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Executive Orders

EXECUTIVE ORDER KBB 06-39

Bond Allocation—Louisiana Local Government
Environmental Facilities
and Community Development Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. KBB 2005-12 was issued to establish: (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2006 (hereafter “the 2006 Ceiling”); (2) the procedure for obtaining an allocation of bonds under the 2006 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Local Government Environmental Facilities and Community Development Authority has requested an allocation from the 2006 Ceiling to be used to finance the acquisition and rehabilitation of a cotton gin facility located in Lake Providence, parish of East Carroll, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE, I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2006 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$2,400,000.00	Louisiana Local Government Environmental Facilities and Community Development Authority	Hollybrook Enterprises, LLC

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

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2006, provided that such bonds are delivered to the initial purchasers thereof on or before December 26, 2006.

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

SECTION 5: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

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

Louisiana, at the Capitol, in the city of Baton Rouge, on this 27th day of September, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0610#061

EXECUTIVE ORDER KBB 06-40

Commandeering of Property Use—Lake Cataouatche
Levee Enlargement, Parish of Jefferson

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, respond to, or recover from emergencies and disasters, including those caused by fire, flood, earthquakes, or other natural or man-made causes;

WHEREAS, Proclamation No. 48 KBB 2005, issued on August 26, 2005, declared a state of emergency for the state of Louisiana due to Hurricane Katrina's potential to cause severe storms, high winds, and torrential rain that could cause flooding and damage to private property and public facilities, and threaten the safety and security of the citizens of Louisiana;

WHEREAS, Hurricane Katrina struck the state of Louisiana causing catastrophic flooding and damage to southeastern Louisiana, including breaches to the levee system in the parishes of southeastern Louisiana, the effects of which have threatened the safety, health, and security of the citizens of those parishes, along with private property and public facilities;

WHEREAS, Proclamation No. 48 KBB 2005 was extended by subsequent proclamations, the last of which is Proclamation No. 52 KBB 2006, due to the extreme damage caused by Hurricane Katrina and the continuation of emergency/disaster conditions in the most affected areas;

WHEREAS, pursuant to R.S. 29:724(D)(4), and subject to applicable requirements for compensation, the governor may commandeer or utilize any private property if she finds this necessary to cope with a disaster or emergency; and

WHEREAS, at the request of the U.S. Army Corps of Engineers, Jefferson Parish, the Department of Transportation and Development, and the West Jefferson Levee District, and upon the concurrence of the Attorney General's Office, the best interests of the citizens of the state would be served by commandeering the use of certain property in the parish of Jefferson for the construction of the West Bank and Vicinity, Hurricane Protection Project, Lake Cataouatche Levee Enlargement, Highway 90 to Lake Cataouatche Pump Station, B/L Sta., 156 + 48 to 308 + 00, as depicted in map file no. H-8-46509, drawings 1 through 3 of 3, dated September, 2006 (Exhibit A);

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: The state of Louisiana hereby commandeers the use of certain property located in the parish of Jefferson, state of Louisiana, situated in a portion of Section 69, Township 13 South, Range 22 East; and Sections 4, 5, 9, 10, and 44, Township 14 South, Range 22 East, containing 209.0 acres labeled "Perpetual Levee Borrow, and Drainage Ditch Easement" and 1.2 acres labeled "Perpetual Road Easement" in map file no. H-8-46509, drawings 1 through 3 of 3, dated September, 2006.

SECTION 2:

A. Said property shall be used by the U.S. Army Corps of Engineers and the West Jefferson Levee District for work that will entail the straddle enlargement of approximately three miles of levee which will include building a short access road, burning debris, filling in the existing drainage canal for stability purposes, cutting a new drainage canal by excavating borrow material for the new levee enlargement, hauling and placement of borrow material within the work site for future use, seeding, fertilizing and mulching of the new levee embarkment.

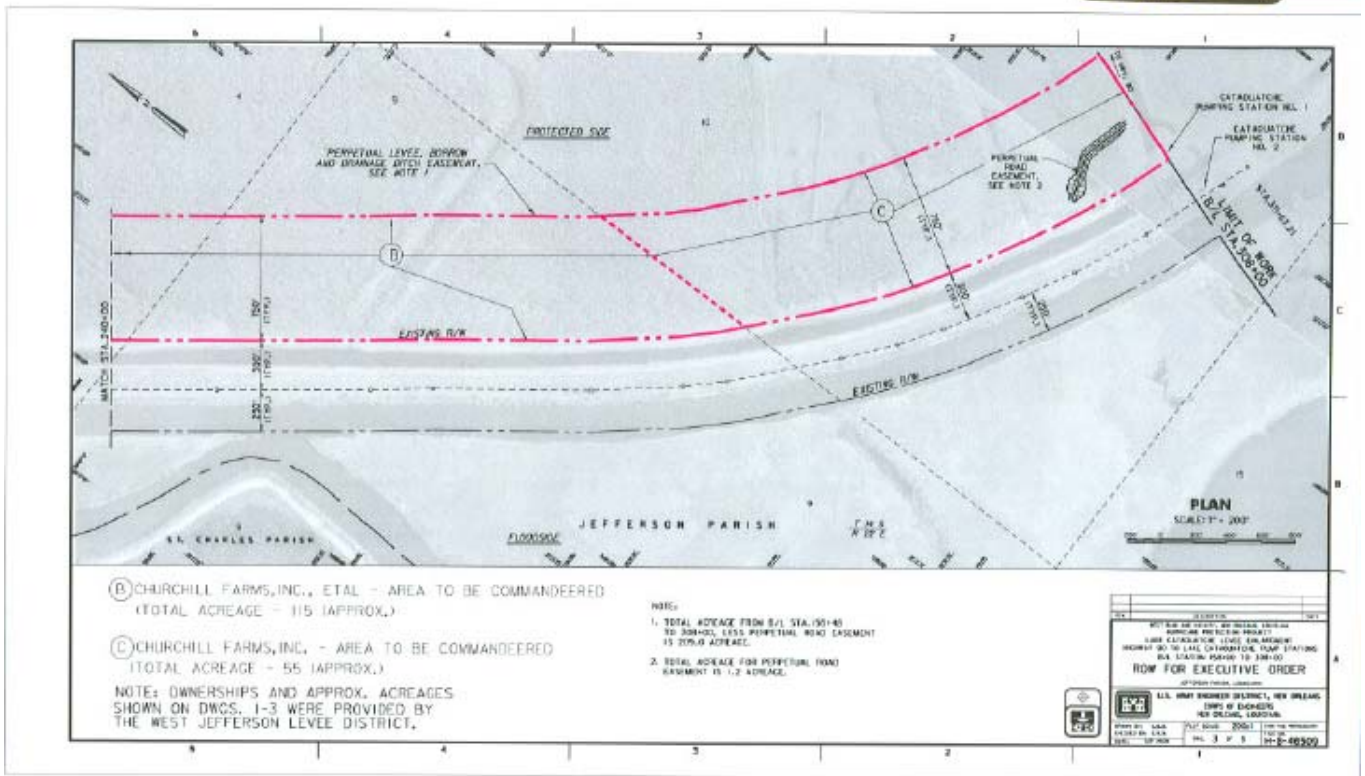
B. The project shall also include the right to construct, maintain, repair, operate, patrol and replace a drainage ditch and flood control levee, including all appurtenances thereto; the right to locate, construct, operate, maintain, alter, and replace a road and appurtenances thereto, (reserving, however, to the owners, their heirs and assigns, the right to cross over or under the right-of-access to their

adjoining land), the right to clear, borrow, excavate and remove soil, dirt and other materials, together with the right to trim, cut, and remove therefrom all trees, underbrush, obstructions and other vegetation, structures or obstacles; reserving, however, to the owners, their heirs and assigns, all such rights and privileges in said land as may be used without interfering with or abridging the rights hereby commandeered; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

SECTION 3: The state of Louisiana hereby commandeers the use of the property required by the Department of the Army as indicated on the attached map (Exhibit A). The use of said property is commandeered pursuant to R.S. 29:724(D)(4). Said owners of the property so commandeered shall be identified and compensated by the Department of Army. The Department of Army shall take all necessary steps to initiate the expropriation process without unnecessary delays upon the issuance of this Order.

SECTION 4: The Division of Administration, State Land Office, shall take immediate steps to grant the right of entry to the property commandeered for the above purposes pursuant to this Order to ensure completion of the project without delay and to provide necessary safeguards to the citizens of the parish of Jefferson prior to the 2007 Hurricane Season.

SECTION 5: 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 6th day of October, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0610#066

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Crabs and Crabmeat—Testing and Sale (LAC 7:XXXV.143 and 145)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of crab or crabmeat in Louisiana. This Emergency Rule is being adopted in accordance with R.S. 3:2A, 3:3B, R.S. 3:4608 and the emergency rule provisions of R.S. 49:953 B of the Administrative Procedure Act.

The commissioner has promulgated these rules and regulations to implement standards relating to Chloramphenicol in crab or crabmeat that are consistent with standards adopted by the FDA regarding Chloramphenicol in foods. All crab or crabmeat sold in Louisiana must meet the standards adopted by the commissioner herein, prior to distribution and sale.

Chloramphenicol is a broad-spectrum antibiotic that has been restricted by the FDA for use in humans only in those cases where other antibiotics have not been successful. The FDA has set a zero tolerance level for Chloramphenicol in food and has prohibited the extra label use of Chloramphenicol in the United States in food producing animals, (21 CFR 530.41).

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, Chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "Drugs in Pregnancy and Lactation," the use of Chloramphenicol is strongly dissuaded during pregnancy, especially late pregnancy. Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize Chloramphenicol as efficiently, thereby causing the risk of an increasing toxicity level in the unborn child. Although the effect on an infant as a result of nursing from a mother who has taken Chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

Recently, FDA, the states of Alabama and Louisiana have found Chloramphenicol in crab or crabmeat imported from other countries. The department has found Chloramphenicol in crab or crabmeat imported from Vietnam, Thailand and China. The possibility exists that other countries may export Chloramphenicol-contaminated crab or crabmeat to the U.S.A.

The sale of such imported crab or crabmeat in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to Chloramphenicol, a known health

hazard. The sale, in Louisiana, of crab or crabmeat containing Chloramphenicol presents an imminent peril to the public's health, safety and welfare. This peril can cause consumers to quit buying crab or crabmeat from any source, including Louisiana. If consumers cease to buy, or substantially reduce, their purchases of Louisiana crab or crabmeat then Louisiana's crab industry will be faced with substantial economic losses. Any economic losses suffered by Louisiana's crab industry will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

The Commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rule is necessary to immediately implement testing of crab or crabmeat for Chloramphenicol, to provide for the sale of crab or crabmeat and any products containing crab or crabmeat that are not contaminated with Chloramphenicol. This Rule becomes effective upon signature and will remain in effect 120 days, unless renewed by the commissioner or until permanent rules are promulgated.

This Rule become effective upon signature, September 21, 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 XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§143. Chloramphenicol in Crab and Crabmeat Prohibited; Testing and Sale of

A. Definitions

Crab—any such animals, whether whole, portioned, processed, shelled, and any product containing any crab or crabmeat.

Food Producing Animals—both animals that are produced or used for food and animals, such as seafood, that produce material used as food.

Geographic Area—a country, province, state, or territory or definable geographic region.

Packaged Crab—any crab or crabmeat, as defined herein, that is in a package, can, or other container, and which is intended to eventually be sold to the ultimate retail purchaser in the package, can or container.

B. No crab or crabmeat may be held, offered or exposed for sale, or sold in Louisiana if such crab or crabmeat contains Chloramphenicol.

C. No crab or crabmeat that is harvested from or produced, processed or packed in a geographic area, that the commissioner declares to be a location where Chloramphenicol is being used on or found in food producing animals or in products from such animals, may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E. No crab or crabmeat from any such geographic area may be used, as an ingredient in any food held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E.

D. The commissioner may declare a geographic area to be a location where Chloramphenicol is being used on or found in food producing animals or in products from such animals, based upon information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in that geographic area. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

1. The commissioner may release any such geographic area from a previous declaration that Chloramphenicol is being used on food producing animals in that location.

2. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

E. Crab or crabmeat that comes from a geographic area declared by the commissioner to be a location where Chloramphenicol is being used on, or is found in food producing animals or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana.

1. Sampling:

a. The numbers of samples that shall be taken are as follows.

i. Two samples are to be taken of crab or crabmeat that is in lots of 50 pounds or less.

ii. Four samples are to be taken of crab or crabmeat that is in lots of 51 to 100 pounds.

iii. Twelve samples are to be taken of crab or crabmeat that is in lots of 101 pounds up to 50 tons.

iv. Twelve samples for each 50 tons are to be taken of crab or crabmeat that is in lots of over 50 tons.

b. For packaged crab or crabmeat, each sample shall be at least 6 ounces, (170.1 grams), in size and shall be taken at random throughout each lot of crab or crabmeat. For all other crab or crabmeat, obtain approximately 1 pound, (454 grams), of crab or crabmeat per sample from randomly selected areas.

c. If the crab or crabmeat to be sampled consists of packages of crab or crabmeat grouped together, but labeled under two or more trade or brand names, then the crab or crabmeat packaged under each trade or brand name shall be sampled separately. If the crab or crabmeat to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

d. A composite of the samples shall not be made. Each sample shall be tested individually. Each sample shall be clearly identifiable as belonging to a specific group of crab or crabmeat. All samples shall be kept frozen and delivered to the lab.

2. Each sample shall be identified as follows:

a. any package label;

b. any lot or batch numbers;

c. the country, province and city of origin;

d. the name and address of the importing company;

e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation. For small packages of crab or crabmeat up to and including 1 pound, use the entire sample.

Shell the crabs, exercising care to exclude all shells from sample. Grind sample with food processor-type blender while semi-frozen or with dry ice. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer as a reserve.

4. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is one part per billion, (1 ppb) or less. Acceptable test kits include r-Iopharm Ridascreen Chloramphenicol Enzyme Immunoassay kit and the Charm II Chloramphenicol kit. The commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The manufacturer's specified calibration curve must be run with each set. All results 1 ppb or above must be assumed to be Chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States Department of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless the laboratory is located in any geographic area that the commissioner has declared to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for Chloramphenicol shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the department prior to the crab or crabmeat being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the crab or crabmeat.

