in the field of the supervisory assignment and successfully complete the three semester-hour course in the supervision of student teaching;
3. valid Type B or Level 2 Louisiana certificate in the field of the supervisory assignment and successfully complete assessor training through the Louisiana Teacher Assistance and Assessment Program; and
4. valid Type B or Level 2 Louisiana certificate in the field of the supervisory assignment and National Board Certification in the field of the supervisory assignment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Chapter 8. Certification Appeal Process

§801. Overview

A. The certification appeal process is available to an individual who has applied for certification and has been denied the requested certification due to the absence of certification requirements. The process provides such an individual the opportunity to petition the Teacher Certification Appeals Council (TCAC) to consider other factors and evidence, in lieu of the missing certification requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§803. Appeal Process

A. An applicant who is denied certification but who believes that he/she has legitimate grounds for an appeal, may submit a Certification Appeal Application to the Board of Elementary and Secondary Education (BESE) office. Only an individual who has been evaluated and denied certification through the Division of Teacher Certification and Higher Education is eligible to file an appeal. The following restrictions apply:

1. an appeal cannot be initiated until an applicant has submitted a complete certification application to the Louisiana Department of Education, Division of Teacher Certification and Higher Education; the application is reviewed by a certification specialist; and the applicant is notified that he/she is denied the requested certification

2. the BESE Office must receive an appeal within 120 days from the date that the certification request was denied

3. certification requirements mandated by state or federal law, as cited below, cannot be waived through the appeal process:

a. NTE/Praxis requirements for initial certification;
b. a grade point average of 2.50 for initial certification;

c. for those who have participated in any undergraduate teacher education program, reading requirements per 17:7.1.A.(4)(a) of the Louisiana Revised Statutes provide for a prescribed number of semester hours in the teaching of reading, as established in policy by the State Board of Elementary and Secondary Education in accordance with the level of certification to be awarded, such requirement to be in addition to requirements for English courses, and such courses in the teaching of reading to emphasize techniques of teaching reading and the recognition and correction of reading problems of the student. State Board policy has set these requirements as follows:

i. for elementary grades undergraduate programs, nine hours of reading coursework;

ii. for middle grades undergraduate programs, six hours of reading coursework; or

iii. for secondary grades undergraduate programs, three hours of reading coursework;

d. for those who have participated in any alternate teacher education program, as provided pursuant to reading requirements per 17:7.1.A.(4)(b) and to rules and regulations adopted by the State Board of Elementary and Secondary Education, the applicant shall be given the option of either completing the same amount of semester hours as required for the teaching of reading for undergraduate program applicants as shown in Subparagraph A.3.c above or in lieu of such semester hour requirements shall possess the reading and literacy competencies identified in scientifically based reading research at the national level and approved by the State Board of Elementary and Secondary Education for the teaching of reading.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§805. Application Packet

A. An individual seeking an appeal of his/her certification decision is advised to read carefully all information about completing the BESE Certification Appeal Application before beginning the process. The complete application packet is located in the Board of Elementary and Secondary Education (BESE) section of the Department of Education website at teachlouisiana.net. If there are questions regarding the appeal packet, an applicant can contact the BESE office at 225-342-5840.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Chapter 9. Actions Related to Criminal Offenses and/or the Submission of Fraudulent Documentation

§901. Overview

A. Teaching certificates can be denied, suspended, or revoked for certain criminal offenses and/or for the submission of fraudulent documentation. This Chapter presents those circumstances plus the circumstances under which certificates can possibly be reinstated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§903. Definitions

A. For the purposes of this policy:

Applicant—any person applying for a Louisiana teaching authorization of any kind.

Board—the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

Convicted or Conviction—any proceedings in which the accused person pleads guilty or no contest, and those proceedings that are tried and result in a judgment of guilty.

Department—the Louisiana Department of Education.

Fraudulent Document—any paper, instrument, or other form of writing that is false, altered, or counterfeit and that is used as a subterfuge or device to induce the issuance of a certificate.

Offense or Crime—those listed in R.S. 15.587.1(C) and any felony offense whatsoever.

Teaching Certificate or Certificate—any license, permit, or certificate issued by the Division of Teacher Certification and Higher Education of the Department of Education.

B. The following crimes are reported under R.S.15:587.1:

1. R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 4:89.1, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses;

2. those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and Those under the *Federal Criminal Code* having analogous elements of criminal and moral turpitude. (Federal Criminal Code provisions are in Title 18 of U.S.C.A.) Specifically:

* R.S. 14:30	First degree murder
* R.S. 14:30.1	Second degree murder
R.S. 14:31	Manslaughter
* R.S. 14:41	Rape
* R.S. 14:42	Aggravated rape
* R.S. 14:42.1	Forcible rape
* R.S. 14:43	Simple rape
* R.S. 14:43.1	Sexual battery
* R.S. 14:43.2	Aggravated sexual battery
* R.S. 14:43.3	Oral sexual battery
* R.S. 14:43.4	Aggravated oral sexual battery

* R.S. 14:43.5	Intentional exposure to the AIDS virus
* R.S. 14:44	Aggravated kidnapping
* R.S. 14:44.1	Second degree kidnapping
* R.S. 14:45	Simple kidnapping
R.S. 14:74	Criminal neglect of family
* R.S. 14:78	Incest
* R.S. 14:79.1	Criminal abandonment
* R.S. 14:80	Carnal knowledge of a juvenile
* R.S. 14:81	Indecent behavior with a juvenile
* R.S. 14:81.1	Pornography involving juveniles
* R.S. 14:81.2	Molestation of a juvenile
R.S. 14:82	Prostitution
* R.S. 14:82.1	Prostitution; Persons under seventeen; Additional offenses
R.S. 14:83	Soliciting for prostitutes
R.S. 14:83.1	Inciting prostitution
R.S. 14:83.2	Promoting prostitution
R.S. 14:83.3	Prostitution by massage
R.S. 14:83.4	Massage; sexual content prohibited
R.S. 14:84	Pandering
R.S. 14:85	Letting premises for prostitution
R.S. 14:85.1	Letting premises for obscenity
	Enticing persons into prostitution
* R.S. 14:86	Crime against nature
* R.S. 14:89	Aggravated crime against nature
* R.S. 14:89.1	Aggravated crime against nature
	Contributing to the delinquency of juveniles
R.S. 14:92	Cruelty to juveniles
* R.S. 14:93	Cruelty to juveniles
* R.S. 14:93.2.1	Child desertion
R.S. 14:93.3	Cruelty to the infirm
R.S. 14:106	Obscenity
	Operation of places of prostitution
R.S. 14:282	Sale of minor children
* R.S. 14:286	Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; Distribution
R.S. 40:966(A)	Prohibited acts; Schedule II, penalties; Manufacture; Distribution
R.S. 40:967(A)	Prohibited acts; Schedule III; penalties; Manufacture; Distribution
R.S. 40:968(A)	Prohibited acts; Schedule IV; penalties; Manufacture; Distribution
R.S. 40:969(A)	Prohibited acts; Schedule V; penalties; Manufacture; Distribution
R.S. 40:970(A)	Prohibited acts; Schedule V; penalties; Manufacture; Distribution

*Certificate issuance/reinstatement will never be considered for crimes marked with an asterisk.

C. Convictions that are set aside pursuant to Articles 893 or 894 of the *Louisiana Code of Criminal Procedures*, expunged, or which are pardoned subject to Louisiana first offender pardon laws nonetheless, shall be treated as convictions for the purpose of denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§905. Denial of Certificates for Criminal Offenses and/or for the Submission of Fraudulent Documentation

A. An application for a Louisiana teaching certificate shall be denied if the individual applying for the certificate has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever and/or has submitted fraudulent documentation as determined by the department. A person convicted of an offense as defined herein and/or has submitted fraudulent documentation as determined by the department may apply for a certificate after three years have elapsed from date of entry of final conviction or from date of the submission of fraudulent documentation.

B. The applicant shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been denied. The applicant shall provide copies of any documents that verify his/her identity, refute the existence of a criminal conviction, and/or verify the accuracy of documentation as submitted. If a conviction upon which the certificate has been denied is reversed, such action should be communicated to the department through documentation provided by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§907. Suspension and Revocation of Certificates for Criminal Offenses

A. A Louisiana teaching certificate shall be suspended and revoked if the individual holding the certificate has been convicted of any offense listed in R.S. 15:587.1(C) (See Section I.B) or any felony offense whatsoever.

B. When the Department is Notified that any Teacher has been Convicted of a Specific Crime

1. Department staff shall attempt to contact the teacher to inform him/her that the department has information regarding a criminal conviction and is proceeding under this policy to suspend the certificate.

2. The teacher shall have 10 working days from the date of notification to provide verification that he/she has not been convicted of a criminal offense. This opportunity for response is intended as a check against mistaken identity or other incorrect information and the requested verification may be provided through a telephone conversation or written correspondence.

3. If the teacher cannot be reached and/or if his/her employment status cannot be determined, suspension of the certificate shall proceed, as will all other steps in the process outlined in this policy.

4. If the department determines that there is evidence that a teacher has been convicted of a criminal offense, that teacher's certificate shall be suspended. The board, the teacher, and the employing school system shall be notified that the teacher's certificate has been suspended pending official board action.

5. The teacher shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been suspended and that the certificate will be

revoked unless the teacher can provide documentation that he/she was not convicted of the crime. The teacher shall provide copies of any documentation that verifies his/her identity and refutes the existence of a criminal conviction.

6. If the conviction upon which a teacher's certificate has been suspended and/or revoked is reversed, such action shall be communicated to the board through documentation provided by the applicant. The board may receive such information and order reinstatement of the teacher's certificate

7. Upon official action by the board, any teacher whose certificate has been revoked shall be notified of such action by certified mail. The correspondence shall include instructions for and identification of the date when the individual may apply to the board for reinstatement of his/her certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§909. Suspension and Revocation of Certificates due to Fraudulent Documentation Pertaining to Certification

A. A Louisiana teaching certificate may be suspended and/or revoked if a teacher presents fraudulent documentation pertaining to his/her certificate to the State Board of Elementary and Secondary Education or the Department of Education.

B. The department shall investigate prior to determining that a teacher has submitted fraudulent documentation pertaining to his/her teaching certificate. Upon confirmation of the information investigated, the department shall notify the teacher by certified mail that his/her certificate has been suspended pending official board action and that a hearing will be conducted by the board to consider revocation.

C. Such hearing will be limited to the issue of whether or not the document submitted was fraudulent. The teacher shall provide the board with documentation that will refute the fraudulent nature of the document.

D. The Due Process Committee shall make a recommendation to the full board, based on documentation received from the department and the teacher, whether the teaching certificate should be revoked. The decision of the board shall be transmitted to the local school board and to the teacher affected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§911. Procedures and Rules for Issuance or Reinstatement of Certificates Suspended or Revoked due to Criminal Convictions and/or Submission of Fraudulent Documents

A. Issuance/reinstatement will never be considered for teachers convicted of the following crimes: 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:82.1, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286.

B. Issuances/reinstatements of certificates shall not be considered until at least three years have elapsed from the date of entry of final conviction or from date of the submission of fraudulent documentation.

C. An applicant may apply to the board for issuance/reinstatement of his/her teaching certificate after the lapse of time indicated above and under the following conditions.

1. There have been no further convictions and/or submissions of fraudulent documentation. The applicant must provide a current state and FBI criminal history background check from state police that is clean and clear.

2. There has been successful completion of all conditions/requirements of any parole and/or probation. The applicant must provide relevant documentation.

D. Applicant Responsibilities

1. Contact the office of the Board of Elementary and Secondary Education and request a hearing for issuance/reinstatement of the certificate.

2. Provide each applicable item identified above in Section C, evidence that all requirements for certification have been successfully completed, and further documentation evidencing rehabilitation. The applicant is recommended to provide letters of support from past/present employers, school board employees and officials, faculty, and administrative staff from the college education department, law enforcement officials and/or from other community leaders.

E. State Board Responsibilities

1. The board will consider the request for issuance/reinstatement and documentation provided. The board is not required to conduct an issuance/reinstatement hearing and may summarily deny a request for issuance/reinstatement.

2. If the board or its designees decide to conduct an issuance/reinstatement hearing, board staff shall notify the applicant of a date, time, and place when a committee of the board shall consider the applicant's request. The applicant may be represented and/or accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information considered will be limited to evidence of rehabilitation. Any conviction will be given full faith and credit, and no testimony will be taken to refute the finding of the court. The written documentation provided prior to the hearing will also be considered.

3. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for issuance/reinstatement of a teaching certificate. The board further reserves the right to deny a request for issuance/reinstatement based upon the applicant's dishonesty in failing to disclose a prior criminal conviction and/or for falsifying academic records. (If the board denies issuance/reinstatement, the applicant must wait one year prior to re-application.)

4. The committee of the board shall make a recommendation to the full board regarding whether the applicant's teaching certificate should be issued, reinstated, suspended for an additional period of time, or remain revoked. Board staff shall notify the applicant of the board's action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Chapter 10. Definitions

§1001. Terms

Alternate Teacher Preparation Program—a pathway designed for candidates with a minimum of a baccalaureate degree earned at a regionally accredited institution. An alternate program combines professional knowledge with field experiences, including a one year supervised internship in a school setting. For admission to an alternate program, applicants must demonstrate content mastery.

Ancillary Certificate—a type of Louisiana certificate that allows a qualified person who is not a certified teacher to provide services in a school setting.

Baccalaureate—a term used to denote an undergraduate degree or program (e.g., Bachelor of Arts, Bachelor of Science).

Certification—a licensing process whereby qualified professionals become legally authorized to teach or to perform designated duties in the schools under the jurisdiction of the State Board of Elementary and Secondary Education (BESE).

Continuing Learning Unit (CLU)—a professional development activity that builds capacity for effective, research-based, content-focused teaching and learning that positively impacts student achievement. As a unit of measure, the CLU is used to quantify an educator's participation in a system-approved content-focused professional development activity aligned with the educator's individual professional growth plan.

Core Subject Areas (per No Child Left Behind federal legislation)—English, reading, language arts; mathematics; science; foreign languages; civics and government; economics; arts; history; and geography.

Endorsement—a permanent certification authorization added to an existing teaching certificate.

Graduate—a term used to denote a degree, coursework, or program beyond the baccalaureate degree level (e.g., Masters of Education, Masters of Arts in Teaching).

Industry Based Certification—a certificate that provides evidence that an individual has successfully demonstrated skill competencies in a specific set of work related tasks, single occupational area, or a cluster of related occupational areas (e.g., Certified Landscape Technician, ASE Certification, Licensed Cosmetologist).

Non-Standard Certificate—a one year temporary authorization that can be issued three times to an applicant who is pursuing full credentialing as a teacher. To have this certificate re-issued for Year 2 and for Year 3, an applicant must meet specified renewal requirements.

Paraprofessional—an employee who provides instructional support in a program supported with Title I, Part A funds.

Post-Baccalaureate (or old) Alternate Certification Program—a program offered prior to July 1, 2002, that provided opportunities for individuals with a minimum of a baccalaureate degree to become certified public school teachers. Applicants seeking certification under this program submitted an official transcript for evaluation to a Louisiana college or university that had an approved teacher education program.

Regionally Accredited—a term used to denote the status of public recognition that a regionally recognized accrediting agency grants to an educational institution or program that meets the agency's standards and requirements.

Regularly Employed—a term used to denote an individual who is a full-time or part-time employee of a school system, and who is not hired on a day-to-day basis.

Standard Certificate—a credential issued by the State to an individual who has met all requirements for full certification as a teacher.

Teacher—an employee of a city or parish school board or of a BESE special school who holds a teaching certificate and whose legal employment requires certification under the regulations of BESE.

Teacher Education Program Completer—an individual who satisfies all requirements of a traditional teacher preparation undergraduate degree program or of an approved alternate teacher preparation program.

Teaching Certificate—a license, permit, or certificate issued by the Louisiana Department of Education to an individual who has met all state requirements for certification as a teacher.

Temporary License—a teaching authorization held for a short period that is not a standard certificate (see *non-standard certificate* above).

Traditional Teacher Preparation Program—a Bachelor of Arts or Bachelor of Science degree program that includes general education courses, certification focus area(s), professional education courses, field experiences, and student teaching in a school setting.

Undergraduate—a term used to denote a degree, coursework, or program at the baccalaureate degree level (e.g., Bachelor of Arts, Bachelor of Sciences).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§1003. Acronyms

BESE—Board of Elementary and Secondary Education.

CLU—Continuing Learning Unit (professional development).

CTTIE—Career and Technical Trade and Industrial Education.

HOUSSE (per the federal No Child Left Behind Act of 2001—High Objective Uniform State Standard of Evaluation (for highly qualified status of teachers).

INTASC—Interstate New Teacher Assessment and Support Consortium.

LaTAAP—Louisiana Teacher Assistance and Assessment Program.

LCET—Louisiana Components of Effective Teaching.

NASDTEC—National Association of State Directors of Teacher Education and Certification.

NCATE—National Council for Accreditation of Teacher Education.

NCLB—No Child Left Behind Act of 2001 (federal law).

OFAT—Out-of-Field Authority to Teach, a non-standard license.

TAT—Temporary Authorization to Teach, a non-standard license.

TEP—Temporary Employment Permit, a non-standard license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., August 9, 2006, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Bulletin 746—Louisiana Standards for State Certification of School Personnel will assist individuals, principals, school districts, higher education personnel, and policy makers with policy adopted by the State Board. Bulletin 746 will identify all certification guidelines for Louisiana school employees and administrators. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
0606#037

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—ACT/SAT Scores in Lieu of PRAXIS I Scores (LAC 28:CXXXI.243)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. This policy specifies prospective teachers in Louisiana may use an ACT composite score of 22 or a SAT combined verbal and math score of 1030 as an alternative to taking the PRAXIS I PPST Exams. A resolution from the Louisiana Association of Colleges of Teacher Education (LACTE) Deans requested consideration of this policy by the board. The board periodically reviews exams for certification in Louisiana and sets the cut scores for these exams.

**Title 28
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel
Chapter 2. Louisiana Teacher Preparation Programs §243. ACT/SAT Scores in Lieu of PRAXIS/SCORES**

A. Pre-Professional Skills Tests

1. "Paper Administrations"

(Required for all Louisiana candidates to enter teacher preparation programs.)

PRE-PROFESSIONAL SKILLS TEST	Test #	Score	Effective Date
PPST:R – Pre-Professional Skills Test: Reading	0710	172	Effective 1/16/02
	0720	171	
PPST:W – Pre-Professional Skills Test: Writing	0730	170	Effective 7/1/07
	0710	174	
PPST:M – Pre-Professional Skills Test: Mathematics	0720	173	Effective 7/1/10
	0730	172	
	0710	176	
	0720	175	
	0730	175	

2. "Computer Based Administrations"

3. Core Battery Exams

PRE-PROFESSIONAL SKILLS TEST	Test #	Score	Effective Date
PPST:R – Pre-Professional Skills Test: Reading	0711	319	Prior to 1/16/02
PPST:W – Pre-Professional Skills Test: Writing	0721	316	
PPST:M – Pre-Professional Skills Test: Mathematics	0731	315	
PPST:R – Pre-Professional Skills Test: Reading	5710	172	Effective 1/16/02
	5720	171	
PPST:W – Pre-Professional Skills Test: Writing	5730	170	
PPST:M – Pre-Professional Skills Test: Mathematics	5710	174	Effective 7/1/07
	5720	173	
	5730	172	
	5710	176	Effective 7/1/10
	5720	175	
	5730	175	

Communications Skills (CS)	0500	645	Prior to 9/1/99
General Knowledge (GK)	0510	644	
Professional Knowledge (PK)	0520	645	

Effective September 1, 2006: An ACT composite score of 22 or a SAT combined verbal and math score of 1030 may be used in lieu of Praxis 1 PPST Exams by prospective teachers in Louisiana.

B. Content and Pedagogy Requirements

Certification Area	Name of Praxis Test	Content Exam Score	Pedagogy: Principles of Learning & Teaching		
			PLT K-6 (#0522)	PLT 5-9 (#0523)	PLT 7-12 (#0524)
Early Childhood PK-3	Elementary Content Knowledge (0014)	Prior to 5/31/04 Effective 6/1/04	147 150	Prior to 6/1/04: PLT K-6 or ECE 0020; After 5/31/04: Early Childhood Education 0020 (Score 510)	
Grades 1-5	Elementary Content Knowledge (0014)	Prior to 5/31/04 Effective 6/1/04	147 150	161	---
Grades 4-8 Generic	Middle School: Content Knowledge (0146)	Effective 6/1/04, this exam not available for certification purposes; middle grades candidates required to pass one or more content specific middle grades exams.	150	---	154
Grades 4-8 Mathematics	Middle School Mathematics (0069)		148	---	154
Grades 4-8 Science	Middle School Science (0439)	Prior to 5/31/2006 Effective 6/1/2006 Effective 6/1/2009	140 145 150	---	154
Grades 4-8 Social Studies	Middle School Social Studies (0089)		149	---	154
Grades 4-8 English/Language Arts	Middle School English/Language Arts (0049)		160	---	154

C. Certification Areas

1. Grades 6-12 Certification

GRADES 6-12 CERTIFICATION AREAS						
			Score	PLT 7-12		
Agriculture	Agriculture (0700)	Effective 7/1/05	510	---	---	161
Biology	Biology & General Science (0030)	Prior to 6/30/05	580	---	---	161
	Biology: Content Knowledge (0235)	Effective 7/1/05	150			
Business	Business Education (0100)	Prior to 5/31/04	540	---	---	161
		Effective 6/1/04	570			
Chemistry	Chemistry/Physics/General Science (0070)	Prior to 6/30/06	530			161
		Effective 7/1/06	151			
English	English Language, Literature, & Composition: Content Knowledge (0041)		160			
		Pedagogy (0043)	130	---	---	161
Family & Consumer Sciences (formerly Home Economics)	Family & Consumer Sciences (0120)		510	---	---	161
French	French (0170)	Prior to 5/31/04	520	---	---	161
		Effective 6/1/04	156			
General Science	Biology & General Science (0030) –OR– Chemistry/Physics/General Science (0070)	Prior to 6/30/05	580	---	---	161
		General Science: Content Knowledge (0435)	Effective 7/1/05	156		
				151		
German	German (0180)		500	---	---	161
		Effective 7/1/06	151			

GRADES 6-12 CERTIFICATION AREAS						
			Score	PLT 7-12		
Mathematics	Mathematics (0060)	Prior to 5/31/04	550	---	---	161
	Mathematics: Content Knowledge (0061)	Effective 6/1/04	125			
		Effective 6/1/07	130			
		Effective 6/1/10	135			
Physics	Chemistry/Physics/General Science (0070)	Prior to 6/30/06	530			161
	Physics: Content Knowledge (0265)	Effective 7/1/06	141			
School Librarian	Library Media Specialist (0310)		560	---	---	---
Social Studies	Social Studies: Content Knowledge (0081)		149	---	---	161
	Interpretation of Materials (0083)		152			
Spanish	Spanish (0190)	Prior to 5/31/04	540	---	---	161
	Spanish: Content Knowledge (0191)	Effective 6/1/04	160			
Speech	Speech Communications (0220)	Effective 7/1/05	575	---	---	161
Technology Education (formerly Industrial Arts)	Technology Education (0050)	Effective 7/1/05	600	---	---	161
Computer Science Earth Science Environmental Science Journalism Latin Marketing (formerly Distributive Education)	At this time, a content area exam is not required for certification in Louisiana.		---	---	---	161

2. All-Level K-12 Certification

ALL-LEVEL K-12 CERTIFICATION AREAS								
			Score	PLT K-6		PLT 5-9		PLT 7-12
Grades K-12 Art	Art: Content Knowledge (0133)	Effective 7/1/05	155	161	or	154	or	161
Grades K-12 Dance	None Available**		---	161	or	154	or	161
Grades K-12 Foreign Languages	French (0170)	Prior to 5/31/04	520	161	or	154	or	161
	French: Content Knowledge (0173)	Effective 6/1/04	156					
	German (0180)		500					
	German: Content Knowledge (0181)	Effective 7/1/06	151					
Grades K-12 Music	Spanish (0190)	Prior to 5/31/04	540					
	Spanish: Content Knowledge (0191)	Effective 6/1/04	160					
Grades K-12 Music	Music Education (0110)	Prior to 5/31/04	530	161	or	154	or	161
	Music: Content Knowledge (0113)	Effective 6/1/04	151					
Grades K-12 Health and Physical Education	Physical Education (0090)	Prior to 5/31/04	550	161	or	154	or	161
	Phys. Education: Content Knowledge (0091)	Effective 6/1/04	146					

**At this time, a content area exam is not required for certification in Louisiana.

D. Special Education Areas

Area	Content Exam	Score	Pedagogy Requirement	Score
All Special Education Area(s)			Prior to 6/1/04: PLT K-6 (161), PLT 5-9 (154) OR PLT 7-12 (161)	
Early Interventionist	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) Effective 6/1/04	143
			Educ. of Exceptional Students: Core Content Knowledge (0353) & Early Childhood Education (0020) Effective 7/1/05	143 510
Hearing Impaired	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) & Educ. of Deaf and Hard of Hearing Students (0271) Effective 6/1/04	143 160
			*Educ. of Exceptional Students: Core Content Knowledge (0353) & Educ. of Exceptional Students: Mild/Moderate Disabilities (0542) Effective 6/1/04	143 141
Mild to Moderate Disabilities	Effective 6/1/04 ALL Candidates must pass a content area exam appropriate to certification level 1-5, 4-8, 6-12 (e.g., 0014, or core subject-specific exams for middle or secondary grades)		*Note: (0353) and (0542) are not content area exams.	
	Prior to 6/1/04, a content area exam was required only for entry into a Mild/ Moderate 1-12 Practitioner Teacher Program, Non-Master's Certification-Only Alternate Program, and Master's Alternate Program.			
Significant Disabilities	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) & Educ. of Exceptional Students: Severe to Profound Disabilities (0544) Effective 6/1/04	143 147
			Educ. of Exceptional Students: Core Content Knowledge (0353) Effective 6/1/04	143
Visual Impairments/Blind	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) Effective 6/1/04	143

E. Administrative Areas

Certification Area	Name of Praxis Test	Area Test Score
Principal	Educational Leadership: Administration & Supervision (0410)	Prior to 1/1/09 620
Educational Leader – Level 1	School Leaders Licensure Assessment (1010)	Effective 7/1/06 168
Educational Leader – Level 3	School Superintendent Assessment (1020)	Effective 7/1/06 154

All Praxis scores used for certification must be sent directly from ETS to the State Department of Education electronically, or the original Praxis score report from ETS must be submitted with candidate's application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., August 9, 2006, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746—Louisiana Standards for State—Certification of School Personnel

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This policy specifies prospective teachers in Louisiana may use an ACT composite score of 22 or a SAT combined verbal and math score of 1030 as an alternative to taking the PRAXIS I PPST Exams. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This policy would economically benefit prospective teacher candidates in undergraduate and alternate programs by

allowing acceptance of their ACT or SAT scores in lieu of Praxis I.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0606#006

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—PRAXIS I Scores (LAC 28:CXXXI.241)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. This policy specifies that effective July 1, 2007, the PRAXIS PPST scores be aligned with those of the University of Louisiana System in the following score requirements: Reading 174, Writing 173, and Mathematics 172. In addition, effective July 1, 2010, the scores will be raised to the following requirements: Reading 176, Writing 175, and Mathematics 175. This policy would raise standards for entry into alternate certification programs and for certification as a teacher in Louisiana.

**Title 28
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel
Chapter 2. Louisiana Teacher Preparation Programs
§241. PRAXIS/SCORES**

- A. Pre-Professional Skills Tests
 1. "Paper Administrations"
(Required for all Louisiana candidates to enter teacher preparation programs.)

PRE-PROFESSIONAL SKILLS TEST	Test #	Score	Effective Date
PPST:R – Pre-Professional Skills Test: Reading	0710	172	Effective 1/16/02
	0720	171	
	0730	170	
PPST:W – Pre-Professional Skills Test: Writing	0710	174	Effective 7/1/07
	0720	173	
	0730	172	
PPST:M – Pre-Professional Skills Test: Mathematics	0710	176	Effective 7/1/10
	0720	175	
	0730	175	

2. "Computer Based Administrations"

3. Core Battery Exams

PRE-PROFESSIONAL SKILLS TEST	Test #	Score	Effective Date
PPST:R – Pre-Professional Skills Test: Reading	0711	319	Prior to 1/16/02
PPST:W – Pre-Professional Skills Test: Writing	0721	316	
PPST:M – Pre-Professional Skills Test: Mathematics	0731	315	
PPST:R – Pre-Professional Skills Test: Reading	5710	172	Effective 1/16/02
	5720	171	
	5730	170	
PPST:W – Pre-Professional Skills Test: Writing	5710	174	Effective 7/1/07
	5720	173	
	5730	172	
PPST:M – Pre-Professional Skills Test: Mathematics	5710	176	Effective 7/1/10
	5720	175	
	5730	175	

Communications Skills (CS)	0500	645	Prior to 9/1/99
General Knowledge (GK)	0510	644	
Professional Knowledge (PK)	0520	645	

Effective September 1, 2006: An ACT composite score of 22 or a SAT combined verbal and math score of 1030 may be used in lieu of Praxis 1 PPST Exams by prospective teachers in Louisiana.

B. Content and Pedagogy Requirements

Certification Area	Name of Praxis Test	Content Exam Score	Pedagogy: Principles of Learning & Teaching		
			PLT K-6 (#0522)	PLT 5-9 (#0523)	PLT 7-12 (#0524)
Early Childhood PK-3	Elementary Content Knowledge (0014)	Prior to 5/31/04	Prior to 6/1/04: PLT K-6 or ECE 0020; After 5/31/04: Early Childhood Education 0020 (Score 510)		
		Effective 6/1/04			
Grades 1-5	Elementary Content Knowledge (0014)	Prior to 5/31/04	161	---	---
		Effective 6/1/04			
Grades 4-8 Generic	Middle School: Content Knowledge (0146) Effective 6/1/04, this exam not available for certification purposes; middle grades candidates required to pass one or more content specific middle grades exams.	150	---	154	---
Grades 4-8 Mathematics	Middle School Mathematics (0069)	148	---	154	---
Grades 4-8 Science	Middle School Science (0439)	Prior to 5/31/2006	---	154	---
		Effective 6/1/2006			
		Effective 6/1/2009			
Grades 4-8 Social Studies	Middle School Social Studies (0089)	149	---	154	---
Grades 4-8 English/Language Arts	Middle School English/Language Arts (0049)	160	---	154	---

C. Certification Areas

1. Grades 6-12 Certification

GRADES 6-12 CERTIFICATION AREAS						
			Score			PLT 7-12
Agriculture	Agriculture (0700)	Effective 7/1/05	510	---	---	161
Biology	Biology & General Science (0030)	Prior to 6/30/05	580	---	---	161
	Biology: Content Knowledge (0235)	Effective 7/1/05	150			
Business	Business Education (0100)	Prior to 5/31/04	540	---	---	161
		Effective 6/1/04	570			
Chemistry	Chemistry/Physics/General Science (0070)	Prior to 6/30/06	530			161
	Chemistry: Content Knowledge (0245)	Effective 7/1/06	151			
English	English Language, Literature, & Composition: Content Knowledge (0041)		160			
		Pedagogy (0043)	130	---	---	161
Family & Consumer Sciences (formerly Home Economics)	Family & Consumer Sciences (0120)		510	---	---	161
French	French (0170)	Prior to 5/31/04	520	---	---	161
	French: Content Knowledge (0173)	Effective 6/1/04	156			
General Science	Biology & General Science (0030) –OR– Chemistry/Physics/General Science (0070)	Prior to 6/30/05	580	---	---	161
			530			
		General Science: Content Knowledge (0435)	Effective 7/1/05	156		

GRADES 6-12 CERTIFICATION AREAS						
			Score			PLT 7-12
German	German (0180)	Effective 7/1/06	500	---	---	161
	German: Content Knowledge (0181)		151			
Mathematics	Mathematics (0060)	Prior to 5/31/04	550	---	---	161
	Mathematics: Content Knowledge (0061)	Effective 6/1/04	125			
		Effective 6/1/07	130			
		Effective 6/1/10	135			
Physics	Chemistry/Physics/General Science (0070)	Prior to 6/30/06	530			161
	Physics: Content Knowledge (0265)	Effective 7/1/06	141			
School Librarian	Library Media Specialist (0310)		560	---	---	---
Social Studies	Social Studies:					161
	Content Knowledge (0081)		149	---	---	
	Interpretation of Materials (0083)		152			
Spanish	Spanish (0190)	Prior to 5/31/04	540	---	---	161
	Spanish: Content Knowledge (0191)	Effective 6/1/04	160			
Speech	Speech Communications (0220)	Effective 7/1/05	575	---	---	161
Technology Education (formerly Industrial Arts)	Technology Education (0050)	Effective 7/1/05	600	---	---	161
Computer Science Earth Science Environmental Science Journalism Latin Marketing (formerly Distributive Education)	At this time, a content area exam is not required for certification in Louisiana.		---	---	---	161

2. All-Level K-12 Certification

ALL-LEVEL K-12 CERTIFICATION AREAS								
			Score	PLT K-6	PLT 5-9	PLT 7-12		
Grades K-12 Art	Art: Content Knowledge (0133)	Effective 7/1/05	155	161	or	154	or	161
Grades K-12 Dance	None Available**		---	161	or	154	or	161
Grades K-12 Foreign Languages	French (0170)	Prior to 5/31/04	520	161	or	154	or	161
	French: Content Knowledge (0173)	Effective 6/1/04	156					
	German (0180)		500					
	German: Content Knowledge (0181)	Effective 7/1/06	151					
	Spanish (0190)	Prior to 5/31/04	540					
	Spanish: Content Knowledge (0191)	Effective 6/1/04	160					
Grades K-12 Music	Music Education (0110)	Prior to 5/31/04	530	161	or	154	or	161
	Music: Content Knowledge (0113)	Effective 6/1/04	151					
Grades K-12 Health and Physical Education	Physical Education (0090)	Prior to 5/31/04	550	161	or	154	or	161
	Phys. Education: Content Knowledge (0091)	Effective 6/1/04	146					

**At this time, a content area exam is not required for certification in Louisiana.

D. Special Education Areas

Area	Content Exam	Score	Pedagogy Requirement	Score
All Special Education Area(s)				
Early Interventionist	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Prior to 6/1/04: PLT K-6 (161), PLT 5-9 (154) or PLT 7-12 (161)	
			Educ. of Exceptional Students: Core Content Knowledge (0353) Effective 6/1/04	143
			Educ. of Exceptional Students: Core Content Knowledge (0353) & Early Childhood Education (0020) Effective 7/1/05	143
Hearing Impaired	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) & Educ. of Deaf and Hard of Hearing Students (0271) Effective 6/1/04	143
				160
Mild to Moderate Disabilities	Effective 6/1/04 ALL Candidates must pass a content area exam appropriate to certification level 1-5, 4-8, 6-12 (e.g., 0014, or core subject-specific exams for middle or secondary grades)		*Educ. of Exceptional Students: Core Content Knowledge (0353) & Educ. of Exceptional Students: Mild/Moderate Disabilities (0542) Effective 6/1/04	143
				141
	Prior to 6/1/04, a content area exam was required only for entry into a Mild/ Moderate 1-12 Practitioner Teacher Program, Non-Master's Certification-Only Alternate Program, and Master's Alternate Program.		*Note: (0353) and (0542) are not content area exams.	

Area	Content Exam	Score	Pedagogy Requirement	Score
Significant Disabilities	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) &	143
			Educ. of Exceptional Students: Severe to Profound Disabilities (0544)	147
Visual Impairments/Blind	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353)	143

E. Administrative Area

Certification Area	Name of Praxis Test	Area Test Score
Principal	Educational Leadership: Administration & Supervision (0410)	620
Educational Leader – Level 1	School Leaders Licensure Assessment (1010)	168
Educational Leader – Level 3	School Superintendent Assessment (1020)	154

All Praxis scores used for certification must be sent directly from ETS to the State Department of Education electronically, or the original Praxis score report from ETS must be submitted with candidate's application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., August 9, 2006, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746—Louisiana Standards for
State Certification of School Personnel
Louisiana Requirements—PRAXIS I Scores**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This policy specifies that effective July 1, 2007, the PRAXIS PPST scores be aligned with those of the University of Louisiana System in the following score requirements: Reading 174, Writing 173, and Mathematics 172. In addition, effective July 1, 2010, the scores will be raised to the following

requirements: Reading 176, Writing 175, and Mathematics 175. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The only costs are the usual costs for testing fees for individuals pursuing initial teacher certification or entry into alternate programs.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0606#007

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Special Education
(LAC 28:CXXXI.231)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. This policy specifies the effective dates of the following special education certifications: Blended General/Special Education Mild-Moderate in Grade Levels 1-5, 4-8, and 6-12, an implementation date of July 1, 2007; and Early Interventionist Special Education Birth to Five Years, Significant Disabilities, Hearing Impaired, and Visually Impaired, an implementation date of January 1, 2007. The submission and approval of programs leading to certification in these redesigned areas have been delayed because of issues with the hurricanes of 2005 that hit Louisiana and with capacity issues at some of the state's universities.

Title 28
EDUCATION

**Part CXXXI. Bulletin 746—Louisiana Standards for
State Certification of School Personnel**

Chapter 2. Louisiana Teacher Preparation Programs
Subchapter B. Alternate Teacher Preparation Programs

§231. Introduction

A. Current BESE policy allows for alternate certification pathways listed in this Section. Previous policy was limited to the alternate program pathway entitled "Post-Baccalaureate Program." In the period in which the state transitions from previous policy to current policy, the following are deadline dates for candidates enrolled in a Louisiana post-baccalaureate alternate program prior to implementation of the current Practitioner Teacher, Master's Degree, and Non-Master's/Certification-Only alternate certification programs.

B. Candidates in Early Childhood Education, Elementary, Secondary, and Mild/Moderate Special Education

1. *Spring Semester 2003*—last date for students to be accepted into Post-Baccalaureate Programs.

2. *August 31, 2006*—last date for candidates who were already in the Post-Baccalaureate Programs to complete those programs.

C. Candidates in the All-Level (K-12) Areas of Art, Dance, Foreign Language, Health and Physical Education, and Music

1. *Spring Semester 2005*—last date for students to be accepted into Post-Baccalaureate Programs.

2. *August 31, 2008*—last date for candidates who are already in Post-Baccalaureate Programs to complete those programs.

D. Candidates in the Areas of Early Interventionist, Hearing Impaired, Significant Disabilities, and Visual Impairments/Blind

1. *Spring Semester 2006*—last date for candidates to be accepted into Post-Baccalaureate Programs.

2. *August 31, 2009*—last date for candidates who are already in Post-Baccalaureate Programs to complete those programs.

E. The alternate program certification structures shown below became effective on July 1, 2002, and supersede previous alternate program guidelines.

F. The implementation date for Early Interventionist Birth to Five Years, Significant Disabilities, Hearing Impaired, and Visually Impaired is January 1, 2007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be

kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., August 9, 2006, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 746—Louisiana Standards for
State Certification of School Personnel
Special Education**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This policy specifies the effective dates of the following special education certifications: Blended General/Special Education Mild-Moderate in Grade Levels 1-5, 4-8, and 6-12, an implementation date of July 1, 2007; and Early Interventionist Special Education Birth to Five Years, Significant Disabilities, Hearing Impaired, and Visually Impaired, an implementation date of January 1, 2007. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affect persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0606#040

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1922—Compliance Monitoring Procedures
(LAC 28:XCI.107, 109, and 309)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1922—Compliance Monitoring Procedures* (LAC Part Number XCI). The Rule reverts back to having the State Board of Elementary and Secondary Education (SBESE), not the Superintendent of Education, withhold federal funds under the Individuals with Disabilities Education Act (IDEA) when continuing noncompliance with IDEA is noted in a local school district. The state may determine what entity may withhold IDEA funds due to continuing noncompliance. The action was not required by federal law or regulation.

Title 28

EDUCATION

Part XCI. Bulletin 1922—Compliance Monitoring Procedures

Chapter 1. Overview

§107. Corrective Action and Sanctions

A. ...

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

C. - F. ...

G. When an LEA has not produced sufficient data to indicate that compliance has been met through the approved Corrective Action Plan, the department will require that an Intensive Corrective Action Plan (ICAP) be developed by the LEA in collaboration with the department to address the continuing non-compliant findings. In conjunction with the implementation of the approved plan, the department will take one or more of the following sanctions described below.

1. Advise the LEA of available sources of technical sources of technical assistance that may help the LEA.

2. Direct the LEA to present the ICAP to the local school board for approval.

3. Direct the LEA to use IDEA Part B flow-through funds on the area or areas that the LEA is non-compliant. The LEA will submit evidence to the department of the specific funds targeted for areas of non-compliance. The department will monitor the expenditure of such funds on a consistent basis. The department will appoint a special consultant or management team to oversee the intensive CAP, which will be funded at the local level. The CAP appointment of the special consultant or management team must be submitted to the local school board.

4. The LDE, in collaboration with the LEA, will determine a special consultant or management team to oversee the intensive CAP, which will be funded at the local level. The CAP appointment of the special consultant or management team must be submitted to the local board.