8. Upon actual receipt by the department of a copy of the certified test results and written documentation required to accompany the certified test results then the crab or crabmeat may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment and be attached to the documentation submitted with every shipment of such crab or crabmeat sent to each location in

Louisiana or shall be immediately accessible to the department, upon request, from any such location.

F. Any person who is seeking to bring crab or crabmeat that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such crab or crabmeat in Louisiana shall be responsible for having such crab or crabmeat sampled and tested in accordance with Subsection E. Any such person must, at all times, be in full and complete compliance with all the provisions of this Section.

G. The commissioner may reject the test results for any crab or crabmeat if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

H. In the event that any certified test results are rejected by the commissioner then any person shipping or holding the crab or crabmeat will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, it will be the duty of any such person to abide by such order until the commissioner lifts the order in writing. Any such person may have the crab or crabmeat retested in accordance with this Section and apply for a lifting of the commissioner's order upon a showing that the provisions of this Section have been complied with and that the crab or crabmeat are certified as being free of Chloramphenicol.

I. The department may inspect, and take samples for testing, any crab or crabmeat, of whatever origin, being held, offered or exposed for sale, or sold in Louisiana.

J. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any crab or crabmeat that does not meet the requirements of this Section. Any such order shall remain in place until lifted in writing by the commissioner.

K. The department may take physical possession and control of any crab or crabmeat that violate the requirements of this Section if the commissioner finds that the crab or crabmeat presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

L. The commissioner declares that he has information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in the following geographic area(s).

1. The geographic area or areas are:

a. the countries of Vietnam, Thailand, Mexico, Malaysia and China.

2. All crab and crabmeat harvested from or produced, processed or packed in any of the above listed geographic areas are hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

M. All records and information regarding the distribution, purchase and sale of crabs or crabmeat or any food containing crab or crabmeat shall be maintained for two years and shall be open to inspection by the department.

N. Penalties for any violation of this Section shall be the same as and assessed in accordance with R.S. 3:4624.

O. The effective date of this Section is March 14, 2003.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 33:

§145. Labeling of Foreign Crab and Crabmeat by Country of Origin

A. Definitions.

Crab or Crabmeat—any crab or crabmeat, whether whole, portioned, processed or shelled and any product containing any crab or crabmeat.

Foreign Crab or Crabmeat—any crab or crabmeat, as defined herein that is harvested from or produced, processed or packed in a country other than the United States.

B. All foreign crab or crabmeat, imported, shipped or brought into Louisiana shall indicate the country of origin, except as otherwise provided in this Section.

C. Every package or container that contains foreign crab or crabmeat shall be marked or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of the package or container will permit so as to indicate to the ultimate retail purchaser of the crab or crabmeat with the English name of the country of origin.

1. Legibility must be such that the ultimate retail purchaser in the United States is able to find the marking or label easily and read it without strain.

2. Indelibility must be such that the wording will not fade, wash off or otherwise be obliterated by moisture, cold or other adverse factors that such crab or crabmeat are normally subjected to in storage and transportation.

3. Permanency must be such that, in any reasonably foreseeable circumstance, the marking or label shall remain on the container until it reaches the ultimate retail purchaser unless it is deliberately removed. The marking or label must be capable of surviving normal distribution and storing.

D. When foreign crab or crabmeat are combined with domestic crab or crabmeat, or products made from or containing domestic crab or crabmeat, the marking or label on the container or package or the sign included with any display shall clearly show the country of origin of the foreign crab or crabmeat.

E. In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, appear on any container or package containing foreign crab or crabmeat, or any sign advertising such foreign crab or crabmeat for sale, and those words, letters or names may mislead or deceive the ultimate retail purchaser as to the actual country of origin of the crab or crabmeat, then the name of the country of origin preceded by "made in," "product of," or other words of similar meaning shall appear on the marking, label or sign. The wording indicating that the crab or crabmeat is from a country other than the United States shall be placed in close proximity to the words, letters or name that indicates the crab or crabmeat is a product of the United States in a legible, indelible and permanent manner. No provision of this Section is intended to or is to be construed as authorizing the use of the words "United States," "American," or the letters "U.S.A.," or any variation of such words or letters, or the name of any state, city or location in the United States, if such use is deceptive, misleading or prohibited by other federal or state law.

F. Foreign crab or crabmeat shall not have to be marked or labeled with the country of origin if such crab or crabmeat is included as components in a product manufactured in the United States and the crab or crabmeat is substantially transformed in the manufacturing of the final product. But in no event shall thawing, freezing, packing, packaging, re-packing, re-packaging, adding water, portioning, shelling, processing, peeling, partially cooking or combining with domestic crab or crabmeat shall not be considered to be a substantial transformation.

G. The commissioner shall have all the powers granted to him by law, or in accordance with any cooperative endeavor with any other public agency, to enforce this Section, including the issuance of stop-sale, hold or removal orders and the seizing of crab or crabmeat mislabeled or misbranded as to the country of origin.

H. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 33:

Bob Odom
Commissioner

0610#016

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Honey—Testing and Sale (LAC 7:XXXV.141)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of honey in Louisiana. This Rule is being adopted in accordance with R.S. 3:2A, 3:3B, R.S. 3:4608 and the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act.

The commissioner has promulgated these rules and regulations to implement standards relating to Chloramphenicol in honey that are consistent with standards adopted by the FDA regarding Chloramphenicol in foods. All honey sold in Louisiana must meet the standards adopted by the commissioner, herein, prior to distribution and sale.

Chloramphenicol is a broad-spectrum antibiotic that has been restricted by the FDA for use in humans only in those cases where other antibiotics have not been successful. The FDA has set a zero tolerance level for Chloramphenicol in food and has prohibited the extra label use of Chloramphenicol in the United States in food producing animals, including bees (21 CFR 530.41).

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, Chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "Drugs in Pregnancy and Lactation," the use of Chloramphenicol is strongly dissuaded during pregnancy, especially late pregnancy.

Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize Chloramphenicol as efficiently, thereby causing the risk of an increasing toxicity level in the unborn child. Although the effect on an infant as a result of nursing from a mother who has taken Chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

Recently, Canada, the United Kingdom, the European Union, and Japan have found Chloramphenicol in honey imported from China. The department has found Chloramphenicol in honey imported from Thailand. Preliminary test results from Canada indicate about 80 percent of the samples are positive for Chloramphenicol. The possibility exists that other countries may export Chloramphenicol-contaminated honey to the U.S.A., either by diversion of Chinese honey or their own use of Chloramphenicol.

The sale of such honey in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to Chloramphenicol, a known health hazard. The sale, in Louisiana, of honey containing Chloramphenicol presents an imminent peril to the public's health, safety and welfare. This peril can cause consumers to quit buying honey from any source, including Louisiana honey. If consumers cease to buy, or substantially reduce, their purchases of Louisiana honey then Louisiana honey producers will be faced with substantial economic losses. Any economic losses suffered by Louisiana's honey producers will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

The Commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rule is necessary to immediately implement testing of honey for Chloramphenicol, to provide for the sale of honey and products containing honey that are not contaminated with Chloramphenicol. This Emergency Rule becomes effective upon signature, September 21, 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 XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§141. Chloramphenicol in Honey Prohibited; Testing and Sale of

A. Definitions

Food Producing Animal—both animals that are produced or used for food and animals, including bees, which produce material used as food.

Geographic Area—a country, province, state, or territory or definable geographic region.

Honey—any honey, whether raw or processed.

B. No honey or food containing honey may be held, offered or exposed for sale, or sold in Louisiana if such honey or food containing honey contains Chloramphenicol.

C. No honey that is harvested from or produced, processed or packed in a geographic area, that the commissioner declares to be a location where

Chloramphenicol is being used on or found in food producing animals, including bees, or in products from such animals, may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E. No honey from any such geographic area may be used, as an ingredient in any food held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E.

D. The commissioner may declare a geographic area to be a location where Chloramphenicol is being used on or found in food producing animals, including bees or in products from such animals, based upon information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in that geographic area.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The commissioner may release any such geographic area from a previous declaration that Chloramphenicol is being used on food producing animals, including bees, in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

E. Honey that comes from a geographic area declared by the commissioner to be a location where Chloramphenicol is being used on, or is found in food producing animals, including bees, or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana.

1. Sampling

a. The numbers of samples that shall be taken are as follows:

- i. two samples are to be taken of honey that is in lots of 50 pounds or less;
- ii. four samples are to be taken of honey that is in lots of 51 to 100 pounds;
- iii. twelve samples are to be taken of honey that is in lots of 101 pounds up to 50 tons.

b. For honey in bulk wholesale containers, each sample shall be at least 1 pound or 12 fluid ounces and must be pulled at random throughout each lot.

c. For packaged honey, each sample shall be at least 8 ounces in size and shall be taken at random throughout each lot.

d. If the honey to be sampled consists of packages of honey grouped together, but labeled under two or more trade or brand names, then the honey packaged under each trade or brand name shall be sampled separately. If the honey to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

e. A composite of the samples shall not be made. All samples shall be delivered to the lab. Each sample shall be clearly identifiable as belonging to a specific group of honey and shall be tested individually.

2. Each sample shall be identified as follows:

- a. any package label;
- b. any lot or batch numbers;
- c. the country, province and city of origin;

- d. the name and address of the importing company;
- e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation. For small packages of honey up to and including 8 ounces, use the entire sample. If honey sample includes more than one container, they shall be blended together. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample as a reserve.

4. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is one part per billion, (1 ppb) or less. Acceptable test kits include r-iopharm Ridascreen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The manufacturer's specified calibration curve must be run with each set. All results above 1 ppb must be assumed to be Chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States Department of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless it is located in a geographic area that the commissioner has declared to be a location where Chloramphenicol is being used on or found in food producing animals including bees, or in products from such animals. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for Chloramphenicol shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the department prior to the honey or food containing honey being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the honey.

8. Upon the department's actual receipt of a copy of the certified test results and written documentation required to accompany the certified test results, the honey or food containing honey may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment of such honey or food containing honey, and be attached to the documentation submitted with every shipment sent to each location in Louisiana, or shall be immediately accessible to the department, upon request, from any such location.

F. Any person who is seeking to bring honey, or any food containing honey, that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such honey or food containing honey in Louisiana shall be responsible for having the honey, sampled and tested in accordance with Subsection E. Any such person must, at all times, be in full and complete compliance with all the provisions of this Section.

G. The commissioner may reject the test results for any honey if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

H. If any certified test results are rejected by the commissioner then any person shipping or holding the honey or food containing honey will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, any such person shall abide by such order until the commissioner lifts the order in writing. Any such person may have the honey retested in accordance with this Section and apply for a lifting of the commissioner's order upon a showing that the provisions of this Section have been complied with and that the honey is certified as being free of Chloramphenicol.

I. The department may inspect any honey and any food containing honey, found in Louisiana, and take samples for testing.

J. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any honey or any food containing honey that does not meet the requirements of this Section. Any such order shall remain in place until lifted, in writing, by the commissioner.

K. The department may take physical possession and control of any honey or any food containing honey that violate the requirements of this Section if the commissioner finds that the honey or food containing honey presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

L. The commissioner declares that he has information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals including bees, or in products from such animals, in certain geographic area(s).

1. The geographic area or areas are:
 - a. the country of the People's Republic of China;
 - b. the country of Thailand.

2. All honey harvested from or produced, processed or packed in any of the above listed geographic areas are hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

M. All records and information regarding the distribution, purchase and sale of honey or any food

containing honey shall be maintained for two years and shall be open to inspection by the department.

N. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 33:

Bob Odom
Commissioner

0610#014

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Shrimp and Crawfish—Testing and Sale (LAC 7:XXXV.137 and 139)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of shrimp and crawfish in Louisiana and the labeling of foreign shrimp and crawfish. This Rule is being adopted in accordance with R.S. 3:2A, 3:3B, R.S. 3:4608 and the Emergency Rule provisions of R.S. 49:953 B of the Administrative Procedure Act.

The Louisiana Legislature, by SCR 13 of the 2002 Regular Session, has urged and requested that the Commissioner of Agriculture and Forestry require all shrimp and crawfish, prior to sale in Louisiana, meet standards relating to Chloramphenicol that are consistent with those standards promulgated by the United States Food and Drug Administration, (FDA). The legislature has also urged and requested the commissioner to promulgate rules and regulations necessary to implement the standards relating to Chloramphenicol in shrimp and crawfish that are consistent with those standards promulgated by the FDA, and which rules and regulations require all shrimp and crawfish sold in Louisiana to meet the standards adopted by the commissioner, prior to sale.

Chloramphenicol is an antibiotic the FDA has restricted for use in humans only in those cases where other antibiotics or medicines have not been successful. The FDA has banned the use of Chloramphenicol in animals raised for food production. See, 21 CFR 522.390(3). The FDA has set a zero tolerance level for Chloramphenicol in food.

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, Chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "Drugs in Pregnancy and Lactation," the use of Chloramphenicol is strongly dissuaded during pregnancy, especially late pregnancy. Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize Chloramphenicol as efficiently, thereby causing the risk of

an increasing toxicity level in the unborn child. Although the effect on an infant as a result of nursing from a mother who has taken Chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

Recently, European Union inspectors found Chloramphenicol residues in shrimp and crawfish harvested from and produced in China. The inspectors also found "serious deficiencies of the Chinese residue control system and problems related to the use of banned substances in the veterinary field," which may contribute to Chloramphenicol residues in Chinese shrimp and crawfish. The Chinese are known to use antibiotics, such as Chloramphenicol, in farm-raised shrimp. They are also known to process crawfish and shrimp harvested in the wild in the same plants used to process farm-raised shrimp.

The European Union, in January of this year, banned the import of shrimp and crawfish from China because Chloramphenicol has been found in shrimp and crawfish imported from China. Canada has, this year, banned the import of shrimp and crawfish that contain levels of Chloramphenicol above the level established by Canada. Between 1999 and 2000 imports of Chinese Shrimp to the United States doubled, from 19,502,000 pounds to 40,130,000 pounds. With the recent bans imposed by the European Union and Canada there is an imminent danger that the shrimp and crawfish that China would normally export to the European Union and Canada will be dumped and sold in the United States, including Louisiana.

The sale of such shrimp and crawfish in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to Chloramphenicol, a known health hazard. The sale, in Louisiana, of shrimp and crawfish containing Chloramphenicol presents an imminent peril to the public's health, safety and welfare.

This peril can cause consumers to quit buying shrimp and crawfish from any source, including Louisiana shrimp and crawfish. If consumers cease to buy, or substantially reduce, their purchases of Louisiana shrimp and seafood, Louisiana aquaculture and fisheries will be faced with substantial economic losses. Any economic losses suffered by Louisiana's aquaculture and fisheries will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

Consumers of shrimp and crawfish cannot make an informed decision as to what shrimp or crawfish to purchase and the commissioner cannot adequately enforce the regulations regarding the sampling and testing of shrimp and crawfish unless shrimp and crawfish produced in foreign countries are properly labeled as to the country of origin.

The Commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rule is necessary to immediately implement testing of shrimp and crawfish for Chloramphenicol, to provide for the sale of shrimp and crawfish that are not contaminated with Chloramphenicol and to provide for the labeling of shrimp and crawfish harvested from or produced, processed or packed in countries other than the United States. This Rule became effective upon signature, September 21, 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 XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§137. Chloramphenicol in Shrimp and Crawfish Prohibited; Testing and Sale of

A. Definitions

Food Producing Animals—both animals that are produced or used for food and animals, such as dairy cows, that produce material used as food.

Geographic Area—a country, province, state, or territory or definable geographic region.

Packaged Shrimp or Crawfish—any shrimp or crawfish, as defined herein, that is in a package, can, or other container, and which is intended to eventually be sold to the ultimate retail purchaser in the package, can or container.

Shrimp or Crawfish—any such animals, whether whole, de-headed, de-veined or peeled, and any product containing any shrimp or crawfish.

B. No shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana if such shrimp or crawfish contain Chloramphenicol.

C. No shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana without being accompanied by the following records and information, written in English.

1. The records and information required are:

- a. the quantity and species of shrimp and crawfish acquired or sold;
- b. the date the shrimp or crawfish was acquired or sold;
- c. the name and license number of the wholesale/retail seafood dealer or the out-of-state seller from whom the shrimp or crawfish was acquired or sold;
- d. the geographic area where the shrimp or crawfish was harvested;
- e. the geographic area where the shrimp or crawfish was produced processed or packed;
- f. the trade or brand name under which the shrimp or crawfish is held, offered or exposed for sale or sold; and
- g. the size of the packaging of the packaged shrimp or crawfish.

2. Any person maintaining records and information as required to be kept by the Louisiana Department of Wildlife and Fisheries in accordance with R.S. 56:306.5, may submit a copy of those records, along with any additional information requested herein, with the shrimp or crawfish.

3. Any shrimp or crawfish not accompanied by all of this information shall be subject to the issuance of a stop-sale, hold or removal order until the shrimp or crawfish is tested for and shown to be clear of Chloramphenicol, or the commissioner determines that the shrimp or crawfish does not come from a geographic area where Chloramphenicol is being used on or found in food producing animals, or in products from such animals.

D. No shrimp or crawfish that is harvested from or produced, processed or packed in a geographic area, that the commissioner declares to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals, may

be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection F.

E. The commissioner may declare a geographic area to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals, based upon information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in that geographic area.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The commissioner may release any such geographic area from a previous declaration that Chloramphenicol is being used on food producing animals in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

F. Shrimp or crawfish, that comes from a geographic area declared by the commissioner to be a location where Chloramphenicol is being used on, or is found in food producing animals, or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana.

1. Sampling

a. The numbers of samples that shall be taken are as follows:

- i. two samples are to be taken of shrimp or crawfish that are in lots of 50 pounds or less;
- ii. four samples are to be taken of shrimp or crawfish that are in lots of 51-100 hundred pounds;
- iii. twelve samples are to be taken of shrimp or crawfish that are in lots of 101 pounds up to 50 tons;
- iv. twelve samples for each 50 tons are to be taken of shrimp or crawfish that are in lots of over 50 tons.

b. For packaged shrimp or crawfish, each sample shall be at least 8 ounces, (226.79 grams), in size and shall be taken at random throughout each lot of shrimp or crawfish. For all other shrimp or crawfish, obtain approximately 1 pound, (454 grams), of shrimp or crawfish per sample from randomly selected areas.

c. If the shrimp or crawfish to be sampled consists of packages of shrimp or crawfish grouped together, but labeled under two or more trade or brand names, then the shrimp or crawfish packaged under each trade or brand name shall be sampled separately. If the shrimp or crawfish to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

d. A composite of the samples shall not be made. Each sample shall be tested individually. Each sample shall be clearly identifiable as belonging to a specific group of shrimp or crawfish. All samples shall be kept frozen and delivered to the lab.

2. Each sample shall be identified as follows:

- a. any package label;
- b. any lot or batch numbers;
- c. the country, province and city of origin;
- d. the name and address of the importing company;

e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation. For small packages of shrimp or crawfish up to and including one pound, use the entire sample. Shell the shrimp or crawfish, exercising care to exclude all shells from sample. Grind sample with food processor type blender while semi-frozen or with dry ice. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer as a reserve.

4. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is one part per billion, (1 ppb) or less. Acceptable test kits include r-iopharm Ridascreen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The Manufacturer's specified calibration curve must be run with each set. All results 1 ppb or above must be assumed to be Chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States Department of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless the laboratory is located in any geographic area that the commissioner has declared to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for Chloramphenicol shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the department prior to the shrimp or crawfish being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the shrimp or crawfish.

8. Upon actual receipt by the department of a copy of the certified test results and written documentation required to accompany the certified test results then the shrimp or crawfish may be held, offered or exposed for sale, or sold in

Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment and be attached to the documentation submitted with every shipment of such shrimp or crawfish sent to each location in Louisiana or shall be immediately accessible to the department, upon request, from any such location.

G. Any person who is seeking to bring shrimp or crawfish that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such shrimp or crawfish in Louisiana shall be responsible for having such shrimp or crawfish sampled and tested in accordance with Subsection F. Any such person must, at all times, be in full and complete compliance with all the provisions of this Section.

H. The commissioner may reject the test results for any shrimp or crawfish if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

I. In the event that any certified test results are rejected by the commissioner then any person shipping or holding the shrimp or crawfish will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, it will be the duty of any such person to abide by such order until the commissioner lifts the order in writing. Any such person may have the shrimp or crawfish retested in accordance with this Section and apply for a lifting of the commissioner's order upon a showing that the provisions of this Section have been complied with and that the shrimp or crawfish are certified as being free of Chloramphenicol.

J. The department may inspect, and take samples for testing, any shrimp or crawfish, of whatever origin, being held, offered or exposed for sale, or sold in Louisiana.

K. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any shrimp or crawfish that does not meet the requirements of this Section. Any such order shall remain in place until lifted in writing by the commissioner.

L. The department may take physical possession and control of any shrimp or crawfish that violate the requirements of this Section if the commissioner finds that the shrimp or crawfish presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

M. The commissioner declares that he has information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in the following geographic area(s).

1. The geographic area or areas are:

a. the country of the People's Republic of China.

2. All shrimp and crawfish harvested from or produced, processed or packed in any of the above listed geographic areas are hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

N. The records and information required under this Section shall be maintained for two years and shall be open to inspection by the department.

O. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 33:

§139. Labeling of Foreign Shrimp and Crawfish by Country of Origin

A. Definitions

Foreign Shrimp or Crawfish—any shrimp or crawfish, as defined herein that is harvested from or produced, processed or packed in a country other than the United States.

Shrimp or Crawfish—any shrimp or crawfish, whether whole, de-headed, de-veined or peeled, and any product containing any shrimp or crawfish.

B. All foreign shrimp or crawfish, imported, shipped or brought into Louisiana shall indicate the country of origin, except as otherwise provided in this Section.

C. Every package or container that contains foreign shrimp or crawfish, shall be marked or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of the package or container will permit so as to indicate to the ultimate retail purchaser of the shrimp or crawfish the English name of the country of origin.

1. Legibility must be such that the ultimate retail purchaser in the United States is able to find the marking or label easily and read it without strain.

2. Indelibility must be such that the wording will not fade, wash off or otherwise be obliterated by moisture, cold or other adverse factors that such shrimp or crawfish are normally subjected to in storage and transportation.

3. Permanency must be such that, in any reasonably foreseeable circumstance, the marking or label shall remain on the container until it reaches the ultimate retail purchaser unless it is deliberately removed. The marking or label must be capable of surviving normal distribution and storing.

D. When foreign shrimp or crawfish are combined with domestic shrimp or crawfish, or products made from or containing domestic shrimp or crawfish, the marking or label on the container or package or the sign included with any display shall clearly show the country of origin of the foreign shrimp or crawfish.

E. In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, appear on any container or package containing foreign shrimp or crawfish, or any sign advertising such foreign shrimp or crawfish for sale, and those words, letters or names may mislead or deceive the ultimate retail purchaser as to the actual country of origin of the shrimp or crawfish, then the name of the country of origin preceded by "made in," "product of," or other words of similar meaning shall appear on the marking, label or sign. The wording indicating that the shrimp or crawfish is from a country other than the United States shall be placed in close proximity to the words, letters or name that indicates the shrimp or crawfish is a product of the United States in a legible, indelible and permanent manner. No provision of

this Section is intended to or is to be construed as authorizing the use of the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, if such use is deceptive, misleading or prohibited by other federal or state law.

F. Foreign shrimp or crawfish shall not have to be marked or labeled with the country of origin if such shrimp or crawfish are included as components in a product manufactured in the United States and the shrimp or crawfish is substantially transformed in the manufacturing of the final product. But in no event shall thawing, freezing, packing, packaging, re-packing, re-packaging, adding water, de-heading, de-veining, peeling, partially cooking or combining with domestic shrimp or crawfish shall not be considered to be a substantial transformation.

G. The commissioner shall have all the powers granted to him by law, or in accordance with any cooperative endeavor with any other public agency, to enforce this Section, including the issuance of stop-sale, hold or removal orders and the seizing of shrimp or crawfish mislabeled or misbranded as to the country of origin.

H. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 33:

Bob Odom
Commissioner

0610#015

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Forestry

Fire Danger Rating
(LAC 7:XXXIX.1111 and 1113)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B), and under the authority of R.S. 3:3; 30:2057(B)(5)(c) and 33:1236(31)(b)(iii), the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rules and regulations for the process of identifying the presence of high fire danger, which will permit certain parishes to declare bans on outdoor burning as authorized in Act Number 376 of the 2006 Regular Session of the Louisiana Legislature.

The above referenced Act grants authority for prohibition of certain outdoor burning for parishes with populations below 90,000. That authority is limited to areas where fire danger rating is high, as defined by the Louisiana Department of Agriculture and Forestry. This Emergency Rule provides for the determination of that fire danger rating to the parishes.

To allow for parishes to exercise the authority granted by Act 376, it is necessary for the Louisiana Department of Agriculture and Forestry to implement this Emergency Rule which provides the fire danger rating upon which the parishes must rely for their authority.

This Emergency Rule becomes effective upon the signature, September 20, 2006, of the commissioner and shall remain in effect for 120 days or until permanent rules are promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 11. Rural Fire Protection

Subchapter B. Parish Burn Ban Ordinances

§1111. Purpose

A. The Commissioner of Agriculture and Forestry adopts the following regulations for the purpose of implementing the provisions of R.S. 33:1236(31)(b)(ii) and R.S. 30:2057(B)(5)(c), relative to the regulation of burning of vegetable matter and flammable materials in certain parishes when the fire danger rating for the parish is high or is predicted to be high.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3; 30:2057(B)(5)(c) and 33:1236(31)(b)(iii).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 33:

§1113. Determination of Fire Danger Rating

A. The fire danger rating for the state shall be primarily determined by the Keetch Byram Drought Index generalized color map (KBDI) which is published weekly by the Louisiana Office State Climatology, Louisiana State University.

B. The fire danger rating for a parish will be high when any portion of a parish is indicated with a KBDI index of 601 or greater based on the most current KBDI color map.

C. If the Louisiana Department of Agriculture and Forestry has sufficient cause to believe that fire danger in localized areas may not be accurately represented by the published KBDI map, then the Department may use additional data to analyze conditions and to declare a state of high fire danger for any parish if warranted by available data.

D. If the department declares one or more parishes to have a high fire danger rating, based on data other than the KBDI map, then the department will publish a list of such parishes on its website.

E. The KBDI map may be referenced through the Louisiana Office of State Climatology through its website at www.losc.lsu.edu or by the Louisiana Department of Agriculture and Forestry's website at www.ldaf.state.la.us.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3; 30:2057(B)(5)(c) and 33:1236(31)(b)(iii).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 33:

Bob Odom
Commissioner

0610#006

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

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

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule 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 48 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 this Emergency Rule 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. This Rule becomes effective immediately, September 21, 2006, and will remain in effect 120 days, unless renewed by the commissioner or until a permanent rule is 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 Forty-Eight 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 2 feet by 2 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 33:

Bob Odom
Commissioner

0609#012

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Fluoroquinolones in Seafood
(LAC 7:XXXV.147)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of seafood in Louisiana. This Rule is being adopted in accordance with R.S. 3:2A, 3:3B, R.S. 3:4608 and the Emergency Rule provisions of R.S. 49:953.B of the Administrative Procedure Act.

The commissioner has promulgated these rules and regulations to implement standards relating to Fluoroquinolones in seafood that are consistent with standards adopted by the United States Food and Drug Administration, (FDA), regarding Fluoroquinolones in foods. All seafood sold in Louisiana must meet the standards set out in these regulations prior to distribution and sale of seafood in Louisiana.

Fluoroquinolones is a broad-spectrum antibiotic that has been restricted by the FDA for use in humans only. The FDA banned the extra label use of Fluoroquinolones in food producing animals in 1997 after determining that such use presented a risk to the public health. That ban is still in effect, see (21 CFR 530.41). "Extralabel use" means "actual use or intended use of a drug in an animal in a manner that is not in accordance with the approved labeling," see 21 CFR 530.3(a).