5. Identify the LEA as a high-risk grantee and impose special conditions on the LEA's IDEA Part B grant. The department will impose one or more of the following special conditions.

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

b. Seek to recover funds under Section 452 of the General Education Provisions Act.

c. Withhold, in whole or in part, any further payments to the LEA under this part pursuant to Subparagraph a.

d. Refer the matter for other appropriate enforcement action.

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

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:415 (March 2004), amended LR 31:3105 (December 2005), LR 32:

§109. Components of the Continuous Improvement Monitoring Process

A. ...

B. The monitoring system will incorporate and utilize strategies and components as listed below.

1. - 10. ...

11. Review the personnel files related to certification, experience and training documentation.

12. ...

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

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:416 (March 2004), amended LR 31:3106 (December 2005), LR 32:

Chapter 3. Operational Procedures for Compliance Monitoring

§309. Activities Conducted Prior to the On-Site Visit

A. - B. ...

C. A meeting with the selected team members will be conducted to:

1. summarize, analyze, and review the school system's data;

2. - 6. ...

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

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:418 (March 2004), amended LR 31:3107 (December 2005), LR 32:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., August 9, 2006, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1922—Compliance Monitoring
Procedures**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The implementation costs will be approximately \$236.25 to print the revised bulletin. The revisions are largely technical in nature.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no effects 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 costs and/or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There are no estimated effects on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0606#039

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Control of Emissions from the
Chemical Woodpulp Industry
(LAC 33:III.2301)(AQ264)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.2301 (Log #AQ264).

LAC 33:III.2301 regulates opacity and emissions of particulate matter, sulfur oxides, and total reduced sulfur (TRS) at certain pulp manufacturing plants. 40 CFR Part 60, Subpart BB, Standards of Performance for Kraft Pulp Mills (NSPS BB), also regulates particulate, TRS, and opacity from these sources. The TRS and opacity standards established by NSPS BB are equivalent to or more stringent

than those set forth in the state regulation. Therefore, in order to simplify regulatory applicability, this rule revision will provide an exemption from the TRS and opacity portions of LAC 33:III.2301 for sources subject to NSPS BB. This Rule is also being proposed as a revision to the Louisiana State Implementation Plan for air quality. The basis and rationale for this Rule are to simplify regulatory applicability due to overlapping state and federal regulations.

This proposed 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. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

**Chapter 23. Control of Emissions for Specific
Industries¹**

¹Regulation of emissions of volatile organic compounds for certain industries are presented in Chapter 21.

**Subchapter A. Chemical Woodpulp Industry
§2301. Control of Emissions from the Chemical
Woodpulp Industry**

A. - D.4.a.ii. ...

E. Exemptions. The total reduced sulfur limitations of Paragraph D.3 of this Section and the opacity limitation of Paragraph D.4 of this Section do not apply to affected facilities subject to 40 CFR 60, Subpart BB—Standards of Performance for Kraft Pulp Mills.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1564 (December 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2454 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 32:

A public hearing will be held on July 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the State Implementation Plan (SIP) to incorporate this proposed Rule. 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ264. Such comments must be received no later than August 1, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 AQ264.

This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Control of Emissions from the Chemical
Woodpulp Industry**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no costs or savings to state or local governmental units as a result of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition; no effect on employment in the public or private sector will be realized.

Herman Robinson, CPM
Executive Counsel
0606#030

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

**Correction of Term Used for Version of Permit
(LAC 33:III.531)(AQ268)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.531 (Log #AQ268).

LAC 33:III.531.B.3 incorrectly uses the term "draft permit" to denote the version of the permit being referred to in the regulation. *Draft permit* is not defined in LAC 33:III.Chapter 5. *Proposed permit* is the term defined by LAC 33:III.502 and used elsewhere in Chapter 5 to denote the version of the permit for which the department offers public participation, affected-state review, or EPA review. This rule revision will correct the error. This Rule is also being proposed as a revision to the Louisiana State Implementation Plan for air quality. The basis and rationale

for this Rule are to correct the term used to denote a proposed permit the department offers for public participation, affected-state review, or EPA review.

This proposed 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. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

Chapter 5. Permit Procedures

§531. Public Notice and Affected State Notice

A. - B.2. ...

3. Notice of any proposed permit pertaining to a major stationary source or major modification under LAC 33:III.504, Nonattainment New Source Review Procedures, shall be provided to any affected federal land manager or Indian governing body.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

A public hearing will be held on July 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the State Implementation Plan (SIP) to incorporate this proposed Rule. 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ268. Such comments must be received no later than August 1, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 AQ268. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Correction of Term Used for
Version of Permit**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no costs or savings to state or local governmental units as a result of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition; no effect on employment in the public or private sector will be realized.

Herman Robinson, CPM
Executive Counsel
0606#028

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

**Crude Oil and Natural Gas Production Facilities
(LAC 33:III.501 and 503)(AQ265)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.501 and 503 (Log #AQ265).

This rule revision will allow construction of minor source crude oil and natural gas production facilities, or any modification to such facilities, to commence upon submittal of a permit application as described in LAC 33:III.501.C.1, provided the source is not a Part 70 Source as defined in LAC 33:III.502 and the appropriate permit fee has been paid in accordance with LAC 33:III.Chapter 2. However, operation of such a facility, or any modification to such a facility, which ultimately may result in an initiation of, or increase in, emission of air contaminants as defined in LAC 33:III.111 shall not be allowed to commence until a permit has been issued by the department (unless expressly allowed by the facility's existing permit, in the case of a modification). The regulations currently prohibit commencement of construction or modification of any facility that ultimately may result in an initiation of, or increase in, emission of air contaminants until a permit (or other certificate of approval) has been issued by the department. This Rule is also being proposed as a revision to the Louisiana State Implementation Plan for air quality. The basis and rationale for this Rule are to facilitate environmentally sound development of the oil and gas industry within the state of Louisiana.

This proposed 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. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - C.1. ...

2. Except as specified in LAC 33:III.503.C, no construction, modification, or operation of a facility which ultimately may result in an initiation or increase in emission of air contaminants as defined in LAC 33:III.111 shall commence until the appropriate permit fee has been paid in accordance with LAC 33:III.Chapter 2 and a permit (certificate of approval) has been issued by the permitting authority.

3. - 10. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:

§503. Minor Source Permit Requirements

A. - B.3. ...

C. Crude Oil and Natural Gas Production Facilities

1. For purposes of this Subsection, a crude oil and natural gas production facility is any grouping of equipment where hydrocarbon liquids are processed, upgraded (i.e., impurities or other constituents are removed to meet contract specifications), or stored prior to the point of custody transfer; or where natural gas is processed, upgraded, or stored prior to entering the natural gas transmission and storage source category. Crude oil and natural gas production facilities are classified under Standard Industrial Classification Code (SICC) 1311. Operations engaged in processing, treating, or otherwise managing natural gas or hydrocarbon liquids after such materials have been transferred to a pipeline or any other forms of transportation do not constitute crude oil and natural gas production facilities.

2. Construction of a crude oil and natural gas production facility that is not a *major source*, or any modification to such a facility, may commence upon submittal of a permit application as described in LAC 33:III.501.C.1, provided the source is not a *Part 70 Source* as defined in LAC 33:III.502 and the appropriate permit fee has been paid in accordance with LAC 33:III.Chapter 2. Initiation of construction or modification is at the sole risk of the applicant. The department shall not be held liable for any

expenses incurred by the applicant in the event the permit application is denied.

3. Operation of a crude oil and natural gas production facility, or any modification to such a facility, which ultimately may result in an initiation of, or increase in, emission of *air contaminants* as defined in LAC 33:III.111 shall not commence until a permit has been issued by the permitting authority.

4. Notwithstanding the provisions of Subparagraph C.3 of this Section, a modification to a crude oil and natural gas production facility which ultimately may result in an increase in emission of *air contaminants* as defined in LAC 33:III.111 may be effected without prior approval if expressly allowed by the facility's existing permit.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

A public hearing will be held on July 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the State Implementation Plan (SIP) to incorporate this proposed Rule. 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ265. Such comments must be received no later than August 1, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 AQ265. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Crude Oil and Natural Gas Production Facilities**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no costs or savings to state or local governmental units as a result of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There would not necessarily be any impact on receipts or income to owners or operators of affected sources (crude oil and natural gas production facilities subject to the permitting requirements of LAC 33:III.Chapter 5) if an air permit has been obtained in advance of the anticipated construction schedule. However, if this is not possible, then the proposed rule change may allow for the overall construction process to be managed more effectively. Further, owners or operators would be able to produce a well immediately upon issuance of an air permit if construction of the facility had already been completed; thus, revenue from that well would be generated sooner, though this wouldn't equate to increased income over the life of the well.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition; no effect on employment in the public or private sector will be realized.

Herman Robinson, CPM
Executive Counsel
0606#029

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Emissions Units Exemptions
(LAC 33:III.2117)(AQ263)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.2117 (Log #AQ263).

No regulatory mechanism exists for permanently exempting emissions units from portions of LAC 33:III.Chapter 21 if strict conformity with applicable provisions would create an unreasonable risk to health, welfare, or safety. This rule will establish a regulatory basis for permanently exempting emissions units from applicable provisions if strict conformity would create an unreasonable risk to health, welfare, or safety. Approval of such an exemption will not be implied, but must be expressly

granted in writing by the department. Currently, such an exemption can be provided by means of a variance issued in accordance with LAC 33:III.917 and 2119. However, per R.S. 30:2056(C), a variance cannot be granted for a period of time greater than one year. This rule is also being proposed as a revision to the Louisiana State Implementation Plan for air quality. The basis and rationale for this rule are to establish a regulatory mechanism to allow the department to permanently exempt emissions units from the control of emissions of organic compounds when conformity with applicable provisions would create an unreasonable risk to health, welfare, or safety.

This proposed 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. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2117. Exemptions

A. - Table ...

B. If, upon written application of a responsible official, the administrative authority finds that strict conformity with any provision of these regulations would create an unreasonable risk to health, welfare, or safety, the administrative authority may provide an exemption from that provision to prevent loss of life, personal injury, or severe property damage. Approval of such an exemption is not implied, but must be expressly granted in writing by the administrative authority.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:118 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:289 (March 1994), LR 21:681 (July 1995), LR 21:1330 (December 1995), repromulgated LR 22:14 (January 1996), amended LR 22:703 (August 1996), LR 23:1661 (December 1997), LR 24:22 (January 1998), LR 25:258 (February 1999), amended by the Office of Environmental Assessment, LR 31:1062 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

A public hearing will be held on July 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ263. Such comments must be received no later than August 1, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D.,

Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 AQ263. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Emissions Units Exemptions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no costs or savings to state or local governmental units as a result of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or non-governmental groups. LDEQ anticipates extremely limited use of this exemption. Currently, the agency is aware of only one situation which warrants such an exemption, and in this instance, its approval will not result in an increase in emissions.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition; no effect on employment in the public or private sector will be realized.

Herman Robinson, CPM
Executive Counsel
0606#031

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Incorporation by Reference of the Acid Rain Program
(LAC 33:III.505)(AQ259ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.505 (Log #AQ259ft).

This proposed Rule is identical to federal regulations found in 40 CFR Part 72 (July 1, 2005), and 70 FR 25162-25210 (May 12, 2005) and 71 FR 25328-25469 (April 28, 2006), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule replaces the existing Acid Rain Program regulations with an incorporation by reference of the recently revised federal regulations concerning the Acid Rain Program. This action is necessary in order for Louisiana to adopt the general and specific provisions for the CAIR SO₂ Trading Program, under Section 110 of the Clean Air Act, as a means of mitigating interstate transport of fine particulate and sulfur dioxide. By adopting the Acid Rain Program, 40 CFR Part 72, in its entirety, the state is authorizing EPA to assist the state in implementing the CAIR SO₂ Trading Program.

On March 10, 2005, EPA announced the Clean Air Interstate Rule (CAIR), a rule that will achieve reduction in air pollution by regulating sulfur dioxide (SO₂) and nitrogen oxides (NO_x) emissions from 23 states and the District of Columbia. These pollutants contribute to levels of fine particles (PM_{2.5}) in areas above the air quality standard in downwind states. In addition, NO_x emissions in 25 eastern states and the District of Columbia contribute to levels of ozone in areas above the air quality standard for 8-hour ozone in other downwind states. In developing the CAIR SO₂ regulations and the cap-and-trade program, the Environmental Protection Agency relied on the successful Acid Rain Program/cap-and-trade program. The resulting CAIR SO₂ cap-and-trade program was merged with the Acid Rain cap-and-trade program when CAIR defined CAIR SO₂ allocations as those allocations made under the Acid Rain Program. EPA has promulgated changes to the Acid Rain Program that reflect the CAIR SO₂ requirements. These actions enable the CAIR SO₂ cap-and-trade program to accept Acid Rain SO₂ allocations for trading, selling, and/or determining compliance with the CAIR SO₂ program. The recent changes to the Acid Rain Program at the federal level due to CAIR will require the state to modify its Acid Rain rule at LAC 33:III.505. The incorporation of the federal Acid Rain Rule will ensure continuity between the Acid Rain Program and the implementation of the CAIR SO₂ Program. The basis and rationale for this Rule are to mirror the federal regulations.

This proposed 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. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§505. Acid Rain Program Permitting Requirements

A. Acid Rain Program General Provisions. The Acid Rain Program regulations, published in the *Code of Federal*

Regulations at 40 CFR 72.1-72.13, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

B. Designated Representative. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR 72.20-72.25, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

C. Acid Rain Permit Applications. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR 72.30-72.33, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

D. Acid Rain Compliance Plan and Compliance Options. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR 72.40-72.44, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

E. Acid Rain Permit Contents. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR 72.50-72.51, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

F. Federal Acid Rain Permit Issuance Procedures. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR 72.60-72.69, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

G. Acid Rain Phase II Implementation. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR 72.70-72.74, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

H. Permit Revisions. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR 72.80-72.85, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

I. Compliance Certification. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR 72.90-72.96, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

J. Methodology for Annualization of Emissions Limits. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR Part 72, Appendix A, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

K. Methodology for Conversion of Emissions Limits. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR Part 72, Appendix B, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

L. Actual 1985 Yearly SO₂ Emissions Calculation. The Acid Rain Program regulations, published in the *Code of*

Federal Regulations at 40 CFR Part 72, Appendix C, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

M. Calculation of Potential Electric Output Capacity. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR Part 72, Appendix D, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

N. Copies of documents incorporated by reference in this Section may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, www.gpoaccess.gov/cfr/index.html; from the Department of Environmental Quality, Office of Environmental Services, Air Permits Division; or from a public library.

O. Modifications or Exceptions. Whenever the referenced regulations (i.e., 40 CFR Part 72) provide authority to "the Administrator," such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 72) to be provided to "the Administrator" shall be provided to the Office of Environmental Services, Air Permits Division, where the state is designated authority by EPA as "the Administrator," or shall be provided to the Office of Environmental Services, Air Permits Division and EPA, where EPA retains authority as "the Administrator."

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 21:678 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2446 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2429, 2436 (October 2005), LR 32:

A public hearing will be held on July 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ259ft. Such comments must be received no later than July 25, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@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 AQ259ft. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

0606#025

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Incorporation by Reference of the
CAIR SO₂ Trading Program
(LAC 33:III.506)(AQ260ft)

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 adopt the Air regulations, LAC 33:III.506 (Log #AQ260ft).

This proposed Rule is identical to federal regulations found in 40 CFR Part 96, Subparts AAA, BBB, CCC, FFF, GGG, and HHH (July 1, 2005), and 70 FR 25162-25210 (May 12, 2005) and 71 FR 25328-25469 (April 28, 2006), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule incorporates by reference the federal regulations concerning the Clean Air Interstate Rule (CAIR) SO₂ Trading Program. This action is necessary in order for Louisiana to adopt the general and specific provisions for the CAIR SO₂ Trading Program, under Section 110 of the Clean Air Act, as a means of mitigating interstate transport of fine particulate and sulfur dioxide. By adopting 40 CFR Part 96, Subparts AAA-HHH, the state is authorizing EPA to assist the state in implementing the CAIR SO₂ Trading Program.

On March 10, 2005, EPA announced the Clean Air Interstate Rule (CAIR), a rule that will achieve reduction in air pollution by regulating sulfur dioxide (SO₂) and nitrogen oxides (NO_x) emissions from 23 states and the District of Columbia. These pollutants contribute to levels of fine particles (PM_{2.5}) in areas above the air quality standard in downwind states. In addition, NO_x emissions in 25 eastern states and the District of Columbia contribute to levels of ozone in areas above the air quality standard for 8-hour ozone in other downwind states. In developing the CAIR SO₂ regulations and the cap-and-trade program, the

Environmental Protection Agency relied on the successful Acid Rain Program/cap-and-trade program. The resulting CAIR SO₂ cap-and-trade program was merged with the Acid Rain cap-and-trade program when CAIR defined CAIR SO₂ allocations as those allocations made under the Acid Rain Program. EPA has promulgated changes to the Acid Rain Program that reflect the CAIR SO₂ requirements. These actions enable the CAIR SO₂ cap-and-trade program to accept Acid Rain SO₂ allocations for trading, selling, and/or determining compliance with the CAIR SO₂ program. The basis and rationale for this rule are to mirror the federal regulations.

This proposed 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. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33 ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§506. Clean Air Interstate Rule Requirements

A. Reserved.

B. Reserved.

C. Annual Sulfur Dioxide. Except as specified in this Section, the Federal SO₂ Model Rule, published in the *Code of Federal Regulations* at 40 CFR Part 96, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, is hereby incorporated by reference, except for Subpart III—CAIR SO₂ Opt-in Units and all references to opt-in units.

1. Subpart AAA—CAIR SO₂ Trading Program General Provisions. The Federal SO₂ Model Rule regulations, published in the *Code of Federal Regulations* at 40 CFR 96.201-96.208, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference, except for the references to opt-in units found in 40 CFR 96.201, and in the definitions of *CAIR NO_x ozone season unit*, *CAIR NO_x unit*, *CAIR SO₂ unit*, and *commence commercial operations* in 40 CFR 96.202.

2. Subpart BBB—CAIR Designated Representative for CAIR SO₂ Sources. The Federal SO₂ Model Rule regulations, published in the *Code of Federal Regulations* at 40 CFR 96.210-96.214, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

3. Subpart CCC—Permits. The Federal SO₂ Model Rule regulations, published in the *Code of Federal Regulations* at 40 CFR 96.220-96.224, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

4. Subpart DDD—Reserved.

5. Subpart EEE—Reserved.

6. Subpart FFF—CAIR SO₂ Allowance Tracking System. The Federal SO₂ Model Rule regulations, published in the *Code of Federal Regulations* at 40 CFR 96.250-96.257, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

7. Subpart GGG—CAIR SO₂ Allowance Transfers. The Federal SO₂ Model Rule regulations, published in the *Code of Federal Regulations* at 40 CFR 96.260-96.262, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

8. Subpart HHH—Monitoring and Reporting. The Federal SO₂ Model Rule regulations, published in the *Code of Federal Regulations* at 40 CFR 96.270-96.276, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference, except that Paragraphs (b)(4) and (b)(5) shall be deleted from 40 CFR 96.270; Paragraph (d)(3)(iv)(D) shall be deleted from 40 CFR 96.271; and Paragraph (b) shall be deleted from 40 CFR 96.272.

D. Copies of documents incorporated by reference in this Section may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, www.gpoaccess.gov/cfr/index.html; from the Department of Environmental Quality, Office of Environmental Services, Air Permits Division; or from a public library.

E. Modifications or Exceptions. Whenever the referenced regulations (i.e., 40 CFR Part 96) provide authority to "the Administrator," such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 96) to be provided to "the Administrator" shall be provided to the Office of Environmental Services, Air Permits Division, where the state is designated authority by EPA as "the Administrator," or shall be provided to the Office of Environmental Services, Air Permits Division and EPA, where EPA retains authority as "the Administrator."

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:

A public hearing will be held on July 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ260ft. Such comments must be received no later than July 25, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@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 AQ260ft. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

0606#026

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Public Notice Requirements for General Permits (LAC 33:III.513)(AQ267)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.513 (Log #AQ267).

The department is allowed by regulation to issue general permits intended to cover numerous similar sources or activities. General permits are issued in accordance with LAC 33:III.519 and, prior to issuance, must undergo public notice and review by affected states and EPA in accordance with LAC 33:III.531 and 533. Applicants applying for authorization to operate under the general permit must also publish a notice of the application in a newspaper of general circulation in the local area where the source is or would be located. These procedures are appropriate for general permits intended to cover Part 70 sources. However, for general permits intended to cover minor sources, review by affected states and EPA is not necessary, nor is publication of a notice of the application. This rule revision specifies that the aforementioned requirements are only required for general permits intended to cover Part 70 sources. This Rule is also being proposed as a revision to the Louisiana State Implementation Plan for air quality. The basis and rationale for this Rule are to clarify the public notice requirements for general permits.