Since, the FDA has not established a safe level, tolerance level or safe concentration for Fluoroquinolones there is a zero tolerance level for Fluoroquinolones. Therefore, foods in which Fluoroquinolones are found are adulterated foods under the United States and Louisiana Food, Drug, and Cosmetics Acts.

Fluoroquinolones have been known to cause hypersensitivity or allergic reactions, toxicity-related reactions, and to an increased prevalence of infections due to antibiotic-resistant microorganisms. Hypersensitivity reactions can include life-threatening anaphylaxis, as well as urticaria, dermatitis, vomiting, and diarrhea. There is a significant chance that these reactions may be attributed to other factors, thereby causing a misdiagnosis, and subsequent mistreatment of a person's medical condition.

Toxicity can affect multiple organ systems and include peripheral neuropathies, seizures, phototoxicity, tendon rupture, fatal drug interactions and arthropathies in children. Fluoroquinolones should not be taken by pregnant and lactating women due to concern over the potential effect on a developing fetus.

The sale in Louisiana of seafood adulterated with Fluoroquinolones will expose Louisiana's citizens, including unborn children and nursing infants, to Fluoroquinolones and to the potential risks cited above, thereby presenting an imminent peril to the public's health, safety and welfare.

The Commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rule is necessary to immediately implement testing of seafood for Fluoroquinolones, to provide for the sale of seafood and any products containing seafood that are not contaminated with Fluoroquinolones. This Rule becomes effective upon signature, September 21, 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 XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§147. Fluoroquinolones in Seafood

Prohibited—Testing and Sale

A. Definitions

Food Producing Animals—both animals that are produced or used for food and animals that produce material used as food.

Geographic Area—a country, province, state, or territory or definable geographic region.

Seafood—any edible freshwater or saltwater fish or shellfish, whether whole, portioned, processed and any product containing seafood.

B. No seafood may be held, offered or exposed for sale, or sold in Louisiana if such seafood contains Fluoroquinolones.

C. No seafood that is harvested from or produced, processed or packed in a geographic area, that the commissioner declares to be a location where Fluoroquinolones is being used on or found in food producing animals or in products from such animals, may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E. No seafood from any such geographic area may be used, as an ingredient in any food held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E.

D. The commissioner may declare a geographic area to be a location where Fluoroquinolones is being used on or found in food producing animals or in products from such animals, based upon information that would lead a

reasonable person to believe that Fluoroquinolones is being used on or found in food producing animals, or in products from such animals, in that geographic area.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The commissioner may release any such geographic area from a previous declaration that Fluoroquinolones is being used on food producing animals in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

E. Seafood that comes from a geographic area declared by the commissioner to be a location where Fluoroquinolones is being used on, or is found in food producing animals or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana.

1. Each sample shall consist of a case per lot of seafood.

2. Each sample shall be identified as follows:

- a. any package label;
- b. any lot or batch numbers;
- c. the country, province and city of origin;
- d. the name and address of the importing company;
- e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation

a. The laboratory shall randomly selects 12 filets of fish from the case, remove any skin, and cut each filet in half. Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer as a reserve. Thoroughly blend the halves of the filets to be tested.

b. For all other seafood take samples from 12 randomly selected areas of each case in an amount to equal approximately 1 pound. Remove any skin or shell and thoroughly blend the meat. After the sample is blended, split the sample in half, setting aside one-half for testing and reserving the other half in a freezer.

4. Sample Analysis

a. Remove for testing, approximately 2 grams from the portion of the sample being tested.

b. The sample is initially tested using liquid chromatography with florescent detection. Samples that test positive are to be retested for confirmation of the initial test result using liquid chromatography with electrospray mass spectroscopy.

c. The initial test shall conform to the test method authored by Roybal et al in the Journal of AOAC International, Volume 85, Number 6, 2002, page 1293, or current FDA methods. The confirmation testing shall conform to FDA LIB 4108 or current FDA methods.

d. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless the laboratory is located in any geographic area that the commissioner has declared to be a location where Fluoroquinolones is being used on or

found in food producing animals, or in products from such animals. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for Fluoroquinolones shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the department prior to the seafood being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the seafood.

8. Upon actual receipt by the department of a copy of the certified test results and written documentation required to accompany the certified test results then the seafood may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment and be attached to the documentation submitted with every shipment of such seafood sent to each location in Louisiana or shall be immediately accessible to the department, upon request, from any such location.

F. Any person who is seeking to bring seafood that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such seafood in Louisiana shall be responsible for having such seafood sampled and tested in accordance with Subsection E. Any such person must, at all times, be in full and complete compliance with all the provisions of this Section.

G. The commissioner may reject the test results for any seafood if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

H. In the event that any certified test results are rejected by the commissioner then any person shipping or holding the seafood will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, it will be the duty of any such person to abide by such order until the commissioner lifts the order in writing. Any such person may have the seafood retested in accordance with this Section and apply for a lifting of the commissioner's order upon a showing that the provisions of this Section have been complied with and that the seafood are certified as being free of Fluoroquinolones.

I. The department may inspect, and take samples for testing, any seafood, of whatever origin, being held, offered or exposed for sale, or sold in Louisiana.

J. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any seafood that does not meet the requirements of this Section. Any such order shall remain in place until lifted in writing by the commissioner.

K. The department may take physical possession and control of any seafood that violate the requirements of this Section if the commissioner finds that the seafood presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

L. The commissioner declares that he has information that would lead a reasonable person to believe that Fluoroquinolones is being used on or found in food producing animals or in products from such animals, in the following geographic area(s):

1. the geographic area or areas are:

a. the country of Vietnam;

2. all seafood harvested from or produced, processed or packed in any of the above listed geographic areas is hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

M. All records and information regarding the distribution, purchase and sale of seafood or any food containing seafood from the listed geographic areas shall be maintained for two years and shall be open to inspection by the department.

N. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

O. The effective date of this Section is August 12, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 33:

Bob Odom
Commissioner

0610#013

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—Rockefeller Eligibility
(LAC 28:IV.301 and 1103)

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)).

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

This Declaration of Emergency is effective September 14, 2006, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG0776E)

Title 28

EDUCATION

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

Chapter 3. Definitions

§301. Definitions

A. Where the masculine is used, in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Average Award Amount (TOPS-Tech)—is applicable to those students awarded the TOPS-Tech and TOPS Opportunity, Performance, and Honors Awards who attend LAICU colleges and universities and are enrolled in a vocational, technical education certificate or diploma program or non-academic undergraduate degree program, and is determined by dividing the total dollar value of awards, which are made to students enrolled in the same types of programs in the prior Program Year (Non-Academic Program) at eligible public colleges and universities that do not offer academic degrees at the baccalaureate level, by the total number of students that received the awards.

To ensure that the Average Award Amount (TOPS Tech) is not reduced for students during Program Year (Non-academic Program) 2006-2007 because of the adverse affects of Hurricanes Katrina and Rita on student enrollment, the Average Award Amount (TOPS Tech) for Program Year (Non-academic Program) 2006-2007 shall be the same as calculated for Program Year (Non-academic Program) 2005-2006.

Merit Ranking Formula—a mathematical equation incorporating selected merit factors that is used to rank eligible applicants in the priority by which competitive scholarships are to be awarded. As of July 1, 1997, the TOPS Teacher Award and Rockefeller State Wildlife Scholarship are the only programs in which applicants are competitively ranked. The following formulas for the merit ranking of scholarship applicants provide for the equating of scores for high school graduating seniors and college students.

a. Formula I—applies to applicants for the Rockefeller State Wildlife Scholarship with less than 24 hours of graded college credit and to applicants for the TOPS Teacher Award with less than 48 hours of graded college credit:

$$\text{Merit Score} = \left(\left(\frac{\text{HSGPA}}{4.00} \right) \times 60 \right) + \left(\left(\frac{\text{ACT}}{36} \right) \times 40 \right)$$

b. Formula IA—applies to applicants for the Rockefeller State Wildlife Scholarship who are qualified home study completers with less than 24 hours of graded college credit:

$$\text{Merit Score} = \left(\frac{\text{ACT}}{36} \right) \times 100$$

c. Formula II—applies to applicants for the Rockefeller State Wildlife Scholarship with 24 or more hours of graded college credit and to applicants for the TOPS Teacher Award with 48 or more hours of graded college credit:

$$\text{Merit Score} = \left(\left(\frac{\text{College GPA}}{4.00} \right) \times 90 \right) + \left(\left(\frac{\text{College Level}}{4} \right) \times 10 \right)$$

d. Formula III—applies to applicants for the TOPS Teacher Award. For those applicants majoring in math or chemistry, an additional 10 points are added to the merit score determined by Formula I or II, resulting in an adjusted merit score.

e. Applicants' merit scores are ranked in descending order with the applicant with the highest merit score ranked first. The number of applicants selected for award is dependent upon the amount of award funds available.

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 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993 and 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), repromulgated LR 27:1842 (November 2001), amended LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330 and 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:

Chapter 11. Rockefeller State Wildlife Scholarship

§1103. Establishing Eligibility

A. To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen; and
2. be a resident of Louisiana, as defined in §301 for at least one year prior to July 1 of the Award Year; and
3. submit the completed Free Application for Federal Student Aid (FAFSA) or the Renewal FAFSA, whichever is applicable to the student, by final deadline set forth in §501.C or §505.F.; and
4. complete and submit such documentary evidence as may be required by LASFAC; and
5. not have a criminal conviction, except for misdemeanor traffic violations; and
6. agree that award proceeds will be used exclusively for educational expenses; and
7. be enrolled or accepted for enrollment as a full-time undergraduate or graduate student at a Louisiana public college or university majoring in forestry, wildlife or marine science, with the intent of obtaining a degree from a Louisiana public college or university offering a degree in one of the three specified fields; and
 - 8.a. must have graduated from high school, and if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, have earned a minimum cumulative high school grade point average of at least 2.50 calculated on a 4.00 scale for all courses completed in grades 9 through 12, have taken the ACT or SAT and received test score results and, beginning with the 2006-2007 Academic Year (College), have an ACT Score of at least 20; or
 - b. beginning with the 2006-2007 Academic Year (College), must be a qualified home study completer and, if

at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, achieve an ACT Score of at least 22; or

c. if, at the time of application, the student applicant has earned 24 or more hours of college credit, then the applicant must have at least a 2.50 cumulative college grade point average; or

d. if, at the time of application, the student is in graduate school, then the applicant must have at least a 3.00 cumulative grade point average on all credits earned in graduate school.

9. To be a qualified home study completer for the purposes of this Section, the applicant must:

a. successfully complete at the twelfth grade level a home study program approved by BESE; or

b. if a Louisiana public high school, a Louisiana nonpublic high school, an approved non-Louisiana high school, or an out-of-state high school was previously attended, has provided LASFAC with certification by the previously attended high school that said student was in good standing at the time the student last attended such school.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:639 (April 1998), amended LR 24:1908 (October 1998), LR 27:1220 (August 2001), repromulgated LR 27:1859 (November 2001), amended LR 28:774 (April 2002), LR 29:125 (February 2003), LR 30:2020 (September 2004), LR 33:

George Badge Eldredge
General Counsel

0609#001

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)(OS066E4)

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.

This is a renewal of Emergency Rule OS066E3, which was effective on June 1, 2006, and published in the *Louisiana Register* on June 20, 2006. This Emergency Rule revises the regulation 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, resulting in 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 September 29, 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 OS066E4 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 33:

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 33:

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 applicators 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 appliers 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 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 applier 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 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 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 1-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 Permits Division, utilizing the application form that can be accessed on the department's website or by contacting the Office of Environmental Services, Water 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 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 Permits Division, prior to engaging in transportation activities, utilizing a form that is obtained from the Office of Environmental Services, Water 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 applicers 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 applicer 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 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 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.

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.

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.

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 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).

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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 applicers of sewage sludge).

Commercial Preparer or Land Applier 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 33:

§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)
¹ Either 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 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 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 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	

Table 3 of LAC 33:IX.6903.I	
Reporting—Land Application	
Monitoring Period ¹ (Once per 60 Days)	Report Due Date
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	August 28
April	
May	
June	November 28
July	
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 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.

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 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 33:

§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 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 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 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 33:

§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 33:

§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 33:

§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 33:

§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 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 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 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 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 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 33:

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 30:2028 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2519 (October 2005), LR 33:

Mike D. McDaniel, Ph.D.
Secretary

0610#004

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, September 26, 2006, 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 33:

§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 33:

§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 33:

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 33:

§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 33:

§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 33:

§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 33:

§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 33:

§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 33:

Col. Perry "Jeff" Smith, CPA
Acting Director

0610#018

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Board of Examiners for Speech Language and Pathology**

Temporary Credentialing during a
Declared Public Health Emergency
(LAC 46:LXXV.109)

The Department of Health and Hospital, Board of Examiners for Speech-Language Pathology and Audiology (the "Board") has adopted this Emergency Rule, effective October 27, 2006, in accordance with the provisions of the Administrative Procedure Act. R.S. 49:953, and the Speech-Language Pathology and Audiology Practice Act R.S. 37:2652-2666, 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 adoption 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 audiologists, speech-language pathologists, or speech-language pathology assistants, 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 audiologists, speech-language pathologists, or speech-language pathology assistants, 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 audiologists, speech-language pathologists, or speech-language pathology assistants at the present time or during a declared state of public health emergency.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXV. Speech-Language Pathology and Audiology

Chapter 1. General Rules

§109. Application Procedures

A. - L.1.f. ...

M. Temporary Registration During a Declared Public Health Emergency

1. In a public health emergency lawfully declared as such by the Governor of Louisiana, the requirement for a Louisiana License as an audiologist, speech-language pathologist, or speech-language pathology assistant may be suspended by the board at that time to those out of state audiologists, speech-language pathologists, or speech-language pathology assistants, 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 Section.

2. The following requirements for temporary registration may be imposed pursuant to the declared state of emergency and shall be in accordance with rules promulgated by the board.