This proposed 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. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33 ENVIRONMENTAL QUALITY Part III. Air

Chapter 5. Permit Procedures

§513. General Permits, Temporary Sources, and Relocation of Portable Facilities

A. General Permits

1. The permitting authority may issue a general permit intended to cover numerous similar sources or activities. General permits shall be issued in accordance with LAC 33:III.519 and, prior to issuance, shall undergo public notice and, if the general permit is intended to cover a *Part 70 source* as defined in LAC 33:III.502, review by affected states and EPA in accordance with LAC 33:III.531 and 533. Each general permit shall incorporate terms and conditions applicable to sources that would qualify for the general permit. Any general permit shall identify criteria by which sources may qualify for the general permit, and may provide for applications which deviate from the requirements of LAC 33:III.517.

2. The owner or operator of any source that would qualify for the general permit may apply for authorization to operate under the general permit. The application must include all information necessary to determine qualification for and to assure compliance with the general permit. The owner or operator of a *Part 70 source* as defined in LAC 33:III.502 shall publish a notice of the application in a newspaper of general circulation in the local area where the source is or would be located.

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2448 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

A public hearing will be held on July 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the State Implementation Plan (SIP) to incorporate this proposed Rule. 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ267. Such comments must be received no later than August 1, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 AQ267. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive,

Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Public Notice Requirements
for General Permits**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no costs or savings to state or local governmental units as a result of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition; no effect on employment in the public or private sector will be realized.

Herman Robinson, CPM
Executive Counsel
0606#027

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Board of Tax Appeals**

Filing Fee Schedule

Under the authority of R.S. 47:1413 and in accordance with R.S. 49:967(A), the Louisiana Board of Tax Appeals proposes to amend Rule 3 to change the filing fee schedule as follows.

Filing Fee Schedule

Type of Filing	Filing Fee
Initial Filing over \$5,000	\$250
Subpoena	\$ 25

New schedule will take effect July 1, 2006. Interested persons can submit written comments until 4:30 p.m., June 29, 2006 to Chairman Gary Ortego at the Board of Tax Appeals, 1111 South Foster Drive Suite A, Baton Rouge, LA 70806 or present comments at the monthly hearings on June 21, 2006.

Gary J. Ortego
Chairman

0606#018

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Facility Planning and Control**

Demolition or Disposing of State Owned Buildings
(LAC 34:III.701)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and the provisions of RS 39:121, the Division of Administration, Office of Facility Planning and Control hereby gives notice of its intent to amend LAC 34:III.701, Demolition or Disposing of State Owned Buildings. This rule change is the result of Act 13, 2006 which gives the Director of Facility Planning and Control the authority to approve immediate demolition of buildings under emergency conditions. Three typographic errors have also been corrected.

The full text of this proposed Rule may be viewed in the Emergency Rule section of this *Louisiana Register*.

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.

Interested persons may submit written comments to William Morrison, Office of Facility Planning and Control, P.O. Box 94095, Baton Rouge, LA 70804-9095. He is the person responsible for responding to inquiries regarding this proposed Rule.

Jerry W. Jones
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Demolition or
Disposing of State Owned Buildings**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no implementation costs associated with this rule change. This rule shortens the time for approval of demolition of State owned buildings in emergency situations. All other requirements remain the same.
- 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 proposed rule change will result in no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition or employment. Contractors for demolition projects will be selected in exactly the same way they would be in non-emergency conditions.

Jerry W. Jones
Director
0606#042

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Office for Citizens with Developmental Disabilities**

**Home and Community-Based Services Waivers
Supports Waiver
(LAC 50:XXI.Chapters 53-61)**

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities proposes to adopt LAC 50:XXI Chapters 53-61 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals currently provides community-based services to individuals who meet the level of care requirements for institutional placement through four Medicaid home and community-based services (HCBS) waivers as authorized by §1915(c) of the Social Security Act. The Medicaid HCBS waivers are: the Adult Day Health Care Waiver, Elderly and Disabled Adult Waiver, Children’s Choice Waiver and New Opportunities Waiver. The Office for Citizens with Developmental Disabilities now proposes to implement a new HCBS waiver, hereafter referred to as the Supports Waiver, to promote independence for individuals who are age 18 or older with a developmental disability, while ensuring health and safety through a system of recipient safeguards. The mission of the Supports Waiver is to create options and provide meaningful opportunities that enhance the lives of men and women with developmental disabilities through vocational and community inclusion.

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 the implementation of this proposed Rule will have a positive effect on family functioning, stability or autonomy as described in R.S. 49:972 as it will promote the independence of people with developmental disabilities.

Title 50

**PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services
Waivers**

Subpart 5. Supports Waiver

Chapter 53. General Provisions

§5301. Purpose

A. The mission of this waiver is to create options and provide meaningful opportunities that enhance the lives of men and women with developmental disabilities through

vocational and community inclusion. The Supports Waiver is designed to:

1. promote independence for individuals with a developmental disability who are age 18 or older while ensuring health and safety through a system of recipient safeguards;
2. provide an alternative to institutionalization and costly comprehensive services through the provision of an array of services and supports that promote community inclusion and independence by enhancing and not replacing existing informal networks; and
3. increase high school to community transition resources by offering supports and services to those 18 years and older.

B. Allocation of Waiver Opportunities. Waiver opportunities (slots) shall be allocated in the following manner for those individuals who request the waiver services and who meet the eligibility requirements.

1. Reserved capacity will be for those persons currently receiving state general funded vocational and habilitative services through the Office for Citizens with Developmental Disabilities.
2. The next reserved capacity will be for those persons currently waiting for state general funded vocational and habilitative services through the Office for Citizens with Developmental Disabilities.
3. All other waiver opportunities shall be offered on a first come, first served basis to individuals who request this waiver service and who meet the recipient qualifications.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

**Chapter 55. Target Population
§5501. Recipient Qualifications**

A. In order to qualify for the Supports Waiver, an individual must be 18 years of age or older and meet the definition for a developmental disability as defined in R.S. 28:451.2. Developmental disability means either:

1. a severe chronic disability of a person that:
 - a. is attributable to an intellectual or physical impairment or combination of intellectual and physical impairments;
 - b. is manifested before the person reaches age 22;
 - c. is likely to continue indefinitely;
 - d. results in substantial functional limitations in three or more of the following areas of major life activity:
 - i. self-care;
 - ii. receptive and expressive language;
 - iii. learning;
 - iv. mobility;
 - v. self-direction;
 - vi. capacity for independent living; or
 - vii. economic self-sufficiency;
 - e. is not attributable solely to mental illness;
 - f. reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated;
2. a substantial developmental delay or specific congenital or acquired condition in a person from birth

through age 9 which, without services and support, has a high probability of resulting in those criteria in Subparagraphs A.1.a-f above later in life that may be considered to be a developmental disability.

B. The individual must:

1. meet the requirements for an intermediate care facility for the mentally retarded level of care, which requires active treatment of mental retardation or a developmental disability under the supervision of a qualified mental retardation or developmental disability professional;

2. meet the financial eligibility requirements for the Medicaid program as a member of the group of individuals who would be eligible for Medicaid if they:

a. were in a medical institution;

b. need home and community-based services in order to remain in the community; and

c. have a special income level equal to 300 percent of the Supplemental Security Income (SSI) federal benefit rate;

3. be a resident of Louisiana;

4. be a citizen of the United States or a qualified alien; and

5. meet the health and safety assurances.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

Chapter 57. Covered Services

§5701. Supported Employment Services

A. Supported employment services consists of intensive, ongoing supports and services necessary for a recipient to achieve the desired outcome of employment in a community setting in the state of Louisiana where a majority of the persons employed are without disabilities. Recipients utilizing these services may need long-term supports for the life of their employment due the nature of their disability, and natural supports would not meet this need.

B. Supported employment services provide supports in the following areas:

1. individual job, group employment, or self-employment;

2. job assessment, discovery and development; and

3. initial job support and job retention, including assistance in personal care with activities of daily living in the supported employment setting and follow-along.

C. When supported employment services are provided at a work site where a majority of the persons employed are without disabilities, payment is only made for the adaptations, supervision and training required by recipients receiving the service as a result of their disabilities. It does not include payment for the supervisory activities rendered as a normal part of the business setting.

D. Transportation is included in supported employment services, but whenever possible, family, neighbors, friends, coworkers or community resources that can provide needed transportation without charge should be utilized.

E. These services are also available to those recipients who are self-employed. Funds for self-employment may not be used to defray any expenses associated with setting up or operating a business.

F. Supported employment services may be furnished by a coworker or other job-site personnel under the following circumstances:

1. the services furnished are not part of the normal duties of the coworker or other job-site personnel; and

2. these individuals meet the pertinent qualifications for the providers of service.

G. Service Limitations

1. Services for job assessment, discovery and development in individual jobs and self-employment shall not exceed 120 units of service in a Comprehensive Plan of Care year.

2. Services for job assessment, discovery and development in group employment shall not exceed 20 units of service in a Comprehensive Plan of Care year.

3. Services for initial job support, job retention and follow-along shall not exceed 240 units of service in a Comprehensive Plan of Care year.

H. Restrictions. Recipients receiving supported employment services may also receive prevocational or day habilitation services. However, these services cannot be provided in the same service day.

I. Choice of this service and staff ratio needed to support the recipient must be documented on the Comprehensive Plan of Care.

J. There must be documentation in the recipient's file that these services are not available from programs funded under Section 110 of the Rehabilitation Act of 1973 or Sections 602(16) or (17) of the Individuals with Disabilities Education Act [230 U.S.C. 1401 (16 and 71)] and those covered under the 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, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

§5703. Day Habilitation

A. Day habilitation is services that assist the recipient to gain desired community living experience, including the acquisition, retention or improvement in self-help, socialization and adaptive skills, and/or to provide the recipient an opportunity to contribute to his or her community. These services focus on enabling the recipient to attain or maintain his/her maximum functional level and shall be coordinated with any physical, occupational, or speech therapies identified in the individualized Comprehensive Plan of Care. Day habilitation services may serve to reinforce skills or lessons taught in other settings.

B. Day habilitation services are provided on a regularly scheduled basis for one or more days per week, five or more hours per day in a setting separate from the recipient's private residence. Activities and environments are designed to foster the acquisition of skills, appropriate behavior, greater independence, and personal choice.

C. Day habilitation provides services in the following areas:

1. volunteer activities;

2. community inclusion; and

3. facility-based activities.

D. Day habilitation includes assistance in personal care with activities of daily living in the day habilitation setting.

E. All transportation costs are included in the reimbursement for day habilitation services. The recipient

must be present to receive this service. If a recipient needs transportation, the provider must physically provide, arrange for, or pay for appropriate transport to and from a central location that is convenient for the recipient and agreed upon by the team. The recipient's transportation needs and this central location shall be documented in the Comprehensive Plan of Care.

F. Service Limitations. Services shall not exceed 240 units of service in a Comprehensive Plan of Care.

G. Restrictions. Recipients receiving day habilitation services may also receive prevocational or supported employment services, but these services cannot be provided in the same service day.

H. Choice of this service and staff ratio needed to support the recipient must be documented on the Comprehensive Plan of Care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

§5705. Prevocational Services

A. Prevocational services prepare a recipient for paid or unpaid employment in the community and include teaching concepts such as compliance, attendance, task completion, problem solving and safety that are associated with performing compensated work. Services are aimed at a generalized result, not job task oriented, and are directed to habilitative, rather than explicit employment objectives.

B. Prevocational services are provided in a supervised facility-based setting where more than 25 percent of the persons employed are individuals with a developmental disability. These services are operated through a provider agency that is licensed by the appropriate state licensing agency. Services are furnished five or more hours per day on a regularly scheduled basis for one or more days per week.

C. Prevocational services are provided to persons not expected to join the general work force within one year of service initiation. If compensated, pay must be in accordance with United States Department of Labor's Fair Labor Standards Act.

D. Prevocational services reimbursement includes assistance in personal care with activities of daily living in the facility-based setting. Choice of this service and staff ratio needed to support the recipient must be documented on the Comprehensive Plan of Care.

E. All transportation costs are included in the reimbursement for prevocational services. The recipient must be present to receive this service. If a recipient needs transportation, the provider must physically provide, arrange, or pay for appropriate transport to and from a central location that is convenient for the recipient and agreed upon by the team. The recipient's transportation needs and this central location shall be documented in the Comprehensive Plan of Care.

F. Service Limitations. Services shall not exceed 240 units of service in a Comprehensive Plan of Care.

G. Restrictions. Recipients receiving prevocational services may also receive day habilitation or supported employment services, but these services cannot be provided in the same service day.

H. There must be documentation in the recipient's file that this service is not available from programs funded under Section 110 of the Rehabilitation Act of 1973 or Sections 602(16) or (17) of the Individuals with Disabilities Education Act [230 U.S.C. 1401 (16 and 71)] and those covered under the 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, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

§5707. Respite

A. Respite care is a service provided on a short-term basis to a recipient who is unable to care for himself/herself because the unpaid caregiver is absent or needs relief.

B. Respite may be provided in:

1. the recipient's home or private place of residence;
2. the private residence of a respite care provider; or
3. a licensed respite care facility determined appropriate by the recipient or responsible party.

C. Service Limitations. Services shall not exceed 428 units of service in a Comprehensive Plan of Care year.

D. Choice and need for this service must be documented on the Comprehensive Plan of Care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

§5709. Habilitation

A. Habilitation offers services designed to assist recipients in acquiring, retaining and improving the self-help, socialization and adaptive skills necessary to reside successfully in home and community settings.

B. Habilitation is provided in the home or community, includes necessary transportation as part of the reimbursement rate and is based on need with a specified number of hours weekly as outlined in the approved Comprehensive Plan of Care.

C. Habilitation services include, but are not limited to:

1. acquisition of skills needed to do household tasks such as laundry, dishwashing and housekeeping, grocery shopping in the community; and
2. travel training to community sites other than supported employment, day habilitation, or prevocational sites where life activities take place.

D. Service Limitations. Services shall not exceed 285 units of service in a Comprehensive Plan of Care year.

E. Choice and need for this service must be documented on the Comprehensive Plan of Care.

F. Recipients receiving habilitation may use this service in conjunction with other Support Waiver services, as long as other services are not provided during the same period in a 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, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

§5711. Individual Goods and Services

A. Individual goods and services allow the recipient access to goods and services necessary to ensure health and safety, which are essential to his/her independence in the

community and are not otherwise covered in Medicaid State Plan services.

NOTE: Goods and services must be clearly linked to an assessed recipient's need established in the Comprehensive Plan of Care. Experimental or prohibited treatments are excluded.

B. Adult incontinence care products are available to all recipients through the Supports Waiver. Individuals, who are 18 to 21 years old, must access incontinence care products through the EPSDT State Plan services.

NOTE: These services must be prior authorized, be in accordance with the Comprehensive Plan of Care, and not otherwise available through any other funding source or community resource.

C. The following services are available for recipients who are age 21 or older:

1. eyeglasses and routine eye examinations not otherwise covered;

2. dental care not related to dentures and not otherwise covered; and

3. hearing aids and other durable medical equipment not otherwise covered.

NOTE: Recipients who are age 18 through 21 may receive these services as outlined on their Comprehensive Plan of Care through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) 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, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

§5713. Personal Emergency Response System

A. A personal emergency response system (PERS) is an electronic device connected to the recipient's phone which enables a recipient to secure help in the community. The system is programmed to signal a response center staffed by trained professionals once a "help" button is activated.

B. This service must be prior authorized and be in accordance with the Comprehensive Plan of Care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

Chapter 59. Provider Participation

§5901. General Provisions

A. In order to participate in the Medicaid Program as a provider of Supports Waiver services, a provider must meet all qualifications outlined in LAC 50.XXI, Subpart 1, Chapter 1 and all applicable amendments.

B. If transportation is provided as part of a service, the provider must have \$1,000,000 liability insurance coverage on any vehicles used in transporting a recipient.

C. In addition to meeting the requirements cited in this §5901.A and B, providers must meet the following requirements for the provision of designated services.

1. Supported Employment. The provider must be a community rehabilitation provider certified through Louisiana Rehabilitation Services in order to provide this service.

2. Day Habilitation. The provider must possess a current, valid license as an Adult Day Care Center in order to provide this service.

3. Pre-Vocational Services. The provider must possess a current, valid license as an Adult Day Care Center or be a community rehabilitation provider certified through Louisiana Rehabilitation Services in order to provide this service.

4. Respite and Habilitation Services. The provider must possess a current, valid license as a Personal Care Attendant agency or a Respite Care Center in order to provide these services.

5. Individual Goods and Services. The provider must comply with the applicable state and local laws governing licensure and/or certification for the service being performed.

6. Personal Emergency Response System. The provider must be enrolled to participate in the Medicaid Program as a provider of personal emergency response systems.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

Chapter 61. Reimbursement

§6101. Reimbursement Methodology

A. The reimbursement for all services will be paid on a per claim basis, based on established rates determined through consultation with stakeholders, review of current rates and costs for similar services and available funding. The reimbursement rate covers both service provision and administration.

B. Supported Employment Services. Reimbursement shall be a prospective flat rate for each approved unit of service provided to the recipient. A standard unit of service in job assessment, discovery and development is six hours or more per day. A standard unit of service in initial job support, job retention and follow-along is one hour or more per day.

C. Day Habilitation. Reimbursement shall be a prospective flat rate for each approved unit of service provided to the recipient. A standard unit of service is one day, consisting of five or more hours, excluding time spent in transportation.

D. Prevocational Services. Reimbursement shall be a prospective flat rate for each approved unit of service provided to the recipient. A standard unit of service is one day, consisting of five or more hours, excluding time spent in transportation.

E. Respite. Reimbursement shall be a prospective flat rate for each approved unit of service provided to the recipient. One-quarter hour (15 minutes) is the standard unit of service.

F. Habilitation. Reimbursement shall be a prospective flat rate for each approved unit of service provided to the recipient. One-quarter hour (15 minutes) is the standard unit of service.

G. Individual Goods and Services. Reimbursement will be paid at cost, based on the recipient's need, but shall not exceed \$500 in a Comprehensive Plan of Care year.

H. Personal Emergency Response System (PERS). Reimbursement for the maintenance of the PERS is paid through a monthly rate. Installation of the device is paid through a one time fixed cost.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is the person responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, July 27, 2006 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, 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 the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community-Based Services Waivers—Supports Waiver

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 an estimated increase in expenses to the state of \$476 for FY 05-06, \$9,463,947 for FY 06-07, and \$10,909,375 for FY 07-08. It is anticipated that \$952 (\$476 SGF and \$476 FED) will be expended in FY 05-06 for the state's administrative expense for promulgation of this proposed rule and the final rule. The source of the state match in FY 06-07 is \$10.9 million from funds allocated for the provision of vocational services through the Office of Citizens with Developmental Disabilities (OCDD) and the four Human Service Districts.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$476 for FY 05-06, \$21,790,833 for FY 06-07, and \$25,118,945 for FY 07-08. It is anticipated that \$476 will be expended in FY 05-06 for the federal administrative expenses 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 establishes a new Home and Community Based Services waiver, the Supports Waiver, to promote independence for individuals (2,088 slots) who are age 18 or older with a developmental disability. It is anticipated

that implementation of this proposed rule will increase program expenditures for support waiver services by approximately \$31,254,780 for FY 06-07 and \$36,028,320 for FY 07-08.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Jerry Phillips
Acting Medicaid Director
0606#071

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Targeted Case Management
Individuals with Developmental Disabilities
(LAC 50:XV.10101, 10501, 10505, and 11701)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities proposes to amend LAC 50:XV.10101, 10501, 10505, and 11701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing case management services provided to targeted population groups and certain home and community-based services waiver recipients (*Louisiana Register*, Volume 25, Number 7). In May 2004, the bureau promulgated the July 1999 Rule in a codified format in Title 50 of the Louisiana Administrative Code (*Louisiana Register*, Volume 30, Number 5).

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities proposes to implement a new home and community-based services waiver for persons with developmental disabilities, under the authority of §1915(c) of the Social Security Act, called the Supports Waiver. In accordance with the requirements for §1915(c) waivers, the targeted population served in the Supports Waiver will receive an offer of case management services. The department now proposes to amend the provisions governing Targeted Case Management in LAC 50:XV to include recipients receiving services in the Supports Waiver and to change the name of the Mentally Retarded/Developmentally Disabled Waiver.

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 the implementation of this proposed Rule will have a positive effect on family functioning, stability and autonomy as described in R.S. 49:972 as it will promote the independence of people with developmental disabilities.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 7. Targeted Case Management

Chapter 101. General Provisions

§10101. Program Description

A. - D.2....

E. Recipients who are being transitioned from a developmental center into the New Opportunities Waiver (NOW) may receive their case management services through the Office for Citizens with Developmental Disabilities (OCDD).

F. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1036 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

Chapter 105. Provider Participation

§10501. Participation Requirements

A. - D.7. ...

8. assure the recipient's right to elect to receive or terminate case management services (except for recipients in the New Opportunities Waiver, Elderly and Disabled Adult Waiver, Children's Choice and Supports Waiver programs). Assure that each recipient has freedom of choice in the selection of an available case management agency (every six months), a qualified case manager or other service providers and the right to change providers or case managers;

D.9. - D.12. ...

AUTHORITY NOTE: Promulgated in 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 30:1037 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

§10505. Staff Education and Experience

A. - D.2....

E. Case Manager Trainee

1. The case management agency must obtain prior approval from the bureau before a case management trainee can be hired. The maximum allowable caseload for a case manager trainee is 20 recipients. The case management trainee position may be utilized to provide services to the following target populations:

- a. Infants and Toddlers;
- b. HIV;
- c. New Opportunities Waiver;
- d. Elderly and Disabled Adult Waiver;
- e. Targeted EPSDT;
- f. Children's Choice Waiver; and
- g. Supports Waiver.

2. - 2.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 of the Secretary, Bureau of Health Services Financing, LR 30:1038 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

Chapter 117. Individuals with Developmental Disabilities

§11701. Introduction

A. The targeted population for case management services shall consist of individuals with developmental disabilities who are participants in the NOW or Supports Waiver Programs.

B. - C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1043 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, July 27, 2006 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, 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 the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Targeted Case Management
Individuals with Developmental Disabilities**

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 an estimated increase in expenses to the state of \$408 for FY 05-06, \$933,590 for FY 06-07, and \$1,120,188 for FY 07-08. It is anticipated that \$408 (\$204 SGF and \$204 FED) will be expended in FY 05-06 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 federal revenue collections by approximately \$204 for FY 05-06, \$2,149,600 for FY 06-07, and \$2,579,244 for FY 07-08. It is anticipated that \$204 will be expended in FY 05-06 for the federal administrative expenses 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 Targeted Case Management to include recipients (approximately 1,800-1,900 recipients) receiving services in the new home and community-based services waiver called the

Supports Waiver, and to change the name of the Mentally Retarded/Developmentally Disabled Waiver to the New Opportunities Waiver. It is anticipated that implementation of this proposed rule will increase program expenditures for case management services by approximately \$3,083,190 for FY 06-07 and \$3,699,432 for FY 07-08.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Jerry Phillips
Acting Medicaid Director
0606#072

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Office of Charitable Gaming

Electronic Video Bingo (LAC 42:I.1911)

Under authority of R.S. 4:705(10), 707 and 724 and R.S. 47:1511 and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Charitable Gaming, proposes to amend LAC 42:I.1911 to clarify that electronic video bingo machines may offer and display only the game of bingo.

Title 42

LOUISIANA GAMING

Part I. Charitable Bingo, Keno, Raffle

Subpart 2. Electronic Video Bingo

Chapter 19. Electronic Video Bingo

§1911. Machine Specifications

A. Prior to approval for use in the state, each machine must meet the following specifications with respect to its operation.

1. It shall offer and display only the game of bingo.

A.2. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:705(10), 707 and 724 and R.S. 47:1511

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 17:482 (May 1991), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:

Family Impact Statement

This Family Impact Statement is provided as required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature.

1. Implementation of this proposed Rule will have no effect on the stability of the family.

2. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Michael Legendre, Director, Office of Charitable Gaming, Department of Revenue, P.O. Box 98502, Baton Rouge, LA 70884-9502 or by fax to (225) 925-7069. All comments must be submitted by 4:30 p.m., Monday, July 24, 2006. A public hearing will be held on Tuesday, July 25, 2006, at 10 a.m. in the Calcasieu Room on the 2nd Floor of the LaSalle Building at 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Electronic Video Bingo

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These proposed amendments clarify that electronic video bingo machines may only offer and display the game of bingo. These amendments are necessary since approval of hybrid electronic video bingo/slot machines, which have replaced traditional electronic video bingo machines. Use of these hybrid machines has created a concern that gamers believe them to be bona fide slot machines and not charitable gaming electronic video bingo machines. This is particularly a problem in locations that have prohibited video poker and other slot machine gaming. Implementation of this proposed rule will have negligible impact on the agency's costs

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These proposed amendments will have negligible effect on the Office of Charitable Gaming's revenue collections and no effect on the revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The two manufacturers of the hybrid electronic video bingo/slot machines that operate in the state will be affected by these proposed amendments because the hybrid machines will have to be reprogrammed to display only the bingo game. The manufacturers will have to make the program modifications and then submit the revised programs to the gaming testing lab at an approximate cost of \$4,000 to each manufacturer. Once the programs have been approved, they will have to be distributed and installed on the hybrid machines. The manufacturers reprogramming and distribution costs are not known, but should be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments should have no effect on competition or employment.

Cynthia Bridges
Secretary
0606#046

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Natural Resources—Severance Tax (LAC 61:I.2903)

Under the authority of R.S. 47:633 and 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, proposes to amend LAC 61:I.2903 to extend the time allowed for filing certifications for reduced oil and gas severance tax rates from the fifteenth day of the second month following the month of production to the twenty-fifth day of the second month, which is the same due dates as the severance tax returns. In addition, proposed amendments require the filing of continuing certification forms for gas wells, which is consistent with the oil well requirements.

Acts 2005, No. 446 amended R.S. 47:635(A) and 640(A) to extend the oil and gas severance tax return and payment due dates to the twenty-fifth day of the second month following the month to which the tax applies effective for tax periods beginning on or after October 1, 2005. Act 38 of the 2006 Regular Legislative Session amended R.S. 47:633(7)(b) and (c)(i)(aa) to extend the due date for filing the oil reduced severance tax rate certifications. The due date for filing reduced gas severance tax rate certifications is not specified by the severance tax statutes, R.S. 47:633(9)(b) and (c). These proposed amendments make the reduced oil and gas severance tax rate certification due dates the same as the severance tax return due dates.

Title 61

REVENUE AND TAXATION

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

Chapter 29. Natural Resources—Severance Tax §2903. Severance Taxes on Oil; Distillate, Condensate or Similar Natural Resources; Natural Gasoline or Casinghead Gasoline; Liquefied Petroleum Gases and Other Natural Gas Liquids; and Gas

A. ...

B. Certification for Reduced Tax Rates. A taxpayer may qualify for the lesser tax rates levied in R.S. 47:633(7)(b) and (c), and R.S. 47:633(9) by certifying and reporting production and test data, on forms prescribed by the secretary.

1. Oil. Oil production is certified for reduced severance tax rates provided by R.S. 47:633(7)(b) or (c)(i)(aa) by individual well. To receive the reduced tax rate on the crude oil production from an oil well, an application must be filed with the secretary on or before the twenty-fifth day of the second month following the month in which production subject to the reduced rate applies.

a. After a well has been certified for the reduced tax rate, it is necessary to file continuing certification forms on or before the twenty-fifth day of the second month following the months of production.

i. It is not necessary to include stripper wells that are certified with a "B" prefix code on the continuing certification forms.

ii. Failure to file or delinquent filing of the continuing certification forms may result in certification denial for the month's production that the report is delinquent or not filed.

b. Wells cannot be certified as both a stripper and an incapable oil well.

c. Recertification is required whenever the well operator changes.

d. All wells are subject to redetermination of their reduced rate status based on reports filed with the Department and the Office of Conservation. When a well no longer meets the qualifications for the reduced tax rate for which it was certified, the full tax rate becomes due.

2. Gas. Gas production is certified for reduced severance tax rates provided by R.S. 47:633(9)(b) and (c) by individual well. To receive the reduced severance tax rate on natural gas or casinghead gas production, an application must be filed with the secretary on or before the twenty-fifth day of the second month following the month in which production occurs.

a. After a well has been certified for the reduced tax rate, it is necessary to file continuing certification forms on or before the twenty-fifth day of the second month following the month of production.

i. It is not necessary to include incapable gas wells that are certified with an "F" prefix code on the continuing certification forms.

ii. Failure to file or delinquent filing of the continuing certification forms may result in certification denial for the month's production that the report is delinquent or not filed.

b. The well cannot be certified as both an incapable gas well and an incapable oil well.

c. If the well changes from one tax rate status to another a new certification is required.

d. Recertification is required whenever the well operator changes.

e. All wells are subject to redetermination of their reduced rate status based on reports filed with the Department and the Office of Conservation. When a well no longer meets the qualifications for the reduced tax rate for which it was certified, the full tax rate becomes due.

C. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:633, 47:648.3, and 47:1511.

HISTORICAL NOTE: Adopted by the Department of Revenue and Taxation, Severance Tax Division, August 1974, amended LR 3:499 (December 1977), amended LR 20:1129 (October 1994), repromulgated LR 20:1299 (November 1994), amended by the Department of Revenue, Severance Tax Division, LR 23:1167 (September 1997), LR 24:2321 (December 1998), Department of Revenue, Policy Services Division, LR 29:951 (June 2003), LR 32:

Family Impact Statement

This Family Impact Statement is provided as required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature.

1. Implementation of this proposed Rule will have no effect on the stability of the family.

2. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

Interest and Dividend Income Exclusion; Student Eligibility Requirements; Workforce Investment Act (LAC 76:III.1229, 1935, 1937, 1979, 1980, and 5329)

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III, Subpart 2, Subpart 3, and Subpart 13. This amendment was effected by a Declaration of Emergency signed March 1, 2006, and published in the March issue of the *Louisiana Register*.

Pursuant to the authority granted to the Department by Louisiana's Temporary Assistance to Needy Families Block Grant, the agency will amend §1229 in the Family Independence Temporary Assistance Program (FITAP) and §5329 in the Kinship Care Subsidy Program to exclude interest and dividends from countable income with the exception of dividends received from a resource-exempt trust fund. Pursuant to P.L. 107-171, The Food Stamp Reauthorization Act of 2002 (also known as the Farm Bill), the agency will amend section §1980 in the Food Stamp Program to exclude education assistance received by any household member and the interest and dividend income specified above from countable income. Section 4102 of the Farm Bill gives the state the option to exclude certain types of income that the State agency does not include for TANF purposes. Technical changes are being made to combine and amend Sections §1935 and §1937 to clarify student eligibility requirements and to change the obsolete term Job Training Partnership Act to Workforce Investment Act in Section §1979.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 2. Family Independence Temporary Assistance Program

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1229. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

- 1. - 18. ...
- 19. loans;
- 20. - 29. ...
- 30. effective March 1, 2006, interest income;
- 31. effective March 1, 2006, dividend income.

Exception: Dividends received from a resource-exempt trust fund will not be excluded as income.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S.36:474, R.S. 46:231.1.B., R.S. 46:231.2, P.L. 108-447, P.L. 107-171.

3. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Nancy Beverly, Revenue Tax Research Analyst, Policy Services Division, Department of Revenue, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, July 26, 2006. A public hearing will be held on Thursday, July 27, 2006, at 1:00 p.m. in the River Room on the 7th Floor of the LaSalle Building at 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Natural Resources: Severance Tax

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These proposed amendments extend the time allowed for filing certifications for reduced oil and gas severance tax rates from the 15th day of the second month following the month of production to the 25th day of the second month, which is the same due date as the severance tax returns. In addition, proposed amendments require the filing of continuing certification forms for gas wells, which is consistent with the oil well requirements.

Implementation of these proposed amendments will have no impact of the agency's costs. The proposed amendments will have no costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These proposed amendments should have little or no effect on state revenue collections and no effect on the revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will allow persons eligible for the reduced oil and gas severance tax rates an additional 10 days to file their reduced rate certifications. The economic benefit to these persons should be negligible.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0606#044

Robert E. Hosse
Staff Director
Legislative Fiscal Office

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:1342 (June 2000), LR 26:2831 (December 2000) LR 31:2956 (November 2005), LR 32:

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter E. Students

§1935. Student Provisions (Effective March 1, 2006)

A. An individual enrolled at least half-time (as defined by the institution) in an institution of higher education is considered a student. A student is ineligible to receive Food Stamp benefits unless the individual meets at least one of the following conditions:

1. under age 18 or over age 49;
2. physically or mentally unfit;
3. receiving FITAP benefits;
4. employed an average of at least 20 hours per week, and be paid for such employment, or if self-employed, employed for an average of at least 20 hours per week and receives weekly earnings at least equal to the federal minimum hourly wage multiplied by 20 hours;
5. participating in a state or federally financed work-study program during the regular school year;
6. participating in an on-the-job training program;
7. responsible for, and physically providing, the care of a dependent household member who is:
 - a. under age 6; or
 - b. age 6 or over but under age 12 and adequate child care is not available;
8. is a single parent who is a full-time student (as defined by the institution) and who is responsible for, and physically providing, the care of a dependent child under age 12, regardless of the availability of adequate child care;
9. assigned to or placed in an institution of higher education through:
 - a. the work program under Title IV of the Social Security Act, which is the Strategies to Empower People (STEP) Program;
 - b. the Workforce Investment Act of 1998;
 - c. a Food Stamp employment and training program (LaJET);
 - d. a program under Section 236 of the Trade Act of 1974, or;
 - e. a state or local government employment and training program, as determined appropriate by FNS.

B. An institution of higher education is a:

1. business, technical, trade, or vocational school that normally requires a high school diploma or equivalency certificate (GED) for enrollment in the curriculum; or
2. college or university that offers degree programs regardless of whether a high school diploma or equivalency certificate (GED) is required.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.5., P.L. 107-171

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:131 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 24:1783 (September 1998), LR 32:

§1937. Student Related Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:91

(February 1987), amended by the Department of Social Services, Office of Family Support, LR 18:1267 (November 1992), LR 19:1436 (November 1993), repealed LR 32:

Subchapter I. Income and Deductions

§1979. Income

A. Earnings to individuals who are participating in on-the-job training programs under the Workforce Investment Act (formerly the Job Training Partnership Act) shall be counted as income. This provision does not apply to household members under 19 years of age who are under the parental control of another adult member.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.9, P. L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:657 (November 1987), LR 32:

§1980. Income Exclusions

A. In addition to those income exclusions previously adopted and codified in Chapter 19, Certification of Eligible Households, the following income types will be excluded from countable income for the Food Stamp Program:

1. - 22. ...
23. loans;
24. - 39.b. ...
40. effective March 1, 2006, dividend income. Exception: Dividends received from a resource-exempt trust fund will not be excluded as income;
41. effective March 1, 2006, interest income;
42. effective March 1, 2006, education assistance.

AUTHORITY NOTE: Promulgated in accordance with P.L. 103-66, 7 CFR 273.9(c)(11), P.L. 104-193, P.L. 107-171, P.L. 108-447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 21:188 (February 1995), amended LR 23:82 (January 1997), LR 29:607 (April 2003), LR 31:2956 (November 2005), LR 32:

Subpart 13. Kinship Care Subsidy Program

Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§5329. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. - 18. ...
19. loans;
20. - 28. ...
29. effective March 1, 2006, interest income;
30. effective March 1, 2006, dividend income.

Exception: Dividends received from a resource-exempt trust fund will not be excluded as income.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, P.L. 108-447, P. L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 26:2832 (December 2000), LR 31:2958 (November 2005), LR 32:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule will have no effect on the stability of the family.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? This Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? This Rule will have no effect on the functioning of the family.

4. What effect will this Rule have on family earnings and family budget? This Rule will have no effect on family earnings; however, there may be a positive impact on the budgets of some families if excluded interest income results in eligibility for food stamps or increased benefits.

5. What effect will this Rule have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

Interested persons may submit written comments by July 27 2006, to Adren O. Wilson, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, LA, 70804-9065. He is the person responsible for responding to inquiries regarding this proposed Rule. A public hearing on the proposed Rule will be held on July 27, 2006, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9:00 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).

Ann Silverberg Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Interest and Dividend Income Exclusion; Student Eligibility Requirements; Workforce Investment Act

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs associated with this rule change is the cost of publishing the rule, printing policy changes and form revisions which is estimated to be approximately \$600 (state \$300/federal \$300) and is routinely included in the agency's annual budget. In addition, the proposed rule change may result in a small increase in expenditures in the form of food stamp benefits, and cash assistance for FITAP and KCSP recipients but this increase cannot be determined. Any increase in expenditures will be paid with existing federal funds provided by the U. S. Department of Agriculture Food and Nutrition Service and the Louisiana TANF block grant. There are sufficient funds in the Cash Assistance budget to cover the increased costs in the Kinship Care Subsidy Program (KCSP).

There will be no costs to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

A small number of households may be eligible for increased Food Stamps/FITAP/KCSP benefits as a result of the income exclusion. There is no specific data available on which to project numbers of affected households or the amount of benefits which could be involved.

There are no costs to any persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Adren O. Wilson
Assistant Secretary
0606#051

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Professional Engineering and Land Surveying Board

Practice, Certification, Exams, Experience, and Services
(LAC 46:LXI.105, 901, 903, 907,
909, 1303, 1315, 1505, 2505)

Under the authority of the Professional Engineering and Land Surveying Licensure Law, R.S. 37:681, et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Professional Engineering and Land Surveying Board has initiated procedures to amend its rules contained in LAC 46:LXI.Chapters 1 through 33.

The amendments are primarily technical housekeeping revisions of existing board rules.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXI. Professional Engineers and Land Surveyors Chapter 1. General Provisions

§105. Definitions

A. The words and phrases defined in R.S. 37:682 shall apply to these rules. In addition, the following words and phrases shall have the following meanings, unless the content of the rules clearly states otherwise.

Practice of Engineering—

a. ...

b. teaching of engineering design and the responsible charge of the teaching of engineering design shall be considered as the practice of engineering. Educational programs accredited by EAC/ABET ensure the minimum quality requirements for the teaching of engineering design. Thus, the teaching of engineering design courses and the responsible charge of the teaching of engineering design courses must be conducted by

professional engineers or by engineering faculty in an EAC/ABET accredited engineering curriculum. These unlicensed engineering faculty members are exempt from licensure by the board only for the purpose of teaching of engineering design courses and the responsible charge of the teaching of engineering design courses in an EAC/ABET accredited engineering curriculum and may not otherwise practice or offer to practice engineering in the state of Louisiana as defined by R.S. 37:682 without being licensed 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 Surveyors, LR 4:298 (August 1978), amended LR 5:110 (May 1979), LR 7:643 (December 1981), LR 14:449 (July 1988), LR 16:772 (September 1990), LR 17:804 (August 1991), LR 20:901 (August 1994), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1020 (July 2001), LR 30:1704 (August 2004), LR 32:

Chapter 9. Requirements for Certification and Licensure of Individuals and Temporary Permit to Practice Engineering

§901. Engineer Intern Certification

A. The requirements for certification as an engineer intern under the several alternatives provided in the licensure law are as follows.

1. Graduates of an Accredited Engineering Curriculum. The applicant shall be a graduate of an accredited engineering curriculum of four years or more approved by the board as being of satisfactory standing, who is of good character and reputation, who has passed the written examination in the fundamentals of engineering, who was recommended for certification by a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, who has submitted an application for certification in accordance with the requirements of R.S. 37:694, and who was duly certified as an engineer intern by the board.

2. Graduates with Advanced Engineering Degree. The applicant shall be a graduate of a non-EAC/ABET accredited engineering or related science or engineering technology curriculum of four years or more approved by the board as being of satisfactory standing, who has obtained an engineering graduate degree in an engineering discipline or sub-discipline from a university having an undergraduate accredited engineering curriculum in the same discipline or sub-discipline, approved by the board as being of satisfactory standing, who is of good character and reputation, who has passed the written examination in the fundamentals of engineering, who was recommended for certification by a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, who has submitted an application for certification in accordance with the requirements of R.S. 37:694, and who was duly certified as an engineer intern by the board.

3. Other Non-EAC/ABET Engineering Graduates. The applicant shall be a graduate of a non-EAC/ABET

accredited engineering curriculum of four years or more approved by the board as being of satisfactory standing, who has a specific record of four years or more of verifiable progressive experience obtained subsequent to graduation, on engineering projects of a level and scope satisfactory to the board, who is of good character and reputation, who has passed the written examination in the fundamentals of engineering, who was recommended for certification by a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, and having a personal knowledge of his engineering experience, who has submitted an application for certification in accordance with the requirements of R.S. 37:694, and who was duly certified as an engineer intern by the board.