3. An audiologist, speech-language pathologist, or speech-language pathology assistant not licensed in Louisiana, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States, may gratuitously provide audiology and speech-language pathology services if:

a. the audiologist, speech-language pathologist, or speech-language pathology assistant 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 audiology or speech language pathology services in Louisiana as follows:

i. the audiologist, speech-language pathologist, or speech-language pathology assistant 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 audiology or speech-language pathology services;

ii. the audiologist, speech-language pathologist, or speech-language pathology assistant shall comply with the Louisiana Speech-Language Pathology and Audiology Practice Act, board rules, and other applicable laws, as well as practice in good faith, and within the reasonable scope of his skill, training, and ability; and

iii. the audiologist, speech-language pathologist, or speech-language pathology assistant renders services on a gratuitous basis with no revenue of any kind to be derived whatsoever from the provision of services within the state of Louisiana.

4. 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.

5. All interested audiologists, speech-language pathologists, and speech-language pathology assistants shall submit a copy of their respective current and unrestricted licenses, certifications or registrations issued in other jurisdictions of the United States and photographic identification, as well as other requested information, to the Louisiana Board of Examiners for Speech-Language Pathology and Audiology for registration with this agency prior to gratuitously providing audiology or speech-language pathology services in Louisiana.

6. Should a qualified audiologist, speech-language pathologist, or speech-language pathology assistant 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.

7. In the event an audiologist, speech-language pathologist, or speech-language pathology assistant fails to register with the board, but practices audiology or speech-language pathology, whether gratuitously or otherwise, then such conduct will be considered the unlawful practice of audiology or speech-language pathology and prosecuted accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:352 (May 1996), amended LR 27:199 (February 2001), LR 28:1974 (September 2002), LR 30:2311 (October 2004), LR 33:

Richard N. Burt
Administrator

0610#065

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Veterinary Medicine

Temporary Registration (LAC 46:LXXXV.309)

The Louisiana Board of Veterinary Medicine adopts the following Emergency Rule effective October 4, 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, and it shall be in effect for the maximum period allowed under law or until adoption of the Rule, whichever occurs first. The Emergency Rule was initially adopted by the board on June 9, 2006, which was published in the June 20, 2006 issue of the *Louisiana Register*. It is necessary to continue the provisions of the June 2006 Emergency Rule which is being done so within the 120 day period required by law. There is no lapse in the application of the Emergency Rule which will remain in effect for the next 120 days from October 4, 2006 or until adoption of the final Rule, whichever comes first. The board is also proceeding with the promulgation of a regular rule on this matter which is anticipated to become a final rule October 20, 2006, which is

within the effective period of the Emergency Rule hereby adopted.

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 a 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 33:

Wendy Parrish
Administrative Director

0610#055

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

CommunityCARE Program
Immunization Pay-for-Performance Initiative
(LAC 50:I.2915)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:I.2915 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 compiled the previously promulgated Rules governing the CommunityCARE Program to establish LAC 50:I.Chapter 29 (*Louisiana Register*, Volume 29, Number 6). The CommunityCARE Program provides a medical home for designated Medicaid recipients by linking the recipient to a primary care provider selected by the recipient. The Bureau amended by Emergency Rule the provisions governing the CommunityCARE Program in order to implement an immunization pay-for-performance initiative fee based on the provider's participation in the Louisiana Immunization Network for Kids Statewide and performance in achieving immunization benchmarks (*Louisiana Register*, Volume 32, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 1, 2006 Emergency Rule. This action is being taken to enhance federal revenue.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Medicaid Managed Care

Chapter 29. CommunityCARE

§2915. Immunization Pay-for-Performance

A. Effective October 30, 2006, a supplemental payment will be implemented as an incentive to promote the immunization of Medicaid eligible children.

1. Qualification for the supplemental payment shall be based on the CommunityCARE primary care provider's participation in the Louisiana Immunization Network for Kids Statewide (LINKS) and performance in achieving state-established immunization benchmarks for children being up to date with recommended immunizations.

2. The supplemental payment will be issued on a quarterly basis.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, 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

0610#080

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 promulgated an Emergency Rule to repeal and replace all Rules governing disproportionate share hospital payment methodologies (*Louisiana Register*, Volume 31, Number 6). In compliance with Act 182 and Act 323 of the 2005 Regular Session, the June 20, 2005 Emergency Rule was amended to establish provisions for provider fees levied on hospitals as a result of the Healthcare Affordability Act (*Louisiana Register*, Volume 31, Number 7) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 31, Number 9). The June 20, 2005 Rule was subsequently amended to incorporate the provisions of the July 1, 2005 and September 1, 2005 Emergency Rules (*Louisiana Register*, Volume 31, Number 10).

The October 25, 2005 Emergency Rule was amended to: 1) change the provisions governing DSH payments to other uninsured hospitals; 2) establish provisions governing payments to private community hospitals for services rendered to displaced, uninsured citizens from mandatory evacuation parishes affected by Hurricanes Katrina and Rita; 3) change the provisions governing DSH payments to high uninsured hospitals and to establish provisions governing payments to public community hospitals (*Louisiana Register*, Volume 32, Number 7); and 4) revise the provisions governing disproportionate share hospital payments to non-rural community hospitals as a result of the allocation of additional funds by the Legislature during the 2006 Regular Session (*Louisiana Register*, Volume 32, Number 9). The bureau now proposes to amend the October 25, 2005 Emergency Rule to incorporate the provisions of

the June 28, 2006 and September 15, 2006 Emergency Rules. This action is being taken to enhance federal revenue.

Effective October 23, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the 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.

C. A hospital receiving DSH payments shall furnish emergency and non-emergency 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 33:

§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.2.a-h; or

6. effective June 28, 2006, be a public community hospital as defined in §305.A.; or

7. effective June 28, 2006, be a private community hospital as defined in §307.A.; or

8. effective September 15, 2006, be a non-rural community hospital as defined in §308.A.; and

9. 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 33:

§305. Public Community Hospitals

A. Definitions

Public Community Hospital—a hospital owned by a parish, city, or other local government instrumentality that does not qualify as a small rural hospital.

Uncompensated Care Costs—net uncompensated care cost is the total allowable cost of inpatient and outpatient hospital services less Medicare costs, Medicaid payments (excluding DSH payments), costs associated with patients who have insurance for services provided, private payer payments and all other inpatient and outpatient payments received from patients.

B. DSH payments to a public community hospital shall be calculated as follows.

1. Each qualifying public community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital may be more or less than the federal share so claimed.

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. Hospitals shall submit an attestation that patients whose care is included in the hospital's net uncompensated costs are not Medicaid eligible at the time of registration.

D. 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 33:

§307. Private Community Hospitals

A. Definitions

Community Hospital—a private hospital that is not a small rural hospital which provided services to uninsured evacuees during the period February 1, 2006 through June 30, 2006.

Evacuee—a Louisiana citizen who resided in one of the mandatory evacuated parishes for Hurricane Katrina on August 24, 2005 or Hurricane Rita on September 23, 2005.

Mandatory Evacuated Parish or Area—a parish or a designated area of a parish for which a mandatory evacuation order was issued for Hurricane Katrina or Hurricane Rita. The parishes and designated areas include:

a. the mandatory evacuated parishes and designated areas for Hurricane Katrina include:

- i. Orleans Parish;
- ii. Jefferson Parish;
- iii. St. Bernard Parish;
- iv. Plaquemines Parish;
- v. Assumption Parish;
- vi. St. John Parish;
- vii. St. Charles Parish;
- viii. Lafourche Parish;
- ix. Terrebonne Parish;
- x. St. James Parish (south of Vacherie past LA Highway 20 and LA Highway 3127 and part of Paulina [Grand Point] past LA Highway 642 and LA Highway 3125, [zip codes 70090 and 70763]);

xi. St. Tammany Parish (all areas south of Interstate 12 including Slidell, Lacombe, Mandeville, and Covington, [zip codes 70458, 70461, 70445, 70471, 70448, 70447, 70433, and 70435]);

xii. Tangipahoa Parish (areas south of LA Highway 22 including Akers, Bedico & Lee's Landing, [zip codes 70454 and 70421]);

xiii. St. Mary Parish (Cypremont Point, [zip code 70538] and Burns [zip code 70522]); and

xiv. Iberia Parish (areas south of LA Highway 90 and down LA Highway 14 including Delcambre, [zip codes 70560 and 70528]);

b. the mandatory evacuated parishes and designated areas for Hurricane Rita include:

- i. Calcasieu Parish;
- ii. Cameron Parish;
- iii. Jefferson Davis Parish;
- iv. Plaquemines Parish;
- v. Acadia Parish (areas south of LA Highway 92);
- vi. Jefferson Parish (Lafitte, Crown Point, Barataria and Grand Isle);
- vii. Iberia Parish (Delcambre and areas south of LA Highway 90);
- viii. Lafourche Parish (south of Leon Theriot Floodgate and the lower portion of Pointe-Aux-Chenes);
- ix. St. Mary Parish (all areas south of the Intercoastal Canal including Cypremort Point, Burns, Four Corners, and Louisa);
- x. Terrebonne Parish (Grand Caillou/Dulac, Bayou du Large/Theriot, Pointe-Aux-Chenes and from the Montegut Fire Station south); and
- xi. Vermilion Parish (south of LA Highway 14 between Cameron Parish line and LA Highway 335, south of La 335, below Kaplan and Abbeville; south of Jacqueline Street in Abbeville and back to LA Highway 14 [near Erath and Delcambre], and all mobile homes south of LA Highway 14).

Uncompensated Care Costs—net uncompensated care cost is the total allowable cost of inpatient and outpatient hospital services less Medicare costs, Medicaid payments (excluding DSH payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Uninsured—a person having no health insurance or sources of third party payment for services provided.

B. DSH payments to a private community hospital shall be calculated as follows.

1. Payment for allowable evacuee uninsured services shall be calculated by multiplying each qualifying hospital's allowable uninsured evacuee charges by its hospital specific cost-to-charge ratio as determined by the department. DSH payments to each qualifying community hospital shall not exceed the hospital specific net uncompensated care costs for the state fiscal year.

C. Hospitals shall submit supporting evacuee uninsured patient specific data for hospital services provided from February 1, 2006 through June 30, 2006 in a format specified by the department. The deadline for submission of all payment requests is October 18, 2006. Submitted uninsured patient data shall be subject to verification by the department before DSH payments are made.

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. 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. Hospitals shall submit an attestation that patients whose care is included in the hospital's net uncompensated costs are not Medicaid eligible at the time of registration.

E. Aggregate DSH payments for qualifying community hospitals shall be limited to the state DSH appropriated

amount for community hospitals. In the event that aggregate allowable uninsured evacuee costs for community hospitals exceeds the state appropriated amount, each qualifying hospital's payment shall be calculated as follows:

1. dividing each hospital's uninsured evacuee cost by the total uninsured evacuee cost for all qualifying other community hospitals during the state fiscal year; and then

2. multiplying by the state DSH-appropriated amount for community hospitals.

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 33:

§308. Non-Rural Community Hospitals—SFY 2007

A. Definitions

Non-Rural Community Hospital—a non-state hospital that does not receive disproportionate share payments under any other qualification category. These hospitals may be either publicly or privately owned. In addition, psychiatric, rehabilitation and long term hospitals may qualify for this category.

B. DSH payments to a public, non-rural community hospital shall be calculated as follows.

1. Each qualifying public, non-rural community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department no later than October 1 of each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital shall be in accordance with the qualifying criteria and payment methodology for non-rural community hospitals included in Act 17 and may be more or less than the federal share so claimed. Qualifying public, non-rural community hospitals that fail to make such certifications by October 1 may not receive Title XIX claim payments or any disproportionate share payments until the department receives the required certifications.

C. DSH payments to private, non-rural community hospitals located in Orleans, Jefferson, Calcasieu and Cameron Parishes shall be calculated as follows.

1. If the hospital's qualifying uninsured cost is less than 3.5 percent of total hospital cost, the payment shall be 30 percent of qualifying uninsured costs.

2. If the hospital's qualifying uninsured cost is equal to or greater than 3.5 percent of the total hospital cost but less than 6.5 percent of total hospital cost, the payment shall be 50 percent of qualifying uninsured cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 6.5 percent of total hospital cost but less than or equal to 8 percent of total hospital cost, the payment shall be 80 percent of qualifying uninsured cost.

4. If the hospital's qualifying uninsured cost is greater than 8 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess

of 8 percent of total hospital cost and 80 percent of qualifying uninsured cost for the portion equal to 8 percent of total hospital cost.

D. DSH payments to private, non-rural community hospitals located in all other parishes shall be calculated as follows.

1. If the hospital's qualifying uninsured cost is less than 3.5 percent of total hospital cost, no payment shall be made.

2. If the hospital's qualifying uninsured cost is equal to or greater than 3.5 percent of total hospital cost but less than 6.5 percent of total hospital cost, the payment shall be 50 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 6.5 percent of total hospital cost but less than or equal to 8 percent of total hospital cost, the payment shall be 80 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

4. If the hospital's qualifying uninsured cost is greater than 8 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 8 percent of total hospital cost and 80 percent of an amount equal to 4.5 percent of total hospital cost.

E. The department shall determine each qualifying hospital's uninsured percentage on a hospital-wide basis utilizing charges for dates of service from January 1, 2006 through June 30, 2006.

F. Hospitals shall submit supporting patient specific data in a format specified by the department. The deadline for submission of data used to determine qualification and the initial payment is October 31, 2006. The second payment to hospitals will be based on patient specific data for dates of service from July 1, 2006 through December 31, 2006. The deadline for submission of data used to calculate final payment is by March 31, 2007. Qualification for both payments is determined from the patient specific data for dates of services from January 1, 2006 through June 30, 2006.

1. Hospitals that were non-operational due to Hurricane Katrina and became operational between July 1, 2006 through December 31, 2006, the patient specific data during July 1, 2006 through December 31, 2006 will be used for qualification purposes.

2. Submitted hospital charge data must agree with the hospital's monthly revenue and usage reports which reconcile to the monthly and annual financial statements. The submitted data shall be subject to verification by the department before DSH payments are made.

G. In the event that the total payments calculated for all recipient hospitals are anticipated to exceed the total amount appropriated, the department shall reduce payments on a pro rata basis in order to achieve a total cost that is not in excess of the amounts appropriated for this purpose. The \$120,000,000 appropriation for the non-rural community hospital pool shall be effective only for state fiscal year 2007 and distributions from the pool shall be considered nonrecurring.