B. The authority for the executive secretary to issue a certificate can only be granted 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 2:352 (November 1976), amended LR 5:114 (May 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1027 (July 2001), LR 30:1711(August 2004), LR 32:

§903. Professional Engineer Licensure

A. The requirements for licensure as a professional engineer under the two alternatives provided in the licensure law are as follows:

1. the applicant for licensure as a professional engineer shall be an engineer intern, or an individual who meets the qualifications to be an engineer intern, who has a verifiable record of four years or more of progressive experience obtained subsequent to meeting the educational and applicable experience qualifications to be an engineer intern on engineering projects of a level and scope satisfactory to the board, who is of good character and reputation, who has passed the written examination in the principles and practice in the discipline of engineering in which licensure is sought, who was recommended for licensure by five personal references, three of whom are professional engineers who have personal knowledge of the applicant's engineering experience and character and ability, and who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board; or

2. the applicant for licensure as a professional engineer shall be an individual who holds a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that do not conflict with the provisions of the licensure law, and which were of a standard not lower than that specified in the applicable licensure law in effect in Louisiana at the time such license was issued, who is of good character and reputation, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and if the state, territory, or possession, or the District of Columbia, in which he/she is licensed will accept the licenses issued by the board on a comity basis,

and who was duly licensed as a professional engineer by the board.

B. The authority for the executive secretary to issue a license can only be granted 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 2:352 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), LR 10:804 (October 1984), LR 11:362 (April 1985), LR 19:56 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1028 (July 2001), LR 30:1712 (August 2004), LR 32:

§907. Land Surveyor Intern Certification

A. A land surveyor intern shall be either:

1. a graduate holding a baccalaureate degree from a curriculum of four years or more who has completed at least 30 semester credit hours, or the equivalent, in land surveying, mapping, and real property courses approved by the board, who is of good character and reputation, who has passed the written examination in the fundamentals of land surveying, who was recommended for certification by a professional land surveyor holding a valid license to engage in the practice of land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, who has submitted an application for certification in accordance with the requirements of R.S. 37:694, and who was duly certified as a land surveyor intern by the board; or

2. an individual certified by the board as a land surveyor in training or a land surveyor intern on or before January 1, 1995.

B. The authority for the executive secretary to issue a certificate can only be granted 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 2:352 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), LR 10:90 (February 1984), LR 16:773 (September 1990), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1028 (July 2001), LR 30:1712 (August 2004), LR 32:

§909. Land Surveyor Licensure

A. The requirements for licensure as a professional land surveyor under the two alternatives provided in the licensure law are as follows:

1. an applicant for licensure as a professional land surveyor shall be a land surveyor intern, or an individual who meets the qualifications to be a land surveyor intern, who is of good character and reputation, who has a verifiable record of four years or more of combined office and field experience in land surveying including two years or more experience in responsible charge of land surveying projects under the supervision of a professional land surveyor, who has passed the oral examination, who has passed the written examination in the principals and practices of land surveying and Louisiana laws of land surveying, and who was recommended for licensure by five personal references (at least three of whom must be professional land surveyors

who have personal knowledge of the applicant), who has submitted an application for licensure in accordance with R.S. 37:694, and who was duly licensed as a professional land surveyor by the board; or

2. the applicant shall be an individual who holds a valid license to engage in the practice of land surveying issued to him/her by the proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that do not conflict with the provisions of the licensure law, who is of good character and reputation, who has passed a written examination on the fundamentals of land surveying, principles and practice of land surveying and Louisiana laws of land surveying, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and if the state, territory, or possession, or the District of Columbia in which he/she is licensed will accept the licenses issued by the board on a comity basis, and who was duly licensed as a professional land surveyor by the board.

B. The authority for the executive secretary to issue a license can only be granted 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 2:244 (August 1976), amended LR 2:352 (November 1976), LR 5:114 (May 1979), LR 6:735 (December 1980), LR 7:645 (December 1981), LR 11:362 (April 1985), LR 16:773 (September 1990), LR 19:56 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1029 (July 2001), LR 30:1713 (August 2004), LR 32:

Chapter 13. Examinations

§1303. Approval to Take the Fundamentals of Engineering Examination

A. - D. ...

E. The board may waive the fundamentals of engineering examination for any applicant who has an earned doctoral degree in engineering from a college or university having an undergraduate accredited engineering curriculum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 4:88 (March 1978), amended LR 5:113 (May 1979), LR 6:735 (December 1980), LR 7:647 (December 1981), LR 10:805 (October 1984), LR 14:449 (July 1988), LR 17:804 (August 1991), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1030 (July 2001), LR 30:1714 (August 2004), LR 32:

§1315. Re-Examinations

A. Except as otherwise provided in Subsection B, an individual who fails an examination is eligible to apply to retake the examination. A request for re-examination must be submitted in writing prior to the deadline for scheduling of the examination.

B. After an individual has failed an examination for the third time, he/she is not eligible to apply to retake the examination for the next two consecutive test cycles. If an individual has failed an examination five or more times, following each successive failed examination he/she is not eligible to apply to retake the examination for the next two

consecutive test cycles and must successfully complete a board-approved review course prior to reapplying.

C. Before an applicant is given approval to retake an examination, he/she may be required to appear before the board, or a committee of the board, for an oral interview/oral examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:353 (November 1976), amended LR 4:516 (December 1978), LR 5:114 (May 1979), LR 7:647 (December 1981), LR 12:692 (October 1986), LR 16:774 (September 1990), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1031 (July 2001), LR 30:1715 (August 2004), LR 32:

Chapter 15. Experience

§1505. Work Experience

A. ...

B. Two years of the required work experience shall be obtained in a state, territory, or possession of the United States, or the District of Columbia. However, the board may allow substitution of two years of foreign work experience provided that the experience is obtained under the supervision of a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 7:647 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1031 (July 2001), LR 30:1716 (August 2004), LR 32:

Chapter 25. Professional Conduct

§2505. Services

A. - E. ...

F. Firms may offer and/or provide a combination of engineering and construction services in connection with a design-build project without obtaining a firm license from the board, provided that:

1. prior to the execution of the contract for the project, the firm obtains an authorization certificate from the board by filing, on a form approved by the board, a written disclosure on which it shall designate a professional engineer (professional of record) employed by the firm and licensed in this state to be in responsible charge of all engineering services offered and/or provided by the firm for such project;

2. the professional of record and an officer of the firm sign the written disclosure submitted to the board, identifying the professional of record's role in the project and certifying that the professional of record will be in responsible charge of all engineering services offered and/or provided by the firm for the project;

3. all engineering services offered and/or provided by the firm for the project are performed by or under the responsible charge of the professional of record; and

4. in the event such professional of record's services terminate with respect to the project or his role in the project otherwise changes, then within five business days:

a. both the firm and the professional of record shall notify the board in writing of such termination or change; and

b. the firm shall file with the board a new written disclosure designating a new professional of record employed by the firm and licensed in this state to be in responsible charge of all engineering services offered and/or provided by the firm for such project.

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 7:648 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1037 (July 2001), LR 30:1721 (August 2004), LR 32:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*.

The proposed Rules have no known impact on family formation, stability or autonomy.

Interested parties are invited to submit written comments on the proposed Rules through July 7, 2006 at 4:30 p.m., to Donna D. Sentell, Executive Secretary, Louisiana Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Donna D. Sentell
Executive Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Practice, Certification, Exams, Experience, and Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units resulting from this rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of this proposed action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No costs or benefits are expected, except a small cost for applicants for licensure who must take an exam review course before re-applying to take an exam after failing five or more times.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is expected.

Donna D. Sentell
Executive Secretary
0606#055

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Grant Parish Ozone Maintenance Plan

Under the authority of the Louisiana Environmental Quality Act, R. S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Assessment, Plan Development Section, will submit a proposed revision to the ozone maintenance plan for Grant Parish. This revision to the State Implementation Plan (SIP) is mandated under Section 110(a)(1) requirements of the 1990 Clean Air Act Amendments (CAAA).

A final maintenance plan was published in March 2006. Since that time, plan revisions have made it necessary to repropose the plan and have a public comment period. Plan revisions include changes to the contingency plan and updates to the nonpoint stationary and nonroad mobile emission inventories.

A public hearing will be held at 1:30 pm on July 25, 2006, in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA. Should individuals with a disability need an accommodation in order to participate, please contact Vivian H. Aucoin at (225) 219-3575 or at the address listed below. Interested persons are invited to attend and submit oral comments on the proposal.

All interested persons are invited to submit written comments concerning the SIP revision no later than 4:30 p.m., August 1, 2006, to Vivian H. Aucoin, Office of Environmental Assessment, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to vivian.aucoin@la.gov.

A copy of the SIP revision for Grant Parish may be viewed from 8 a.m. to 4:30 p.m. in the DEQ Public Records Center, Room 127, 602 N. Fifth Street, Baton Rouge, LA or at the Northeast Regional Office located at 1823 Hwy. 546, West Monroe, LA.

Herman Robinson, CPM
Executive Counsel

0606#033

POTPOURRI

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Proposed Rulemaking and Solicitation of Comments on Toxic Air Pollutant Program Revisions (LAC 33:III.211, 223, 551, 5101, 5105, 5107, 5109, 5111, 5112)

The Louisiana Department of Environmental Quality is developing revisions to the Air Toxic Rule and to the corresponding portions of the fee rule in LAC 33:III.211, 223, 551, and Chapter 51, Subchapter A (AQ256). This is a preliminary step in the rulemaking process. Official rulemaking will be initiated after review and consideration of the comments received on this advanced notice. The concurrent review of the ambient air standards that was announced in the previous potpourri notice published in the *Louisiana Register* on September 20, 2005, will be proposed as a separate rulemaking at a later date. The major draft revisions include (in no particular order):

- elimination of obsolete rule language and most rule language concerning compliance plans and certifications of compliance;
- removal of obsolete LDEQ requirements;
- clarification of area and major source requirements;
- utilization of applicable federal MACT rules (40 CFR Part 63) for state MACT (however LAC 33:III.905 will apply);
- elimination of the exemption for electric steam generating units;
- application of ambient air standards to all sources of toxic air pollutants (TAPs);
- addition made to exempt virgin fossil fuels gas streams not containing TAPs at chemical plants;
- advancing the submittal of the Toxic Emissions Data Inventory (TEDI) to not later than March 31 of each year;
- exemption of area sources from submitting TEDI; and
- revision of public notice requirements.

All interested persons are encouraged to submit written comments on the draft proposal. Comments are due no later than 4:30 p.m., August 4, 2006, and should be submitted to James Orgeron, Office of Environmental Assessment, Plan

Development Section, Box 4314, Baton Rouge, LA 70821-4314 or faxed to (225) 219-3582 or by e-mail to james.orgeron@la.gov. If you have any questions regarding this document please contact James Orgeron at (225) 219-3578. Copies of this draft 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 AQ256. This draft regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

The draft regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§211. Methodology

A. Formula to Apportion Fees

Air Toxics Permits Application Fee for major sources of toxic pollutants (based on type of facility and on rated production capacity/throughput)	Surcharge of 10% of the permit application fee to be charged when there is an increase in toxic air pollutant emissions above the Minimum Emission Rates (MER) listed in LAC 33:III.5112, Table 51.1
Air Toxics Annual Emission Fee for major sources of toxic air pollutants (based on air toxic pollutants emitted) ¹	Variable
Annual Maintenance Fee (based on type of facility and on rated production capacity/throughput)	Variable
New Application Fee (based on type of facility and on rated production capacity/throughput)	Variable
Major and Minor Modification Modified Permit Fee (based on type of facility and on rated production capacity/throughput)	Variable
PSD Application Fee (based on type of facility and on rated production capacity/throughput)	Surcharge of 50% of the application fee when a PSD permit application is being processed
"NESHAP" Maintenance Fee (based on type of facility and on rated production capacity/throughput)	Surcharge of 25% of the Annual Maintenance Fee for that particular process/plant to be added to the Annual Maintenance Fee
"NSPS" Maintenance Fee (based on type of facility and on rated production capacity/throughput)	Surcharge of 25% of the permit application fee to be charged for any permit application that includes the addition of new equipment subject to NSPS regulation

¹Fees shall be assessed on major sources. Sources that have reduced emissions below major source thresholds are not required to submit.

B. - B.13.e. ...

14. Air Toxics Annual Emissions Fees based on actual annual emissions that occurred during the previous calendar year shall be assessed on major sources.

15. - 15.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:611 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), LR 18:706 (July 1992), LR 19:1419 (November 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:264 (February 2000), LR 26:2444 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 32:

§223. Fee Schedule Listing

Table 1. - Table 2, Note 12. ...

Note 13. Fees will be determined by aggregating actual annual emissions of each class of toxic air pollutants (as delineated in the tables in LAC 33:III.5112) for a facility and applying the appropriate fee schedule for that class. Fees shall not be assessed for emissions of a single toxic air pollutant over and above 4,000 tons per year from a facility. The minimum fee for this category shall be \$132.

Table 2, Note 14. -Note 20. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 2341, and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496, 1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:672 (May 2003), LR 29:2042 (October 2003), LR 30:1475 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Chapter 5. Permit Procedures

§551. Hazardous Air Pollutant (HAP) Control Technology Requirements for New Sources

A. - B. Similar Source. ...

C. Exemptions and Prohibitions. The requirements of this Section do not apply to:

1. stationary sources that are within a source category that has been deleted from the source category list in accordance with Section 112(c)(9) of the Clean Air Act; and
2. *research and development activities*, as defined in Subsection B of this Section.

D. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 24:913 (May 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

**Chapter 51. Comprehensive Toxic Air Pollutant
Emission Control Program**
**Subchapter A. Applicability, Definitions, and General
Provisions**

§5101. Applicability

A. The provisions of LAC 33:III.5105.A.2 and 5109.B shall apply to all stationary sources.

B. The remaining provisions of this Subchapter apply to the owner or operator of any *major source*, as defined in LAC 33:III.5103.

C. The provisions of LAC 33:III.905, 5105.A.1, 3, and 4, and 5113 apply to the owner or operator of any stationary source that was a major source upon promulgation of this Subchapter (December 20, 1991), but that has achieved minor source status through reduction of emissions and reduction of potential to emit.

D. The provisions of this Subchapter do not apply to the consumer use, in a duration and frequency intended by the manufacturer, of products obtained through retail commerce, or to activities conducted on residential property. The provisions of this Subchapter do not apply to the distribution or application of pesticides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1362 (December 1992), LR 23:56 (January 1997), LR 24:1276 (July 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

§5105. Prohibited Activities and Special Provisions

A. - A.1. ...

2. After December 20, 1991, no owner or operator of any stationary source shall cause a violation of any ambient air standard listed in LAC 33:III.5112, Table 51.2, unless operating in accordance with LAC 33:III.5109.

A.3. - B.1. ...

2. The following emissions are exempt from the requirements of this Subchapter:

a. emissions from the combustion of Group 1 virgin fossil fuels;

b. emissions from the combustion of Group 2 virgin fossil fuels vented from a stack that has downwash minimization stack height or a height approved by the department; and

c. emissions from the combustion of gas streams not containing toxic air pollutants listed in LAC 33:III.5112, Table 51.1 or 51.3 that are generated alone or blended with other sources of virgin fossil fuels, and used as fuel.

3. Any source, as defined in accordance with rules promulgated by the United States Environmental Protection Agency under provisions in Section 112(i)(5) of the federal Clean Air Act, that is in compliance with an enforceable commitment approved by the administrative authority* to achieve early reductions of 90 percent or more (95 percent for particulates), or that has demonstrated early reductions of 90 percent or more (95 percent for particulates), in accordance with such rules, shall be exempt from MACT requirements under LAC 33:III.5109.A. The term of exemption shall extend until such time as the compliance extension granted by the administrative authority or the U.S. Environmental Protection Agency has expired, or until nine years from the anticipated date of promulgation of

applicable federal MACT standards according to the schedule published by the U.S. Environmental Protection Agency in accordance with Section 112(e)(3) of the federal Clean Air Act, whichever date is earlier. Under no circumstances shall this provision be used to grant an exemption to a source under conditions that do not result in a net air quality benefit for the state of Louisiana, as determined by the administrative authority. Under no circumstances shall the granting of such an exemption to a source relieve any source of other obligations under state or federal law.

4. In accordance with R.S. 30:2060, except under circumstances that may reasonably be expected to pose a threat to human health, whether or not such units are in a contiguous area or under common control, in determining the applicability of emission standards or technical control standards the administrative authority shall not aggregate:

a. emissions from any oil or gas exploration or production well and its associated equipment;

b. emissions from any pipeline compressor or pump station; or

c. emissions from other similar units.

5. The emissions from the remediation of a RCRA, CERCLA, or any nonregulated inactive or abandoned waste site cleanup shall be exempt from the ambient air standards of LAC 33:III.5112, Table 51.2 upon approval of the cleanup plan by the administrative authority.

6. Emissions from the combustion of wood residue fuel from pulp and paper mills are exempt from the provisions of LAC 33:III.5109.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:2104 (December 1991), amended LR 18:1362 (December 1992), LR 21:370 (April 1995), LR 23:58 (January 1997), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

**§5107. Reporting Requirements, Availability of
Information, and Public Notice Provisions**

A. Annual Emissions Reporting. The owner or operator of any major source that meets the applicability requirements in LAC 33:III.5101.B and emits any toxic air pollutant listed in LAC 33:III.5112, Table 51.1 or 51.3, shall submit a completed annual emissions report to the Office of Environmental Assessment, Air Quality Assessment Division, in a format specified by the department. The owner or operator shall identify on the emissions report the quantity of emissions in the previous calendar year for any such toxic air pollutant emitted.

1. Beginning with the report due in 2007:

a. the owner or operator of any major source subject to the requirements in this Subsection shall submit a completed annual emissions report to the Office of Environmental Assessment, Air Quality Assessment Division, on or before March 31 of each year, that shall identify the quantity of emissions of all toxic air pollutants listed in LAC 33:III.5112, Table 51.1 or 51.3 for the previous calendar year; and

b. annual emissions reports and revisions to any emissions report shall include two duplicate originals of a certification statement to attest that the information contained in the emissions report is true, accurate, and

complete, and that is signed by a *responsible official*, as defined in LAC 33:III.502. The certification statement shall include the full name of the responsible official, his or her title and signature, the date of the signature, and the phone number of the responsible official. The certification statement shall read:

"I certify, under penalty of perjury, that the emissions data provided is accurate to the best of my knowledge, information, and belief, and I understand that submitting false or misleading information will expose me to prosecution under state regulations."

2. Any facility required to submit a report pursuant to this Subsection shall also report in accordance with LAC 33:III.919.

B. - B.2. ...

3. Nonemergency Conditions. Except as provided in Paragraph B.6 of this Section, for any unauthorized discharge of a toxic air pollutant into the atmosphere that does not cause an emergency condition and the rate or quantity of which is in excess of that allowed by permit, compliance schedule, or variance, or for upset events that exceed the lower of the reportable quantity in LAC 33:I.3931 or the Minimum Emission Rate (MER) in LAC 33:III.5112, Table 51.1, or if the quantity of the discharge is greater than 1 pound when there is no MER or RQ for the substance in question, the owner or operator of the source shall immediately, but in no case later than 24 hours, provide prompt notification to the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, in the manner provided in LAC 33:I.3923.

4. - 4.a.viii. ...

b. If written notification of the discharge or bypass is required to be submitted in accordance with LAC 33:I.3925, such notification shall fulfill the obligation to submit a written report under this Paragraph.

B.5. - C. ...

D. Public Notice Provisions. The administrative authority shall provide at least 30 days for public comment and shall give notice of any public hearing at least 30 days in advance of the hearing before granting approval for construction or issuing any permit that would:

1. allow an increase in any Class 1 or Class 2 Louisiana toxic air pollutant by an amount greater than the minimum emission rate; or

2. allow the addition of any new point source or emission unit that would emit a Class 1 or Class 2 Louisiana toxic air pollutant by an amount greater than the minimum emission rate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and 2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:890 (July 1993), amended by the Office of the Secretary, LR 19:1022 (August 1993), repromulgated LR 19:1142 (September 1993), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:58 (January 1997), LR 24:1276 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2004 (September 2000), LR 26:2460 (November 2000), LR 29:2778 (December 2003), LR 30:1673 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2447 (October 2005), LR 32:

§5109. Emission Control and Reduction Requirements and Standards

A. Maximum Achievable Control Technology (MACT) Requirements

1. The owner or operator of any major source that emits or is permitted to emit a Class I or Class II toxic air pollutant shall control emissions of such toxic air pollutants to a degree that constitutes Maximum Achievable Control Technology (MACT) as approved by the administrative authority.

2. Compliance with an applicable federal standard promulgated by the US EPA in 40 CFR Part 63 or in accordance with Sections 111(d) and 129 of the Clean Air Act Amendments shall constitute compliance with this Subsection for emissions of toxic air pollutants.

B. Ambient Air Standard Requirements. The owner or operator of any major source that emits, or is permitted to emit, any toxic air pollutant at a rate equal to or greater than the minimum emission rate listed for that toxic air pollutant shall determine the status of compliance, beyond the source's property line, with applicable ambient air standards listed in LAC 33:III.5112, Table 51.2. Upon a written request by the administrative authority, the owner or operator of any area source that emits, or is permitted to emit, any toxic air pollutant at a rate equal to or greater than the minimum emission rate listed for that toxic air pollutant shall determine the status of compliance, beyond the source's property line, with applicable ambient air standards listed in LAC 33:III.5112, Table 51.2. Area sources shall have three years from [enter date of promulgated rule] to comply with ambient air standards.

1. New major sources shall demonstrate compliance with an ambient air standard in an application for a permit in accordance with LAC 33:III.5111.

2. The owner or operator shall achieve compliance with the ambient air standard unless the owner or operator demonstrates to the satisfaction of the administrative authority:

a. that compliance with an ambient air standard would be economically infeasible;

b. that the source's emissions could not reasonably be expected to pose a threat to public health or the environment; and

c. that the source's emissions would be controlled to a level that is Maximum Achievable Control Technology.

3. The administrative authority shall publish a public notice of and hold a public hearing on any preliminary determination to allow a source to exceed the ambient air standard for any toxic air pollutant listed in LAC 33:III.5112, Table 51.2. Within 90 days after the close of the public hearing on the preliminary determination, the administrative authority shall make a final determination, which is subject to review on a five-year basis or at any other time deemed appropriate by the administrative authority.

4. The administrative authority shall periodically, but no later than 12 months after December 20, 1991 and every 36 months thereafter, review and update the ambient air standards listed for each toxic air pollutant in LAC 33:III.5112, Table 51.2.

C. ...

D. Compliance Timing

1. The obligation for an existing major source to submit a Compliance Plan or Certification of Compliance (see LAC 33:III.5109.A as promulgated in the *Louisiana Register* on December 20, 1991, at LR 17:1204) shall remain effective. Any source that did not timely comply with these requirements shall remain in violation until MACT compliance is determined and established in accordance with this regulation.

2. The obligation for an existing major source to submit a Compliance Plan or Certification of Compliance (see LAC 33:III.5109.B.1 and B.2 as promulgated in the *Louisiana Register* on December 20, 1991, at LR 17:1204) shall remain effective. Any source that did not comply in a timely fashion with these requirements shall remain in violation until compliance with the ambient air standard is determined and established in accordance with this regulation.

3. New sources shall have MACT installed prior to their initial start-up.

4. Under no circumstance will the owner or operator of any major source under this Subchapter be granted more time to comply with Maximum Achievable Control Technology requirements than is allowed under an applicable federal standard established pursuant to Section 112, or in accordance with Sections 111(d) and 129, of the Federal Clean Air Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:891 (July 1993), LR 23:59 (January 1997), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

§5111. Permit Requirements, Application, and Review

A. Major Source Permit Requirements. No owner or operator shall commence construction or modification of any major source without first obtaining written authorization from the administrative authority. Before commencement of the construction of any new source or any modification that will result in an increase in emissions of any toxic air pollutant or will create a new point source that emits a toxic air pollutant, the owner or operator of such source shall obtain a Louisiana Air Permit in accordance with LAC 33:III.501 and Subsection B of this Section and in accordance with LAC 33:I.1701.

B. Contents of Application for a Louisiana Air Permit

1. - 2.b....

c. technical information describing the proposed nature, size, design, operating design capacity, and method of operation of the source, including a description of intended controls and monitoring procedures. Such technical information shall include estimation of emissions prior to and after installation of emission control equipment or adoption of control measures, calculations of emission estimates in sufficient detail to allow assessment of the validity of the calculations, and documentation of methods or sources of information used in these determinations.

Emissions of toxic air pollutants shall be speciated to identify each toxic air pollutant emitted from each emission point at the source and to identify fugitive emissions of toxic air pollutants.

3. Each application for a permit to modify an existing major source facility shall include, in addition to the information required in Paragraph B.2 of this Section, the following information:

a. - b.

c. calculations of estimates of emissions before and after the changes are completed, in sufficient detail to allow assessment of the validity of the calculations;

d. for sources that have been operating in Louisiana for a period of at least five years, a listing of all outstanding violations of Louisiana air quality laws or regulations for which the owner or operator is responsible, including all violations for which a compliance schedule has been established. Applicants under a compliance schedule shall also demonstrate that they have made satisfactory progress in meeting the conditions of the compliance schedule. Applicants shall also provide a listing of all administrative or judicial actions taken against the owner or operator within the last five years under Louisiana environmental laws or regulations, including emergency cease and desist orders, notices of violation, compliance orders, penalty notices, or other administrative orders and any administrative or judicial proceedings that could result in such actions, and any other compliance history information requested by the administrative authority;

e. for sources that have not been operating in Louisiana for at least five years, a listing of all enforcement actions taken against the owner or operator for violations of United States federal or state environmental laws or regulations, and any other compliance history information requested by the administrative authority.

4. Any application corresponding to a major source that emits or is permitted to emit any Class I or Class II toxic air pollutant shall include all federal standards (i.e., any standards promulgated by the US EPA in 40 CFR Part 63 or in accordance with Sections 111(d) and 129 of the Clean Air Act) applicable to units being permitted.

5. The department may request a dispersion modeling report developed by the owner or operator in accordance with the department's air toxics modeling procedures.

6. The owner or operator shall provide such other pertinent information as may be necessary for a complete understanding of the application which is being reviewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:891 (July 1993), repromulgated LR 19:1314 (October 1993), amended LR 23:59 (January 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2461 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2447 (October 2005), LR 32:

§5112. Tables—51.1, 51.2, 51.3

Table 51.1 – Explanatory Note [12]. ...

Table 51.2 Louisiana Toxic Air Pollutant Ambient Air Standards				
Compounds	CAS Number	Class	Ambient Air Standard	
			(µg/m ³ *) (8 Hour Avg.)	(µg/m ³ **) (Annual Avg.)
Acetaldehyde	75-07-0	II		45.50
Acetonitrile	75-05-8	II	810.00	
Acrolein	107-02-8	II	5.40	
Acrylamide	79-06-1	II		0.08
Acrylic acid	79-10-7	III	140.00	
Acrylonitrile	107-13-1	I		1.47
Allyl chloride	107-05-1	II	71.40	
Ammonia [11]	7664-41-7	III	640.00	
Aniline	62-53-3	II	181.00	
Antimony (and compounds) [1]	7440-36-0	II	11.90	
Arsenic (and compounds) [1] [13]	7440-38-2	I		0.02
Asbestos (friable)	1332-21-4	I		†
Barium (and compounds) [1]	7440-39-3	II	11.90	
Benzene	71-43-2	I		12.00
Beryllium (and compounds)[1]	7440-41-7	I		0.04
Biphenyl	92-52-4	II	23.80	
Bis (2-chloroethyl) ether	111-44-4	I		0.30
1,3-Butadiene	106-99-0	II		0.92
n-Butyl alcohol	71-36-3	III	3,620.00	
Cadmium (and compounds) [1]	7440-43-9	I		0.06
Carbon disulfide	75-15-0	II	71.40	
Carbon tetrachloride	56-23-5	II		6.67
Carbonyl sulfide	463-58-1	III	582.00	
Chlorinated dibenzo-p-dioxins [2]	3268-87-9	II		.003
Chlorinated dibenzo furans [3]	51207-31-9	II		.003
Chlorine	7782-50-5	III	35.7	
Chlorine dioxide	10049-04-4	II	6.67	
Chlorobenzene	108-90-7	II	1,100.00	
Chloroethane	75-00-3	II	6,290.00	
Chloroform	67-66-3	II		4.30
Chloromethane	74-87-3	II		55.56
Chloroprene	126-99-8	II	857.00	
Chromium VI (and compounds) [1][13]	7440-47-3	I		0.01
Copper (and compounds) [1]	7440-50-8	II	23.80	
Cresol [4]	1319-77-3	III	238.00	
Cumene	98-82-8	III	5,860.00	
Diaminotoluene	25376-45-8	II	181.00	
1,2-Dibromoethane	106-93-4	I		0.45
Dibutyl phthalate	84-74-2	II	119.00	
1,4-Dichlorobenzene	106-46-7	II	1,430.00	
1,2-Dichloroethane	107-06-2	II		3.85
Dichloromethane	75-09-2	II		212.77
1,2-Dichloropropane	78-87-5	II	8,260.00	
1,3-Dichloropropylene	542-75-6	II	107.00	
2,4-Dinitrotoluene [5]	121-14-2	II	4.76	
2,6-Dinitrotoluene [5]	606-20-2	II	4.76	
1,4-Dioxane	123-91-1	II	2,140.00	
Epichlorohydrin	106-89-8	I		83.00
Ethyl acrylate	140-88-5	II	476.00	
Ethyl benzene	100-41-4	II	10,300.00	
Ethylene glycol	107-21-1	III	2,380.00	
Ethylene oxide	75-21-8	I		1.00
Formaldehyde	50-00-0	I		7.69
Glycol ethers [6]	109-86-4	II	571.00	
Hexachloro-1,3-butadiene	87-68-3	II		4.55
Hexachlorobenzene	118-74-1	II		0.20
Hexachloroethane	67-72-1	II		25.00
n-Hexane	110-54-3	III	4,190.00	
Hydrazine	302-01-2	II		0.02
Hydrochloric acid	7647-01-0	III	180.00	
Hydrogen cyanide	74-90-8	III	260.00	
Hydrogen fluoride	7664-39-3	III	61.90	
Hydrogen sulfide	7783-06-4	III	330.00	

Compounds	CAS Number	Class	Ambient Air Standard	
			($\mu\text{g}/\text{m}^3$ *) (8 Hour Avg.)	($\mu\text{g}/\text{m}^3$ **) (Annual Avg.)
Maleic anhydride	108-31-6	III	23.80	
Manganese (and compounds) [1]	7439-96-5	II	4.76	
Mercury (and compounds) [1]	7439-97-6	II	1.19	
Methanol	67-56-1	III	6,240.00	
Methyl ethyl ketone	78-93-3	III	14,000.00	
Methyl isobutyl ketone	108-10-1	III	4,880.00	
Methyl methacrylate	80-62-6	III	9,760.00	
Naphthalene (and Methyl-naphthalenes) [12]	91-20-3	II	1,190.00	
Nickel (and compounds) [1]	7440-02-0	I		0.21
Nickel (refinery dust) [1]	7440-02-0	I		0.42
Nitric acid	7697-37-2	III	120.00	
Nitrobenzene	98-95-3	II	119.00	
2-Nitropropane	79-46-9	II		20.00
Phenol	108-95-2	II	452.00	
Phosgene	75-44-5	III	9.50	
Phthalic anhydride	85-44-9	III	145.00	
Polynuclear aromatic hydrocarbons [7]	206-44-0	II		0.06
Propionaldehyde	123-38-6	III	4,290.00	
Propylene oxide	75-56-9	I		27.00
Pyridine	110-86-1	III	381.00	
Selenium (and compounds) [1]	7782-49-2	II	4.76	
Styrene	100-42-5	II	5,070.00	
Sulfuric acid	7664-93-9	III	23.80	
1,1,2,2-Tetrachloroethane	79-34-5	II		1.70
Tetrachloro ethylene	127-18-4	II		105.26
Toluene	108-88-3	III	8,900.00	
Toluene-2,4-diisocyanate [8]	584-84-9	II	0.86	
Toluene-2,6-diisocyanate [8]	91-08-7	II	0.86	
1,1,1-Trichloroethane	71-55-6	III	45,200.00	
1,1,2-Trichloroethane	79-00-5	II		6.25
Trichloroethylene	79-01-6	II		58.80
Vinyl acetate	108-05-4	III	830.00	
Vinyl chloride	75-01-4	I		1.19
Vinylidene chloride	75-35-4	II		2.00
Xylene (mixed isomers) [9]	1330-20-7	II	10,300.00	
Zinc (and compounds) [1][10][13]	7440-66-6	III	119.00	

Explanatory Notes:

* - [11]. ...

[12] Includes the following compounds: Naphthalene (CAS Number 91-20-3), Methyl-naphthalene (CAS Number 1321-94-4), 1-Methyl-naphthalene (CAS Number 90-12-0), 2-Methyl-naphthalene (CAS Number 91-57-6).

[13] Zinc chromates and zinc arsenates are Class I TAPs regulated as carcinogens under Chromium VI (and compounds) and arsenic (and compounds) TAP categories.

Table 51.3 – Explanatory Note [4]. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1331 (December 1995), amended LR 22:278 (April 1996), LR 24:1277 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1237 (July 1999), LR 26:2004 (September 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Herman Robinson, CPM
Executive Counsel

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Department of Environmental Quality Office of the Secretary Legal Affairs Division

St. Mary Parish Ozone Maintenance Plan

Under the authority of the Louisiana Environmental Quality Act, R. S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Assessment, Plan Development Section, is proposing a revision to the Air Quality State Implementation Plan (SIP) for St. Mary Parish. This SIP revision is mandated under Section 110(a)(1) of the 1990 Clean Air Act Amendments (CAAA).

According to the Phase 1 8-Hour Implementation Rule published April 30, 2004 (69 FR 23951), a revision to the SIP is required for areas that are designated attainment for the 8-hour ozone National Ambient Air Quality Standards (NAAQS) and were designated attainment for the 1-hour ozone NAAQS with an approved maintenance plan. The

Section 110(a)(1) maintenance plan for St. Mary Parish must be submitted to the Environmental Protection Agency not later than June 15, 2007.

A public hearing will be held at 1:30 pm on July 25, 2006, in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA. Should individuals with a disability need an accommodation in order to participate, please contact Vivian H. Aucoin at (225) 219-3575 or at the address listed below. Interested persons are invited to attend and submit oral comments on the proposal.

All interested persons are invited to submit written comments concerning the SIP no later than 4:30 p.m., August 1, 2006, to Vivian H. Aucoin, Office of Environmental Assessment, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to vivian.aucoin@la.gov.

A copy of the SIP revision for St. Mary Parish may be viewed from 8 a.m. to 4:30 p.m. in the DEQ Public Records Center, Room 127, 602 N. Fifth Street, Baton Rouge, LA or at the Acadiana Regional Office, located at 111 New Center Drive, Lafayette, LA 70508. The document is available on the Internet at www.deq.louisiana.gov/portal/Default.aspx?tabid=2381.

Herman Robinson, CPM
Executive Counsel

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Department of Health and Hospitals Office of Public Health

2005 Louisiana Annual Beach Report

The Louisiana Office of Public Health (OPH) is requesting written comments from the public on the agency's *2005 Louisiana Annual Beach Report*, to continue developing a monitoring program for marine beach environments in Louisiana through the U.S. Environmental Protection Agency's Beach Environmental Assessment and Coastal Health Act of 2000.

The OPH will continue the monitoring and public notification program for Louisiana's coastal recreation waters with a grant provided through the Beaches Environmental Assessment and Coastal Health Act 2000 (BEACH Act) for the purpose of protecting public health at Louisiana's beaches. The BEACH Act requires that coastal states adopt water quality standards that EPA has chosen for coastal recreation waters, and to notify the public if water quality standards for pathogen indicators are exceeded.

Under the Beach Act, Louisiana is required to identify coastal recreation waters in the state; identify bathing beaches adjacent to coastal recreation waters; evaluate and rank beaches; develop a sampling, monitoring and notification program; develop a method for issuing beach advisories and develop a method of public notification.

The *2005 Louisiana Annual Beach Report* provides monitoring and notification results for 2005 and describes how beaches considered for monitoring under the program during 2006 were assigned to a monitoring tier, which determines where, when and how monitoring and public notification will take place. The *2005 Louisiana Annual Beach Report* can be viewed at the following locations:

Office of Public Health, Center for Environmental
Health Services, Room 243
6867 Bluebonnet Blvd., Baton Rouge, LA., 70810

The Louisiana Beach Monitoring Program website at:
<http://www.dhh.louisiana.gov/offices/?ID=207> or
www.ophbeachmonitoring.com

All interested persons are encouraged to submit written comments by July 30, 2006 to:

Jonathan Burbank
Office of Public Health
6867 Bluebonnet Blvd., Box 16
Baton Rouge, LA 70810
FAX (225) 763-3553
E-mail: jburbank@dhh.state.gov

If you have any questions please contact Jonathan Burbank at (225) 763-3547.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0606#063

POTPOURRI

Department of Health and Hospitals Office of Public Health

Maternal and Child Health Section

The Department of Health and Hospitals (DHH) intends to apply for Maternal and Child (MCH) Block Grant Federal Funding for FY 2006-2007 in accordance with Public Law 97-35 and the Omnibus Budget Reconciliation Act of 1981. The Office of Public Health, Maternal and Child Health Section, is responsible for program administration of the grant.

The Block Grant Application describes in detail the goals and planned activities of the State Maternal and Child Health Program for the next year. Program priorities are based on the results of a statewide needs assessment conducted in 2005, which is updated annually based on relevant data collection.

Interested persons may request copies of the application from:

State of Louisiana
DHH—Office of Public Health
Maternal and Child Health Section
P.O. Box 60630
New Orleans, LA 70160

Or view a summary of the application at:

<http://www.dhh.louisiana.gov/offices/publications.asp?ID=267&Detail=1065>

Additional information may be gathered by contacting Elizabeth Black at (504) 219-4573.

Frederick Cerise, M.D., M.P.H.
Secretary

0606#001

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
S.W. Gas & Elec. Co.	Wildcat-No LA Shreveport District	S	McCormick	135	008578
Joseph M. Rault, Jr., Inc.	Kenilworth	L	R Robinson Leon	001	087092
Eddie Mayo	Eola	M	Haas Inv Co	003	22144
Eddie Mayo	Eola	M	Haas Inv Co	008	23404
Eddie Mayo	Eola	M	Haas Inv Co SWD	011	23834
Eddie Mayo	Eola	M	Haas Inv Co	013	24313
Eddie Mayo	Eola	M	Haas Inv Co	014	26324
Eddie Mayo	Summerville	M	Louisiana Central SWD	001	150235
Eddie Mayo	Summerville	M	WX G RA Suf:LA Central	A-1	176288
Eddie Mayo	Summerville	M	LA Cent O&G	002	215008
Energy Exploration Company	Tew Lake	M	Finley-Trichell	1	198579
Roland S Bond et al	Ebarb School	S	International Paper Co	1	122601
Lynal, Inc. LGS Expl.	Kenilworth	L	Anthony Leon	001	151817
Chris Boudreaux	Rousseau	L	Chris Boudreaux	1	990452
Robert Boudreaux	Wildcat	L	Robert Boudreaux	1	990453

James H. Welsh
Commissioner

0606#038

CUMULATIVE INDEX
(Volume 32, Number 6)

Pages	2006	Issue
1 – 186.....		January
187 – 350.....		February
351 – 518.....		March
519 – 727.....		April
728 – 934.....		May
935 – 1172.....		June
<p>EO—Executive Order PPM—Policy and Procedure Memoranda ER—Emergency Rule R—Rule N—Notice of Intent CR—Committee Report GR—Governor's Report L—Legislation P—Potpourri</p>		

ADMINISTRATIVE CODE UPDATE

Cumulative

January 2005—December 2005, 174
 January 2006—March 2006, 718

AGRICULTURE AND FORESTRY

Agriculture and Environmental Sciences, Office of

Advisory Commission on Pesticides

Aerial applications of 2,4-D, 525ER, 942ER
 Antimicrobial pest control, 7ER
 Commercial applications, 127N, 730ER, 794R, 1011R
 Fixed wing aircraft, 730ER, 942ER

Pesticides and Environmental Programs, Division of

Imposition of quarantine for Hurricanes Katrina and Rita, 178P

Commissioner, Office of the

Chloramphenicol
 in crabs and crabmeat, 7ER 732ER
 in honey, 10ER, 735ER
 in shrimp and crawfish, 13ER, 737ER

Fluid milk products, 944ER

Fluoroquinolones in seafood, 526ER

Meat and poultry inspections, 128N, 267N, 1011R

Soil and Water Commission

Master Farmer Certification Program, 129N, 794R

Forestry, Office of

Forest landowner assistance, 271N

Timber stumpage values, 178P

Horticulture Commission

Landscape architect

Continuing education, 339P

Registration exam, 178P, 339P

Licenses, 78R, 131N, 1010R

Quarantine listing, 719P

Retail floristry examination, 178P, 925P

Structural Pest Control Commission

Approved termiticides/manufacturers, 339P, 509P, 925P

Termite control licensing, 133N, 796R, 1015R

CIVIL SERVICE

Civil Service Commission

Furlough, 193ER, 272N

Overtime earned hour for hour, 272N

ECONOMIC DEVELOPMENT

Secretary, Office of the

Angel Investor Tax Program, 229R, 945ER, 1072N

Capital Companies Tax Credit Program, 16ER

Small Entrepreneurship Certification Program, 229R

EDUCATION

Elementary and Secondary Education, Board of

Bulletin 111

Accountability, 273N, 543R, 649N, 1017R

Bulletin 115

Trade and industrial education content standards framework—drafting, electricity, heating, ventilating, air conditioning and refrigeration, 555R