H. DSH payments shall be made as bi-annual lump sum payments.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

§309. Federally Mandated Statutory Hospitals Not Included in Any Other Group

A. Definition

Federally Mandated Statutory Hospital 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 federally mandated statutory 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 the state disproportionate share appropriated amount for this pool of hospitals.

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 33:

§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 two 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.

C. Payment to hospitals included in §311.B.1-2. 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. 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 33:

§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 33:

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 at 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

0610#082

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Inpatient Hospital Services—Private Hospitals
Reimbursement Rate Increase

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 in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology was subsequently amended to establish a weighted average per diem for each hospital peer group and discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volumes 22 and 25, Numbers 1 and 5). The May 20, 1999 Rule was later amended to reduce the reimbursement paid to private (non-state) acute hospitals for inpatient services (*Louisiana Register*, Volume 30, Number 6).

Act 17 of the 2006 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to increase the Medicaid reimbursement rates paid to private providers for inpatient and outpatient hospital services. In compliance with the directives of Act 17, the Department now proposes to amend the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to private hospitals.

This Emergency Rule is being promulgated to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program and recipient access to providers of these medically necessary services. It is estimated that the implementation of this proposed Rule will increase expenditures for inpatient hospital services by approximately \$17,381,269 for state fiscal year 2006-07.

Emergency Rule

Effective for dates of service on or after August 1, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the prospective per diem rate paid to private (non-state) hospitals, including long term hospitals and hospital intensive neurological rehabilitation care units, for inpatient services by 3.85 percent of the rate on file for July 31, 2006.

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 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

0610#024

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Inpatient Psychiatric Services—Private Hospitals Reimbursement Rate Increase

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 which established the prospective reimbursement methodology for inpatient psychiatric hospital services provided in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital (*Louisiana Register*, Volume 19, Number 6). The June 20, 1993 Rule was later amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates for inpatient psychiatric services in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5). The May 1999 Rule was subsequently amended to increase the reimbursement rates for inpatient psychiatric hospital services provided in private and public non-state owned and operated free-standing psychiatric hospitals and distinct part psychiatric units based on the weighted average costs reported on the cost report ending in SFY 2002 (*Louisiana Register*, Volume 30, Number 11).

Act 17 of the 2006 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to increase the Medicaid reimbursement rates paid to private providers for hospital inpatient and outpatient services. In compliance with the directives of Act 17, the Department now proposes to amend the reimbursement methodology for inpatient psychiatric services to increase the Medicaid reimbursement rates paid to private (non-state) distinct part psychiatric units and freestanding psychiatric hospitals.

This Emergency Rule is being promulgated to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Medicaid Program for the provision of inpatient psychiatric services and recipient access to providers of these medically necessary services. It is estimated that the implementation of this proposed Rule will increase expenditures for inpatient hospital services by approximately \$967,318 for state fiscal year 2006-07.

Emergency Rule

Effective for dates of service on or after August 1, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the prospective per diem rate paid to private (non-state) distinct part psychiatric units and freestanding psychiatric hospitals for inpatient services by 3.85 percent of the rate on file for July 31, 2006.

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 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

0610#025

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Outpatient Hospital Services—Private Hospitals Reimbursement Rate Increase

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 in January of 1996 which established the reimbursement methodology for outpatient hospital services at an interim rate of 60 percent of billed charges and cost settlement adjusted to 83 percent of allowable costs documented in the cost report, except for laboratory services subject to the Medicare fee schedule, outpatient rehabilitation and outpatient surgeries (*Louisiana Register*, Volume 22, Number 1). The January 20, 1996 Rule was subsequently amended to reduce the reimbursement paid for outpatient services (*Louisiana Register*, Volume 26, Number 12). Rules were later promulgated to increase the reimbursement paid for outpatient hospital rehabilitation services rendered to Medicaid recipients who are age 3 and older, outpatient clinic services, and outpatient laboratory services (*Louisiana Register*, Volume 29, Number 7).

Act 17 of the 2006 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to increase the Medicaid reimbursement rates paid to private providers for hospital inpatient and outpatient services. In compliance with the directives of Act 17, the department now proposes to amend the reimbursement methodology for outpatient services to increase the Medicaid reimbursement rates paid for outpatient services rendered in private (non-state) acute hospitals.

This Emergency Rule is being promulgated to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program and recipient access to providers of these medically

necessary services. It is estimated that the implementation of this proposed Rule will increase expenditures for outpatient hospital services by approximately \$4,204,812 for state fiscal year 2006-07.

Emergency Rule

Effective for dates of service on or after August 1, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rate paid to private (non-state) hospitals for cost-based outpatient services by 3.85 percent of the rate on file for July 31, 2006. Final reimbursement shall be 86.2 percent of allowable cost through the cost report settlement process. This change does not include the fee schedule amounts for outpatient laboratory services, outpatient rehabilitation services, outpatient surgery, and outpatient clinic (facility fees).

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 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

0610#023

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Professional Services Program—Physician Services Reimbursement Rate Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule 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 Administrative Procedure 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 reimburses professional services in accordance with an established fee schedule for Current Procedural Terminology (CPT) codes and Healthcare Common Procedure Coding System (HCPCS) codes.

As a result of the allocation of additional funds by the Legislature during the 2003 Regular Session, the Bureau increased reimbursement rates for selected CPT surgical and medical codes (*Louisiana Register*, Volume 31, Number 4).

Act 17 of the 2006 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor

Program to increase the Medicaid reimbursement rates paid to physicians. In compliance with the directives of Act 17, the bureau has determined that it is necessary to increase the reimbursement rates paid to physicians for services provided in the following service areas: 1) outpatient office evaluation and management services; 2) outpatient office consultation services; 3) emergency department services; 4) preventive medicine services; and 5) General/Integumentary System CPT codes. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Medicaid Program and recipient access to providers of these medically necessary services. It is estimated that implementation of this Emergency Rule will increase expenditures for physician services by approximately \$12,326,209 for state fiscal year 2006-2007.

Emergency Rule

Effective for dates of service on or after October 4, 2006, the Department of Health and Hospitals, Bureau of Health Services Financing increases the reimbursement rates paid to physicians for selected medical services provided to Medicaid recipients.

Outpatient Office Evaluation and Management Services

A. The reimbursement rate for outpatient office evaluation and management services shall be increased to 70 percent of the 2006 Medicare Region 99 allowable where the current Medicaid reimbursement rate is less than that amount.

B. The reimbursement rate for outpatient office evaluation and management services, when provided by a primary care physician (PCP) and the recipient is enrolled in the CommunityCARE Program, shall be increased to 80 percent of the 2006 Medicare Region 99 allowable where the current Medicaid reimbursement rate is less than that amount.

Outpatient Office Consultation Services

A. The reimbursement rate for outpatient office consultation services provided by physicians shall be increased to 70 percent of the 2006 Medicare Region 99 allowable where the current Medicaid reimbursement rate is less than that amount.

Emergency Department Services

A. The reimbursement rate for emergency department services shall be increased to 70 percent of the 2006 Medicare Region 99 allowable where the current Medicaid reimbursement rate is less than that amount.

B. The reimbursement rate for emergency department services, when provided by a PCP and the recipient is enrolled in the CommunityCARE Program, shall be increased to 80 percent of the 2006 Medicare Region 99 allowable where the current Medicaid reimbursement rate is less than that amount.

Preventive Medicine Services

A. The reimbursement rate for preventive medicine services for recipients, age 0 through 20, shall be increased by 10 percent of the current Medicaid rate in effect on September 30, 2006.

B. The reimbursement rate for preventive medicine services for recipients, age 0 through 20, provided by the PCP or the recipient's KidMed provider, shall be increased by 15 percent of the current Medicaid rate in effect on October 3, 2006.

General/Integumentary System Codes

A. The reimbursement rate paid for CPT codes in the General/Integumentary System section (CPT codes 10021-19499) shall be increased to 70 percent of the 2006 Medicare Region 99 allowable where the current reimbursement rate is less than that amount.

Implementation of this Emergency 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

0610#022

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Targeted Case Management
Nurse Family Partnership Program
(LAC 50:XV.11101-11103)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.11101-11103 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, Office of the Secretary, Bureau of Health Services Financing clarified the provisions governing the Nurse Family Partnership (NFP) Program by adopting all existing Rules in codified format in Title 50 of the *Louisiana Administrative Code* (*Louisiana Register*, Volume 30, Number 5). The Nurse Family Partnership Program provides case management services to a targeted population group composed of first-time mothers in certain Department of Health and Hospitals (DHH) administrative regions. The bureau amended the May 20, 2004 Rule to expand the DHH administrative regions served and to amend the eligibility criteria and staffing qualifications (*Louisiana Register*, Volume 31, Number 8). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has provided clarification that eligibility for targeted case management services is not transferable between target groups. In compliance with the CMS directive, the bureau amended the August 20, 2005 Rule to clarify that the first-time mother continues to be the focus of the NFP

Program after the birth of the child (*Louisiana Register*, Volume 32, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 20, 2006 Emergency Rule. This action is being taken to avoid federal sanctions.

Effective October 18, 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 addressing the program description and recipient qualifications in the Nurse Family Partnership Program.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 111. Nurse Family Partnership Program

§11101. Introduction

A. Nurse Family Partnership (NFP) targeted case management is a prenatal program designed to improve the health and social functioning of Medicaid eligible first-time mothers and their babies.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 33:

§11103. Recipient Qualifications

A. A Medicaid recipient must not be beyond the twenty-eighth week of pregnancy and must attest that she meets one of the following definitions of a first-time mother in order to receive NFP case management services. The recipient:

A.1. - B.3. ...

C. Nurse Family Partnership case management services to the mother may continue up to two years after the birth of the child.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 33:

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

0610#081

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of the Secretary

Reporting Requirements for Category 3 or Higher Hurricane
(LAC 33:V.11101, 11103, and 11105)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allow the Department of Public Safety to use emergency procedures to establish rules, and of R.S.32:1504, which allow the department to adopt and promulgate any rules and regulations, the secretary of the department hereby declares that an emergency action is necessary in order to implement the reporting requirements of hazardous materials for Category 3 or higher hurricane.

This Emergency Rule provides a process for the reporting of information regarding hazardous materials that are in transit and/or temporarily stored at a facility and that could present a threat to human health and the environment if compromised during a Category 3 or higher hurricane.

Hurricanes Katrina and Rita illustrated the need to be able to accurately account for all hazardous material in this state especially in times of emergency. The state must be aware of the exact nature, quantities, and location of all hazardous materials in this state prior to any potential release under these circumstances. Given that the hurricane season is approaching its peak, in terms of number and severity of storms, it is vital that this mechanism be in place at this time.

This Emergency Rule is effective on September 26, 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 this rule you may contact the Tony Walker, 225-925-3757.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov under Rules and Regulations section.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 2. Department of Public Safety and Corrections—Hazardous Materials

Chapter 111. Reporting Requirements for Category 3 or Higher Hurricane

§11101. Purpose

A. The purpose of this Chapter is to establish procedures for the reporting of information regarding hazardous materials that are in transit and/or temporarily stored at a facility and that could present a threat to human health and the environment if compromised during a Category 3 or higher hurricane.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:1504.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 33:

§11103. Applicability

A. This Chapter applies to all persons who are engaged in the transportation of hazardous materials by railcars, vessels, or barges, or the temporary storage of hazardous materials in any storage vessel not permanently attached to the ground, that is within the confines of a parish affected, or

projected to be affected, by a Category 3 or higher hurricane.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:1504.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 33:

§11105. Requirements for Reporting

A. Notification shall be given to the DPS, via electronic submittal, to the 24-hour Louisiana Emergency Hazardous Materials Hotline email address at emergency@la.gov within 12 hours of a mandatory evacuation order issued by the proper parish authorities.

B. Definitions

Hazardous Materials—those materials listed on the EHS list, 40 CFR Part 355, Appendix A.

Temporary Storage—the containment of hazardous materials in a container that is portable. This provision does not cover those hazardous materials that are stored in pipelines or any other storage vessel permanently attached to the ground.

C. Mechanism and Responsibilities

1. Within 12 hours of an order of evacuation issued by local parish authorities, persons subject to the provisions of this Chapter shall report the following:

a. the exact nature of, and the type, location, and relative fullness of the container (i.e., full, half-full, or empty) of all hazardous materials that are located within a parish subject to the evacuation order;

b. the primary and secondary contact person's phone, email, and fax number; and

c. whether the facility will be sufficiently manned such that post-event assessments will be performed by company personnel (as soon as safely practicable) and that any releases and/or hazardous situations will be reported in accordance with existing Louisiana Department of Environmental Quality (LDEQ) and State Police reporting requirements.

2. For those materials that are stored, it shall be necessary to only report those hazardous materials that were not reported in the annual Superfund Amendments and Reauthorization Act (SARA) inventory report and those that are in excess of what is typically stored at the facility.

3. Within a reasonable period of time, persons subject to the provisions of this Chapter shall perform a post-event assessment of those hazardous materials that were actually present in the affected area and to what degree, if any, those materials were compromised by said event and their current condition.

4. Both the DPS and Louisiana Department of Environmental Quality (LDEQ) shall have access to this information.

D. This Chapter does not extinguish any obligation or supersede any other federal or state law requiring reporting of information on hazardous materials.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:1504.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 33:

Stephen J. Hymel
Undersecretary

0610#026

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Developmental and Socialization Activities
Program for Foster Children (LAC 67:III.5579)

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 repeal LAC 67:III, Subpart 15, Chapter 55, §5579 Developmental and Socialization Activities Program for Foster Children. This Emergency Rule is effective October 1, 2006, and will remain in effect for a period of 120 days.

The authorization for emergency action in this matter is contained in Act 17 of the 2006 Regular Session of the Louisiana Legislature. Funds are no longer being allocated for this program; therefore, it will be repealed. This Emergency Rule was published as a part of a Notice of Intent entitled, "TANF Initiatives" in the August 2006 issue of the Louisiana Register.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5579. Developmental and Socialization Activities Program for Foster Children

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1, 2004 Reg. Session, Act 16, 2005 Reg. Session, Act 17, 2006 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 31:488 (February 2005), repealed LR 32:

Ann Silverberg Williamson
Secretary

0610#027

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Individual Development Account Program
(LAC 67:III.5555)

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 amend LAC 67:III, Subpart 15, Chapter 55 TANF Initiatives, §5555, Individual Development Account Program (IDA). This Emergency Rule effective October 29, 2006, will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule effective July 1, 2006, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule

will be published in the November 2006 issue of the *Louisiana Register*.)

Pursuant to the authority granted to the department by Louisiana TANF Block Grant, the agency is amending language in §5555 so that the department's focus may be on one or more of the qualified purposes listed in §5555.C based on the needs of the community.

The authorization for emergency action in this matter is contained in HB 1 of the 2006 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5555. Individual Development Account Program (Effective July 1, 2002)

A. - B. ...

C. Effective July 1, 2006, IDA funds may be used for one or more of the following qualified purposes as determined by the secretary:

C.1. - D. ...

E. These services meet the TANF goal to provide assistance to needy families so that children may be cared for in their own homes or in homes of relatives.

F. Eligibility is limited to low-income families at or below 200 percent of the federal poverty level.

G. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Act 1098, 2001 Reg. Session; Act 84, 2002 First Extraordinary Session; Act 13, Reg. Session; HB 1, 2006 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:45 (January 2003), amended LR 33:

Ann Silverberg Williamson
Secretary

0610#062

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Support Enforcement Services Program
Mandatory Fee for Successful Child Support Collection
(LAC 67:III.2523)

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 4, Support Enforcement Services, by adopting §2523 Mandatory Fee for Successful Child Support Collection. This Declaration is effective October 1, 2006, and shall remain in effect for 120 days.

Pursuant to Section 454(6)(B)(ii) of the Social Security Act, the agency is adopting §2523, which will allow for the

imposition of an annual fee for successful child support collection in compliance with federal guidelines.

Emergency action in this matter is necessary to ensure continued compliance with federal regulations and avoid federal penalties and sanctions that could be imposed by the Administration for Children and Families, Office of Child Support Enforcement, the governing authority of the Support Enforcement Program in Louisiana.

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 4. Support Enforcement Services
Chapter 25. Support Enforcement
Subchapter E. Individuals Not Otherwise Eligible
§2523. Mandatory Fee for Successful Child Support Collection

A. Effective October 1, 2006, in the case of an individual who has never received assistance under a state program funded under part A of the Social Security Act and for whom the state has collected at least \$500 of support, the state shall impose an annual fee of \$25 for each case in which services are furnished.

B. The custodial party shall be responsible for the annual fee and the fee shall be retained by the state from support collected, (but not from the first \$500 collected) or paid by the state out of its own funds (the payment of which from state funds shall not be considered as an administrative cost of the state for the operation of the plan, and the fees shall be considered income to the program).

C. The mandatory fee will accrue based on the federal fiscal year.

D. Fees imposed and not collected in one year will be collected in the following federal fiscal year or subsequent federal fiscal years.

AUTHORITY NOTE: Promulgated in accordance with section 454(6) (B) (ii) of Social Security Act, AT-06-01, and DCL-06-28.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:

Ann Silverberg Williamson
Secretary

0610#030

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

2006 Commercial King Mackerel Season

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department, by the Commission in its resolution of January 5, 2006, to close the 2006 commercial king mackerel season in Louisiana state waters when he is informed that the designated portion of the commercial king mackerel quota for the Gulf of Mexico has been filled, or was projected to be filled, the Secretary hereby declares:

Effective 12:00 noon, October 6, 2006, the commercial fishery for king mackerel in Louisiana waters will close and remain closed through June 30, 2007. Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fishermen. Effective with this closure, no person shall commercially harvest, possess, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel within or without Louisiana waters. Effective with this closure, no person shall possess king mackerel in excess of a daily bag limit within or without Louisiana waters. The prohibition on sale/purchase of king mackerel during the closure does not apply to king mackerel that were legally harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor provided appropriate records in accordance with R.S. 56:306.5 and 56:306.6 are properly maintained.

The secretary has been notified by National Marine Fisheries Service that the commercial king mackerel season in federal waters of the Gulf of Mexico will close at 12:00 noon October 6, 2006. Closing the season in state waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

Janice A. Lansing
Acting Secretary

0610#035

Rules

RULE

Department of Agriculture and Forestry Office of Forestry

Forest Landowner Assistance (LAC 7:XXXIX.701)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 3:4274 and R.S. 3:3, the Commissioner of Agriculture and Forestry amends the rules and regulations for the adjustment of the fee schedule for certain forest management services provided by the Office of Forestry.

The amendment of this Section increases fees for certain forest management services provided to private landowners by the Louisiana Department of Agriculture and Forestry, Office of Forestry by \$30 per hour with a minimum of one hour for forest management services. The fee for tractor work will increase from \$70 an hour, with a minimum of one hour, to \$100 an hour with a minimum of one hour.

This Rule is enabled by R.S. 3:4276.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 7. Forest Landowner Assistance

§701. Management Service Fees

A. The Department of Agriculture and Forestry, Office of Forestry, shall, under the direction of the state forester, provide private landowners with assistance in the management of their forestlands.

1. Basic Services. Performed on an as-requested basis in all Office of Forestry districts.

- | | | |
|------|---|---|
| a. | Prescribed Burning Services | |
| i. | Reforestation (cutover areas) | \$25/acre plus \$70/hour for fireline establishment
\$300 minimum charge |
| ii. | Afforestation (pasture, etc.) | \$15/acre plus \$70/hour for fireline establishment.
\$300 minimum charge. |
| iii. | Helicopter Assisted Burns | \$10/acre plus \$70/hour for fireline establishment.
\$300 minimum charge. |
| iv. | Other Prescribed Burns (fuel reduction, hardwood control, wildlife habitat, etc.) | \$20/acre
\$300 minimum charge. |
| v. | Fireline Plowing Only | \$70/hour
\$100 minimum charge. |
| b. | Timber Marking | \$25/acre |

2. Special Services. Performed when approved on a case-by-case basis.

- | | | |
|----|---|----------------------------|
| a. | Tree Planting* | \$46/acre |
| b. | Direct Seeding* | \$10/acre |
| c. | Light tractor (dozer) work [650 John Deere (or other brand of equal power) or less] | \$70/hour (1 hour minimum) |

- d. Heavy tractor (dozer) work \$100/hour (1 hour minimum)
[over 650 John Deere or other brand of equal power]
*Seedlings or seed not included.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4276, R.S. 3: 4274 and R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, LR 8:419 (August 1982), amended by the Department of Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 11:1178 (December 1985), LR 19:1414 (November 1993), LR 23:553 (May 1997), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 32:1782 (October 2006).

Bob Odom
Commissioner

0610#052

RULE

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, the Board of Elementary and Secondary Education adopted *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 32:1782 (October 2006).

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 32:1783 (October 2006).

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 32:1783 (October 2006).

§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 32:1783 (October 2006).

§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 32:1784 (October 2006).

§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 32:1784 (October 2006).

§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 32:1785 (October 2006).

§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 32:1785 (October 2006).

§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)
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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 32:1786 (October 2006).

§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 32:1786 (October 2006).

§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 32:1787 (October 2006).

§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 32:1788 (October 2006).

§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 32:1788 (October 2006).

§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 32:1789 (October 2006).

§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 be 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 32:1789 (October 2006).

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 32:1790 (October 2006).

§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 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 32:1790 (October 2006).

§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);

j. 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 32:1792 (October 2006).

§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 32:1794 (October 2006).

§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 32:1796 (October 2006).

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 Subchapters of this Chapter are devoted to these categories; a fourth Subchapter 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 32:1797 (October 2006).

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 32:1797 (October 2006).

§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 32:1797 (October 2006).

§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 32:1798 (October 2006).

§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 32:1799 (October 2006).

§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 32:1800 (October 2006).

§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 32:1800 (October 2006).

§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 32:1801 (October 2006).

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 32:1803 (October 2006).

§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 32:1803 (October 2006).

§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 32:1804 (October 2006).

§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 32:1804 (October 2006).

§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 32:1805 (October 2006).

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 32:1805 (October 2006).

§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 32:1805 (October 2006).

§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 32:1805 (October 2006).

§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 32:1806 (October 2006).

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 32:1806 (October 2006).

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 32:1807 (October 2006).

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 32:1807 (October 2006).

§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 32:1807 (October 2006).

**§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 (SEEI), 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 transliterater 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 Transliterater 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 32:1808 (October 2006).

§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 32:1808 (October 2006).

§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 32:1808 (October 2006).

§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 32:1809 (October 2006).

§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 32:1809 (October 2006).

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 32:1811 (October 2006).

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 32:1812 (October 2006).

§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 32:1812 (October 2006).

§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 32:1813 (October 2006).

§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 32:1814 (October 2006).

§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 32:1814 (October 2006).

§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 32:1814 (October 2006).

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 32:1814 (October 2006).

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 32:1815 (October 2006).

§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 32:1815 (October 2006).

§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 32:1815 (October 2006).

§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 32:1815 (October 2006).

§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 32:1816 (October 2006).

§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 32:1816 (October 2006).

§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 32:1816 (October 2006).

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 32:1816 (October 2006).

§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 32:1816 (October 2006).

§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 32:1817 (October 2006).

§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 32:1817 (October 2006).

§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 32:1817 (October 2006).

§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 32:1818 (October 2006).

§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 32:1818 (October 2006).

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 32:1818 (October 2006).

§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 32:1818 (October 2006).

§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 32:1818 (October 2006).

§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 32:1819 (October 2006).

§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:

- 1. Bilingual Methods I (practical training in the teaching of language arts and social studies in a bilingual-bicultural setting)—three semester hours; and
- 2. 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 32:1819 (October 2006).

§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 32:1819 (October 2006).

§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 32:1819 (October 2006).

§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 32:1819 (October 2006).

§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 32:1819 (October 2006).

§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 32:1820 (October 2006).

§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 32:1820 (October 2006).

§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 32:1820 (October 2006).

§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 32:1821 (October 2006).

§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 32:1821 (October 2006).

§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 32:1822 (October 2006).

§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 32:1822 (October 2006).

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 32:1822 (October 2006).

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 32:1822 (October 2006).

§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 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 32:1823 (October 2006).

§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 fiveyear 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 32:1823 (October 2006).

§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 data 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 32:1824 (October 2006).

§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 32:1824 (October 2006).

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 32:1824 (October 2006).

§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 32:1825 (October 2006).

§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 32:1825 (October 2006).

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 32:1825 (October 2006).

§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 32:1825 (October 2006).

§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 32:1826 (October 2006).

§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 32:1826 (October 2006).

§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 32:1827 (October 2006).

§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 32:1827 (October 2006).

§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 32:1828 (October 2006).

§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 32:1828 (October 2006).

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 Education Supervisor	Parish/City Supervisor/Director of Special Education	Educational Leader Level 1
Child welfare and Attendance Supervisor	Supervisor of Child welfare and Attendance and/or Visiting Teacher	Educational Leader Level 1 Educational Leader Level 2

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 32:1828 (October 2006).

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 32:1828 (October 2006).

§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 32:1828 (October 2006).

§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 32:1828 (October 2006).

§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 32:1829 (October 2006).

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 32:1829 (October 2006).

§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 32:1829 (October 2006).

§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 32:1829 (October 2006).

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 32:1830 (October 2006).

§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
* R.S. 14:86	Enticing persons into prostitution
* R.S. 14:89	Crime against nature
* R.S. 14:89.1	Aggravated crime against nature
R.S. 14:92	Contributing to the delinquency of 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
R.S. 14:282	Operation of places of prostitution
* R.S. 14:286	Sale of minor children
R.S. 40:966(A)	Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; Distribution
R.S. 40:967(A)	Prohibited acts; Schedule II, penalties; Manufacture; Distribution
R.S. 40:968(A)	Prohibited acts; Schedule III; penalties; Manufacture; Distribution
R.S. 40:969(A)	Prohibited acts; Schedule IV; 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 32:1830 (October 2006).

§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 32:1830 (October 2006).

§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 32:1831 (October 2006).

§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 32:1831 (October 2006).

§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 32:1831 (October 2006).

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 32:1832 (October 2006).

§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 32:1833 (October 2006).

Weegie Peabody
Executive Director

0610#011

RULE

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, the Board of Elementary and Secondary Education has amended *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 I 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"

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	

PRE-PROFESSIONAL SKILLS TEST	Test #	Score	Effective Date
PPST:R – Pre-Professional Skills Test: Reading	5710	172	Effective 1/16/02
	5720	171	
PPST:W – Pre-Professional Skills Test: Writing	5730	170	Effective 7/1/07
	5710	174	
PPST:M – Pre-Professional Skills Test: Mathematics	5720	173	Effective 7/1/10
	5730	172	
	5710	176	
	5720	175	
	5730	175	

3. Core Battery Exams

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
	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–	Prior to 6/30/05	580	---	---	161
	Chemistry/Physics/General Science (0070)		530			
	General Science: Content Knowledge (0435)	Effective 7/1/05	156			
German	German (0180)		500	---	---	161
	German: Content Knowledge (0181)	Effective 7/1/06	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: Content Knowledge (0081) Interpretation of Materials (0083)	149 152	---	---	161
Spanish	Spanish (0190) Spanish: Content Knowledge (0191)	Prior to 5/31/04 Effective 6/1/04	540 160	---	161
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)	Effective 7/1/06	500					
	German: Content Knowledge (0181)		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)			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 Educ. of Exceptional Students: Core Content Knowledge (0353) & Early Childhood Education (0020) Effective 7/1/05	143 143 510
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
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) 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.		*Educ. of Exceptional Students: Core Content Knowledge (0353) & Educ. of Exceptional Students: Mild/Moderate Disabilities (0542) Effective 6/1/04 *Note: (0353) and (0542) are not content area exams.	143 141
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
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 32:1833 (October 2006).