Bulletin 118

Statewide assessment, 232R, 390R

Bulletin 121

Students Teaching and Reaching (STAR)

Content Standards, 135N, 797R

Bulletin 122

Trade and Industrial Education Curricula, 443N

Bulletin 741

Compulsory attendance, 545R, 1029R

Curriculum and instruction, 240R, 286N, 652N

Louisiana Educational Leaders Induction

Program, 655N

Bulletin 741 - Nonpublic

Initial classification and instructional staff, 654N

Bulletin 746

Chapters 1-10, adoption of Bulletin 746, 1074N

Educational leader certification policy, 547R

Out of state certification policy, 548R

Practitioner teacher program policy, 549R

PRAXIS/NTE scores, 552R, 1125N, 1128N

Special education, 1131N

Bulletin 1196

Louisiana Food and Nutrition Programs

Operation policies, 139N, 656N, 801R

Bulletin 1794

State Textbook Adoption Policy, 287N, 1030R

Bulletin 1922

Compliance monitoring procedures, 1133N

Bulletin 1934

Starting Points Preschool Regulations, 463N

Bulletin 1943

Policies/Procedures for Louisiana Teacher

Assistance and Assessment, 391R

Re-employment within state retirement systems, 671N

EDUCATION (continued)

Regents, Board of

Insurance; surety bonds, 386R

Student Financial Assistance Commission

Student Financial Assistance, Office of

Bylaws, 391R

Scholarship Grants Program, 946ER

LEAP, 949ER

Tuition Trust Authority

Start Savings Program, 672N, 741ER, 869N, 949ER

Bylaws, 392R

Interest rate, 358ER

ENVIRONMENTAL QUALITY

Secretary, Office of the

Legal Affairs Division

2005 Incorporation by reference, 603R, 808R

Acid Rain Program IBR, 1138N

Air permits, 926P

BART eligible sources, 509P

Baton Rouge ozone nonattainment area, 871N

Baton Rouge eight hour ozone nonattainment area, 721P, 926P

Beauregard parish ozone maintenance plan, 721P, 926P

CAFO permits compliance deadline extension, 364ER, 469N, 818R

CAIR SO₂ Trading Program, 1140N

Chemical woodpulping industry emission control, 1134N

Clean air

interstate rule, 179P

mercury rule, 869N

Compatibility/health/safety, 464N, 810R

Cote Gelee Wetland, 295N, 817R

Crude oil/natural gas production facilities, 1136N

DMR completion, 468N

Emissions

Estimation methods, new/revised, 17ER, 749ER

Units exemptions, 1137

Expedited penalty agreement, 358ER, 528ER, 742ER

Financial assurance correction, 366ER, 470N, 819R

Grant Parish ozone maintenance plan, 1158P

Hazardous waste recyclable materials, 605R

Inspection maintenance/state implementation plan for Baton Rouge, 511P

Laboratory accreditation exemption for analyses of target volatile organic compounds, 367ER

Luling Wetland, 297N, 815R

Permit(s)

Public notice requirements, 1142N

Version of, 1135N

Pretreatment streamlining, 673N, 1032R

RCRA XV package, 471N, 821R

Remediation of sites with contaminated media, 534ER

Sewage sludge regulatory management, 18ER, 749ER, 955ER

South Slough Wetland, 299N, 816R

St. Mary Parish ozone maintenance plan, 1164P

Toxic Air Pollutant Program, 1158P

Underground storage tanks, 393R

Legal Services Division

2005 Incorporation by reference, 290N

Air quality, 292N

Clean air interstate rule program, 340P

Cote Gelee Wetland, 295N

Eight hour ambient ozone standard, 193ER, 950ER

Emissions

Estimation methods, new/revised, 17ER

Inventory, 241R

Hazardous waste recyclable materials, 300N

Luling Wetland, 297N

New source review nonattainment, 193ER

Sewage sludge regulatory management, 18ER

SIP general revisions, 340P

South Slough Wetland, 299N

EXECUTIVE ORDERS

KBB 05-95—Emergency Procedures for Conducting State Business for the Louisiana Superdome, 1EO

KBB 05-96—Delay of the Qualifying Period and the February 4, 2006 and March 4, 2006 Elections in the Parish of Orleans, 2EO

KBB 05-97—Bond Allocation-Louisiana Public Facilities Authority, 2EO

KBB 05-98—Suspension of Certain Residency Requirements for Certain Boards, 3EO

KBB 05-99—Emergency Suspension of In-State Licensure Laws for Out-of-State Towing Operators—Extends Executive Order No. KBB 05-60, 3EO

KBB 05-100—Emergency Suspension of Certain Workers' Compensation Laws—Extends Executive Order No. KBB 05-52, 4EO

KBB 05-101—2005 Carry-Forward Bond Allocation—Louisiana Housing Finance Agency Multi-Family Mortgage Revenue Bond Program, 4EO

KBB 05-102—2005 Carry-Forward Bond Allocation—Louisiana Public Facilities Authority—Student Loan Revenue Bonds, 5EO

KBB 06-01—Emergency Procedures for Repairing, Renovating, or Replacing State Owned Buildings Damaged by Hurricane Katrina or Rita, 187EO

KBB 06-02—Rescheduling the Qualifying, Proposition, Primary, and General Elections in the Parish of Orleans, 187EO

KBB 06-03—Rescheduling Primary Elections and General Elections in the Parish of Jefferson, 188EO

KBB 06-04—Statewide Interoperable Communication System Executive Committee, 189EO

KBB 06-05—Declaration of Public Health Emergency for Control and Disposition of Human Remains, 190EO

KBB 06-06—Commadeering Property for Repair of the 17th Street Canal, 191EO

KBB 06-07—Urban Search and Rescue Commission Amends Executive Order No. KBB 05-05, 351EO

KBB 06-08—Louisiana Rebirth Panel, 351EO

KBB 06-09—Gulf Opportunity Zone Bond Allocation Procedures, 352EO

EXECUTIVE ORDERS (continued)

- KBB 06-10—Emergency Suspension of Certain Workers' Compensation Laws—Extends Executive Order No. KBB 05-52, 356EO
- KBB 06-11—Louisiana Stadium and Exposition District Authorization for Series 2006 Bonds, 356EO
- KBB 06-12—Emergency Filing Procedures for Notary Bonds, 519EO
- KBB 06-13—Emergency Suspension of Time Limits for Municipal Civil Service Employee Testing for Firefighters and Police Officers, 519EO
- KBB 06-14—Temporary Housing of Displaced Inmates Amends Executive Order No. KBB 05-59, 520EO
- KBB 06-15—Gulf Opportunity Zone Advance Refunding Bond Allocation—Louisiana Stadium and Exposition District, 521EO
- KBB 06-16—Royal Street Project Advisory Board Rescinds Executive Order No. KBB 04-26, 521EO
- KBB 06-17—Statewide Interoperable Communication System Executive Committee—Rescinds KKB 06-04, 521EO
- KBB 06-18—Bond Allocation—The Finance Authority of New Orleans, 523EO
- KBB 06-19—DOTD Guidelines for Vehicles, Trucks, and Loads, 524EO
- KBB 06-19—DOTD Guidelines for Vehicles, Trucks, and Loads—Amends Executive Order No. KBB 06-19, 728EO
- KBB 06-21—Bond Allocation—Hammond-Tangipahoa Home Mortgage Authority, 728EO
- KBB 06-22—Emergency Procedures for Conducting State Business, 935EO
- KBB 06-23—Urban Search and Rescue Commission Amends Executive Order No. KBB 05-5, 936EO
- KBB 06-24—Statewide Interoperable Communication System Executive Committee Amends Executive Order No. KBB 06-17, 936EO

GOVERNOR

- Administration, Division of**
- Architectural Examiners, Board of**
Associate, 83R
- Certified Shorthand Reporters, Board of Examiners of**
Certificate renewal emergency extension, 368ER
- Commissioner, Office of**
Small entrepreneurship/Hudson initiative, 196ER, 485N, 1044R
- Cosmetology, Board of**
Examination of applicants/transfer students, 146N, 834R
Student hours, uniforms, equipment, permits and licenses, 147N, 834R
- Facility Planning and Control, Office of**
Capital improvements projects, 876N
Demolition of state owned buildings, 978ER, 1143N
- Risk Management, Office of**
Claims, reporting of, 878N
- State Lands, Office of**
Immovable property, 612R
- State Travel, Office of**
General Travel PPM 49, 938PPM

- Uniform Payroll, Office of**
Payroll deduction, 84R
- Boxing and Wrestling Commission**
Contestant definition, 242R
HIV testing, 242R
- Crime Victims Reparations Board**
Victim compensation, 242R
- Financial Institutions, Office of**
Louisiana Community Development Financial Institution Program, 200ER, 310N, 837R
- Homeland Security, Office of**
Evacuation due to hurricanes, 978ER
- Indigent Defense Assistance Board**
Funding for indigents, 309N, 836R
- Law Enforcement and Administration of Criminal Justice, Commission on**
Peace officer training, 308N, 483N, 833R, 1043R
Subgrant guidelines, 78R
- Manufactured Housing Commission**
Definitions, 535ER
- Motor Vehicle Commission**
Display showroom requirement, 536ER
- Oil Spill Coordinator's Office**
Final damage and restoration plan/ environmental assessment, 511P
Restoration planning Jefferson Parish, 343P
- Patient's Compensation Fund Oversight Board**
Qualified health care provider services, 208ER
- Pilotage Fee Commission**
Rules of practice and procedure, 614R
- Real Estate Commission**
Reorganization, 888N
- Recreational and Used Motor Vehicle Commission**
Adjudications, 685N
- River Port Pilot Commissioners, Board of**
Calcasieu River Waterway
Pilot apprentice applicant, pilotage certification, charges and fees, 684N
- Tax Appeals, Board of**
Filing fee schedule, 1143N

HEALTH AND HOSPITALS

- Chiropractic Examiners, Board of**
Peer Review Committee, 149N
- Dentistry, Board of**
General provisions, 243R
Licensure for dental healthcare providers, 35ER, 489N
- Hearing Aid Dealers, Board for**
Conduct and licensing, 1048R
- Medical Examiners, Board of**
Acupuncturists' assistants, temporary permit, 980ER
- Nursing, Board of**
Anesthetic agents, administration of, 245R
Clinical facilities, 311N
Registered nurses, advanced practice, 246R
- Optometry Examiners, Board of**
Optometry regulations, 629R
- Pharmacy, Board of**
Pharmacy interns, practical experience, 636R
Pharmacy technicians/scope of practice, 1049R

HEALTH AND HOSPITALS (continued)

Practical Nurse Examiners, Board of

Temporary permits, 153N, 636R

Psychologists, Board of Examiners of

Certificate of prescriptive authority, 688N

Change of address, 688N

Continuing education, 689N

Secretary, Office of the

Citizens with Developmental Disabilities, Office of

Home/Community Based Waiver Program

New opportunities waiver, 217ER, 218ER

Single point of entry in the system, 691N

Supports waiver, 997ER, 1144N

Targeted case management, 1001ER, 1148N

Termination of services for displaced recipients,
537ER

Health Services Financing, Bureau of

Administration, 846R

Adult dentures, 369ER

CommunityCARE Program, 404R

Dental services for pregnant women, expanded,
38ER, 372ER

Direct service worker registry, 696

Durable Medical Equipment Program

Reimbursement, 36ER, 369ER

Early and Periodic Screening, Diagnosis
and Treatment Program

Dental services reimbursement, 37ER, 370ER

Durable medical equipment reimbursement,
37ER, 370ER

Eligibility

Medicaid loans/mortgages/promissory notes,
216ER, 702N, 992ER

Facility Need Review, 39ER, 312N, 845R

Family planning waiver, 983ER

Hemodialysis centers, 373ER

Home health agencies emergency preparedness,
40ER, 312N, 846R

Home Health Program

Nursing services, extended, 406R

Reimbursement restoration, 373ER

Hospice, 374ER

Hospital(s)

Inpatient

Disproportionate share hospital, 210ER, 984ER

Private

Hospitals, reimbursement, 41ER, 375ER

Psychiatric services reimbursement, 41ER,
375ER

State hospitals, 247R

Laboratory and X-Ray, 376ER

Licensing standards, 905N

Louisiana hurricane relief waiver, 377ER

Outpatient

Private hospitals, 56ER, 380ER

ICF-MR (Intermediate Care Facility-Mentally

Retarded)

Emergency preparedness

Community homes licensing, 42ER, 314N, 768ER

Group homes licensing, 44ER, 315N, 770ER

Residential homes licensing, 46ER, 317N, 771ER

Private facilities reimbursement, 45ER, 376ER

Hurricane relief waiver, 989ER

Medical assistance, pharmacy, 1052R

Medical Transportation Program

Emergency ambulance services, 371ER

Non-emergency ambulance services, 372ER

Mental Health Rehabilitation Program, 47ER,
379ER, 773ER

Nursing Facilities

Minimum licensing standards, 494N, 1067R

Emergency preparedness, 54ER, 319N,
780ER, 992ER

Private, reimbursement, 56ER, 380ER

Pharmacy Benefits Management Program

Antihemophilia drugs, 247R

Erectile dysfunction drugs, 217ER, 703N,
994ER

Professional Services Program

Anesthesia services, 57ER, 381ER

Physician services

Reimbursement, 58ER, 381ER

Supplemental pay, 382ER, 1068R

Skilled nursing, extended/multiple daily, 406R

Targeted case management, 59ER, 383ER

Third party liability

Insurance carriers data match, 60ER, 321N,
537ER, 849R

Waivers/Family planning, 322N, 767ER, 904N

Long Term Supports and Services, Division of

Home/Community Based Waiver Program

Elderly and disabled adults waiver, 704N, 995ER

Nursing facilities level of care payment, 707N

Termination of services for displaced recipients,
537ER

Organ procurement agency coordination, 403R

Primary Care and Rural Health, Bureau of

Medicare Rural Hospital Flexibility Program

Critical access hospitals, 99R

Public Health, Office of

Beach report, 2005 Louisiana annual, 1165P

Maternal and child health, 1165P

Infectious Disease Epidemiology Program,
490N, 1049R

Neonatal screening, 248R

Tuberculosis Control Program, 98R

Veterinary Medicine, Board of

Fee schedule, 181P

Veterinary practice, 982ER

Wholesale Drug Distributors, Board of

Wholesale drug distributors, 394R

INSURANCE

Commissioner, Office of the

Hurricane Damage

Insurance

Residential claims/Rule 22, 60ER, 781ER

Residential/Commercial right to
cancel/nonrenew/Rule 23, 65ER, 785ER

Medicare supplement/Insurance minimum standards

Regulation 33, 911N

Military personnel, 94R

JUSTICE

Attorney General, Office of the Public Protection Division

Database security breach, 219ER, 708N

LABOR

Worker's Compensation, Office of Worker's Compensation Second Injury Board

Settlements, requirements, computation of time,
92R

LEGISLATION

Senate

Senate Concurrent Resolution No. 42
Holly Beach sewerage requirements waiver,
924CR

NATURAL RESOURCES

Conservation, Office of

Orphaned oilfield sites, 181P, 512P, 721P, 927P, 1166P

Injection and Mining Division

Docket No. IMD 2006-01, 182P

Docket No. IMD 2006-02, 182P

Mineral Resources, Office of

Dry Hole Credit Program, 496N, 912N

Secretary, Office of the

Fisherman's Gear Compensation Fund
Loran coordinates, 183P, 512P, 927P

PUBLIC SAFETY AND CORRECTIONS

Correction Services, Office of

Adult inmates
Institution furloughs, non-medical, 249R
Visitation, 406R
Crime victims services, 324N, 849R
Louisiana Risk Review Panel, 710N, 1069R

Gaming Control Board

Devices, 711N
Video draw poker, 108R

Private Investigator Examiners, Board of

Fees, 708N
Scope of representation, 709N

State Fire Marshal, Office of

Emergency generators health care facilities, 109R

State Police, Office of

Applied Technology Unit

Analysis of breath
Intoxilyzer 5000 maintenance inspection,
68ER, 110R
Operator certification, 69ER, 109R
Motor carrier safety and hazardous materials, 641R
Towing, recovery, and storage, 159N, 853R

Youth Services/Youth Development, Office of

Correspondence and packages, 154N, 637R
Crimes committed on grounds, 101R
Equine health management, 712N
Freon recovery, 102R
Furlough process/escorted absence, 102R
Marriage requests, 107R
Probationary period, 918N
Research, 714N
Selective service registration, 108R
Tobacco free and no smoking policy, 157N, 640R

REVENUE

Charitable Gaming, Office of

Casino nights, 251R
Electronic video bingo, 255R, 1150N

Policy Services Division

Contractors
Health insurance credit, 219ER, 328N, 864R
Nonresident, 261R

Corporation

Definition, 260R
Franchise tax, 415R
Income tax, 260R

Disaster

Interest waiver/filing extensions, 260R
Relief credits, presidential, 69ER, 170N, 641R
Sales tax refund for tangible property, 262R
Federal gross income modifications, 261R
Fire fighting equipment purchased by volunteer
fire departments, 111R

Gross income segregation, 263R

Hotel services, taxable, 221ER, 328N, 865R

Louisiana apportionment percent determination,
421R

Natural gas severance tax rate, 722P, 1151N

Net allocable income computation, 409R

Oilfield site restoration fee, 715N

Payment of taxes demand, 111R

Retail sale, 111R

Retirement income exemption, 259R

Telephone Company Property Assessment

Relief Fund, 329N, 866R

Tax Commission

Ad valorem taxation, 425R
Timber stumpage values, 178P

SOCIAL SERVICES

Family Support, Office of

Child Care Assistance Program
Grants/job search, 222ER, 919N, 1002ER
Child support payments electronic disbursement,
541ER, 922N
FITAP
Redetermination interview waiver, 263R
FITAP/KCSP/STEP parenting skills, 788ER, 1004ER
Food Stamp Program/FITAP/KCSP, 383ER, 1006ER
Lump sum payments, 171N, 224ER, 645R
Interest and dividend income exclusion, 1152N
Kinship Care Subsidy Program
Redetermination interview waiver, 263R
Student eligibility requirements, 1152N
Support Enforcement Services Program
Child support electronic disbursement,
225ER, 442R

TANF initiatives

Abortion alternative, 1008ER
Caseload reduction report, 345P
Micro-Enterprise Development Program, 791ER
Temporary Emergency Disaster Assistance
Program, 72ER, 501N, 792ER
Third Party In-Kind Contributions, 791ER
Truancy assessment/service centers, 73ER, 264R
Workforce investment act, 1152N

SOCIAL SERVICES (continued)

Community Services, Office of

Child and family services plan, 927P
Developmental/Socialization Program, 644R
Legal fees in child protection cases, 112R
Louisiana Social Services block grant, 512P
Louisiana's Emergency Shelter Grants Program 2005
 anticipated funds availability, 344P
Neglect of newborn, 221ER
Residential facilities reimbursement, 645R

Licensing, Bureau of

After school enrichment program, 538ER

Management and Finance, Office of

Substance abuse, employee testing, 114R

TRANSPORTATION AND DEVELOPMENT

Engineering and Land Surveying Board

Practice, Certification, Exams, Experience, and
 Services, 1154N

Highways/Engineering, Office of

Outdoor advertising, control of, 117R

Weights and Standards, Office of

Oversize/overweight permits, 503N

TREASURY

Deferred Compensation Commission

Member election procedures, 118R
Public employees deferred compensation
 plan, 118R

Louisiana State Employees' Retirement System

Actuarial calculations, 265R
Certification of continuing eligibility, 265R

DROP Program

Interest, 504N, 1070R
Time for disbursement, 505N, 1070R
Emergency refunds, 172N, 716N
Hurricane emergency
 Employee contribution, 74ER
 Refund, 73ER
Self-Directed Plan, 505N, 792ER, 1070R

Teachers' Retirement System

Furlough credit, involuntary, 330N, 866R
Gulf Opportunity Zone Act DROP
 distributions, 225ER, 332N, 867R
Purchase of service credit, 74ER

WILDLIFE AND FISHERIES

Secretary, Office of

Reserve enforcement agents, 646R

Wildlife and Fisheries Commission

Abandoned crab traps, removal, 266R
General and WMA hunting, 332N
Hunting season public hearing schedule, 513P
King mackerel, 75ER
Oyster, 77ER, 226ER, 385ER
Quadrupeds and primates, possession of, 647R
Red snapper, 75ER
Reef fish, 76ER
Resident game hunting, 335N
Shrimp, 77ER, 226ER, 506N, 541ER, 793ER, 793ER
Spotted seatrout, 125R, 337N, 1071R