Weegie Peabody
Executive Director

0610#008

RULE

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, the Board of Elementary and Secondary Education has amended *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 I 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 0720 0730	172 171 170	Effective 1/16/02
PPST:W – Pre-Professional Skills Test: Writing	0710	174	Effective 7/1/07
PPST:M – Pre-Professional Skills Test: Mathematics	0720 0730	173 172	
	0710 0720 0730	176 175 175	Effective 7/1/10

2. "Computer Based Administrations"

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 5720 5730	172 171 170	Effective 1/16/02
	5710 5720 5730	174 173 172	Effective 7/1/07
PPST:W – Pre-Professional Skills Test: Writing	5730	172	
PPST:M – Pre-Professional Skills Test: Mathematics	5710 5720 5730	176 175 175	Effective 7/1/10

3. Core Battery Exams

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
		Effective 7/1/05	530			
		Effective 7/1/05	156			
German	German (0180)		500	---	---	161
		Effective 7/1/06	151			
Mathematics	Mathematics (0060)	Prior to 5/31/04	550	---	---	161
		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
		Effective 7/1/06	141			
School Librarian	Library Media Specialist (0310)		560	---	---	---
Social Studies	Social Studies: Content Knowledge (0081)		149	---	---	161
		Effective 7/1/05	152			
Spanish	Spanish (0190)	Prior to 5/31/04	540	---	---	161
		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	161	or	154	or	161
	Spanish: Content Knowledge (0191)	Effective 6/1/04	160					
Grades K-12 Health and Physical Education	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 Educ. of Exceptional Students: Core Content Knowledge (0353) & Early Childhood Education (0020) Effective 7/1/05	143 143 510
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
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) 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.		*Educ. of Exceptional Students: Core Content Knowledge (0353) & Educ. of Exceptional Students: Mild/Moderate Disabilities (0542) Effective 6/1/04 *Note: (0353) and (0542) are not content area exams.	143 141
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
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 Area

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 32:1836 (October 2006).

Weegie Peabody
Executive Director

0610#007

RULE

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, the Board of Elementary and Secondary Education has amended *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 32:1839 (October 2006).

Weegie Peabody
Executive Director

0610#009

RULE

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, the Board of Elementary and Secondary Education has amended *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 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 ICAP, which will be funded at the local level. The ICAP 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 32:1839 (October 2006).

§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 32:1840 (October 2006).

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 32:1840 (October 2006).

Weegie Peabody
Executive Director

0610#010

RULE

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 has amended 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 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 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 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 32:1841 (October 2006).

Herman Robinson, CPM
Executive Counsel

0610#044

RULE

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 has amended 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 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 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 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 32:1841 (October 2006).

Herman Robinson, CPM
Executive Counsel

0610#046

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Emissions Factors (LAC 33:III.501)(AQ240)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.501 (Log #AQ240).

This rule clarifies requirements in LAC 33:III.919 concerning emission inventory and in LAC 33:III.507.H concerning annual compliance certification. The intent of this rule is to permit the department to determine the actual basis of apparent changes in emissions when there is an emission limit discrepancy between a facility's permitted limit (pursuant to Chapter 5) and the emission estimate reported in the facility's emission inventory statement (pursuant to Chapter 9). This rule provides a mechanism to allow the department an opportunity to assess and validate the basis of the noted emission level change. The rule clarifies how facility compliance is to be assessed when prescribed emission factors are changed. Emission factors set forth in the EPA-approved Compilation of Air Pollution Emission Factors (AP-42) and other department-approved estimation methods may be revised. A periodic review of the approved AP-42 factors or department estimation methods may cause such emission factors to be changed upward or downward due to receipt of improved data. Emissions changes due solely to changes in AP-42 factors, for some facilities, may result in changes in calculations of emissions from levels that were previously in compliance with permit limits to levels that exceed those permit limits. Those facilities that have been reporting emissions in compliance

with their permits may now be reporting emissions that exceed permit limits, even though their actual emissions have not changed. As a result, these facilities face potential enforcement actions, including substantial civil penalties. Some affected facilities may elect to reduce or cease operations due to the economic burden of these enforcement actions. This would have economic consequences for the firms involved, as well as their employees, suppliers, and customers. This regulation allows the department to review these emission factor changes on a case-by-case basis. This rule will promulgate Emergency Rule AQ240E6, which was effective August 20, 2006, and published in the September 20, 2006, issue of the *Louisiana Register*. The basis and rationale for this rule is to allow the department to review emission factor changes on a case-by-case basis prior to any actions taken by the department.

The department has made substantive changes to further clarify the hierarchy of selecting the available methods to estimate emissions and reflect existing language as specified in LAC 33:III.919 regarding emission data, and to establish a notification mechanism as a means of ascertaining background information to validate reported changes in emissions (that are currently reported under LAC 33:III.919) to assist in the department's ability to conduct case-by-case reviews as provided for in the current proposed rule. No additional fiscal or economic impact will result from the substantive changes.

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 III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - C.10. ...

11. Emissions shall be calculated in accordance with LAC 33:III.919.C.

12. Emissions estimation methods set forth in the *Compilation of Air Pollution Emission Factors (AP-42)* and other department-accepted estimation methods may be promulgated or revised. As a result of new or revised AP-42 emission factors for sources or source categories and/or department-accepted estimation methods, changes in calculated emissions may occur. Changes in reported emission levels as required by LAC 33:III.919.B.2.a due solely to revised AP-42 emission factors or department-accepted estimation methods do not constitute violations of the air permit; however, the department may evaluate changes in emissions on a case-by-case basis, including but not limited to, assessing compliance with other applicable Louisiana air quality regulations.

13. If the emission factors or estimation methods for any source or source category used in preparing the Annual Emission Statement required by LAC 33:III.918 and 919 differ from the emission factors or estimation methods used in the current air permit such that resulting "calculated" emissions reflect a change as defined in LAC 33:III.919.B.2.a, notification of the use of updated emission

factors or estimation methods shall be included in the Title V Annual Certification, as specified in the affected permit. The notification shall include the old and new emission factor or estimation method reference source and the date, volume, and edition (if applicable); the raw data for the reporting year used for that source category calculation; and applicable emission point and permit numbers that are impacted by such change. The notification shall include any other explanation, as well as the facility's intended time frame to reconcile the emission limits in the applicable permit. The department reserves the right to reopen a permit pursuant to LAC 33:III.529.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (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 32:1842 (October 2006).

Herman Robinson, CPM
Executive Counsel

0610#043

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Environmental Quality Regulations—Cleanup Package
(LAC 33:I.705 and 909; III.509; V.2299 and 3325;
IX.107 and 7107; XI.301; and XV.102 and 399)(OS070)

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 Environmental Quality regulations, LAC 33:I.705 and 909; III.509; V.2299 and 3325; IX.107 and 7107; XI.301; and XV.102 and 399 (Log #OS070).

Minor changes are being incorporated into LAC 33:Parts I, III, V, IX, XI, and XV. These amendments involve clarification in language and correction of several minor mistakes and omissions. This Rule will address typographical errors, incorrect references, minor mistakes, and inadvertent omissions that have been found in the regulations. The basis and rationale for this Rule are to incorporate necessary corrections into the 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 I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 7. Penalties

§705. Penalty Determination Method

A. - D. ...

E. The information obtained from the violation-specific and violator-specific factors can be entered into one of the following formulas to obtain a penalty amount (P_n) for each penalty event:

$$P_n = A_n + (B_n \times [C_n - A_n])$$

$$P_n = 2(A_n + [B_n \times (C_n - A_n)]) *$$

where:

P_n = penalty amount for a given penalty event.

A_n = the minimum value of the penalty range for the cell located on the penalty matrix for a given penalty event.

B_n = the sum of percentage adjustments calculated for a given penalty event, where $100 \text{ percent} \geq B \geq -100 \text{ percent}$.

C_n = the maximum value of the penalty range for the cell located on the penalty matrix for a given penalty event.

* [NOTE: For violation of a previous enforcement action the penalty is multiplied by 2. The statutory maximum is \$50,000 in circumstances where the penalty event constitutes a violation of a previous enforcement action as stated in R.S. 30:2025(E)(2).]

F. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:658 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2400 (December 1999), LR 30:421 (March 2004), amended by the Office of Environmental Assessment, LR 30:2802 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1843 (October 2006).

Chapter 9. Petition for Rulemaking

§909. Processing a Rulemaking Petition

A. ...

B. Within 90 days of receipt of the petition for rulemaking, the administrative authority shall deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking by providing the petitioner with the necessary, completed form as provided in the department's Policy Number 0003-88, "Rule Development Procedure."

1. - 2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2440 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1843 (October 2006).

Part III. Air

Chapter 5. Permit Procedures

§509. Prevention of Significant Deterioration

A. - A.4.e. ...

f. Hybrid Test for Projects That Involve Multiple Types of Emissions Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in Subparagraphs A.4.c-d of this Section as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant, as defined in Subsection B of this Section.

A.5. - AA.15.b....

Figure 1, AQCR, Map of Louisiana. Repealed.

[Editor's Note: Map is located after Section 509, Historical Note.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2234 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 31:3135, 3156 (December 2005), LR 32:1600 (September 2006), LR 32:1843 (October 2006).

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality—Hazardous Waste

Chapter 22. Prohibitions on Land Disposal

Subchapter B. Hazardous Waste Injection Restrictions

§2299. Appendix—Tables 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12

Table 2. Treatment Standards for Hazardous Wastes

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Non-Wastewaters
		Common Name	CAS ² Number	Concentration in mg/L ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/L TCLP" or Technology Code ⁴

[See Prior Text in D001 ⁹ – F028]					
F032	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that currently use or have previously used chlorophenolic formulations (except potentially cross-contaminated wastes that have had the F032 waste code deleted in accordance with LAC 33:V.4901.B.3 or potentially cross-contaminated wastes that are otherwise currently regulated as hazardous wastes (i.e., F034 or F035), and where the generator does not resume or initiate use of chlorophenolic formulations). This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol.	Acenaphthene	83-32-9	0.059	3.4
		Anthracene	120-12-7	0.059	3.4
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		2-4 Dimethylphenol	105-67-9	0.036	14
		Fluorene	86-73-7	0.059	3.4
		Hexachlorodibenzo-p-dioxins	NA	0.000063, or CMBST ¹¹	0.001, or CMBST ¹¹
		Hexachlorodibenzofurans	NA	0.000063, or CMBST ¹¹	0.001, or CMBST ¹¹
		Indeno (1,2,3-c,d) pyrene	193-39-5	0.0055	3.4
		Naphthalene	91-20-3	0.059	5.6
		Pentachlorodibenzo-p-dioxins	NA	0.000063, or CMBST ¹¹	0.001, or CMBST ¹¹
		Pentachlorodibenzofurans	NA	0.000035, or CMBST ¹¹	0.001, or CMBST ¹¹
		Pentachlorophenol	87-86-5	0.089	7.4
		Phenanthrene	85-01-8	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Pyrene	129-00-0	0.067	8.2
		Tetrachlorodibenzo-p-dioxins	NA	0.000063, or CMBST ¹¹	0.001, or CMBST ¹¹
		Tetrachlorodibenzofurans	NA	0.000063, or CMBST ¹¹	0.001, or CMBST ¹¹
2,3,4,6- Tetrachlorophenol	58-90-2	0.030	7.4		
2,4,6- Trichlorophenol	88-06-2	0.035	7.4		
Arsenic	7440-38-2	1.4	5.0 mg/L TCLP		
Chromium (Total)	7440-47-3	2.77	0.60 mg/L TCLP		
F034	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use creosote formulations. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol.	Acenaphthene	83-32-9	0.059	3.4
		Anthracene	120-12-7	0.059	3.4
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Fluorene	86-73-7	0.059	3.4
		Indeno (1,2,3-c,d) pyrene	193-39-5	0.0055	3.4
		Naphthalene	91-20-3	0.059	5.6
		Phenanthrene	85-01-8	0.059	5.6
		Pyrene	129-00-0	0.067	8.2
		Arsenic	7440-38-2	1.4	5.0 mg/L TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/L TCLP

Table 2. Treatment Standards for Hazardous Wastes

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Non-Wastewaters
		Common Name	CAS ² Number	Concentration in mg/L ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/L TCLP" or Technology Code ⁴
F035	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use inorganic preservatives containing arsenic or chromium. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol.	Arsenic	7440-38-2	1.4	5.0 mg/L TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/L TCLP
F037	Petroleum refinery primary oil/water/solids separation sludge. Any sludge generated from the gravitational separation of oil/water/solids during the storage or treatment of process wastewaters and oily cooling wastewaters from petroleum refineries. Such sludges include, but are not limited to, those generated in: oil/water/solids separators; tanks and impoundments; ditches and other conveyances; sumps; and stormwater units receiving dry weather flow. Sludge generated in stormwater units that do not receive dry weather flow, sludges generated from noncontact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges generated in aggressive biological treatment units as defined in LAC 33:V.4901.B.2.b. (including sludges generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and K051 wastes are not included in this listing. This listing does include residuals generated from processing or recycling oil-bearing hazardous secondary materials excluded under LAC 33:V.105.D.1.1, if those residuals are to be disposed.	Acenaphthene	83-32-9	0.059	NA
		Anthracene	120-12-7	0.059	3.4
		Benzene	71-43-2	0.14	10
		Benzo(a)anthracene	56-55-3	0.059	3.4
		Benzo(a)pyrene	50-32-8	0.061	3.4
		bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
		Chrysene	218-01-9	0.059	3.4
		Di-n-butyl phthalate	84-74-2	0.057	28
		Ethylbenzene	100-41-4	0.057	10
		Fluorene	86-73-7	0.059	NA
		Naphthalene	91-20-3	0.059	5.6
		Phenanthrene	85-01-8	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Pyrene	129-00-0	0.067	8.2
		Toluene	108-88-3	0.080	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
		Chromium (Total)	7440-47-3	2.77	0.60 mg/L TCLP
		Cyanides (Total) ⁷	57-12-5	1.2	590
		Lead	7439-92-1	0.69	NA
Nickel	7440-02-0	NA	11mg/L TCLP		
*** [See Prior Text in F038]					
F039	Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous under LAC 33:V.Subchapter A. (Leachate resulting from the disposal of one or more of the following EPA Hazardous Wastes and no other Hazardous Wastes retains its EPA Hazardous Waste Number(s): F020, F021, F022, F026, F027, and/or F028.)	*** [See Prior Text in Acenaphthylene – Endosulfan II]			
		Endosulfan sulfate	1031-07-8	0.029	0.13
*** [See Prior Text in Endrin – Vanadium]					
K001	Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol.	Naphthalene	91-20-3	0.059	5.6
		Pentachlorophenol	87-86-5	0.089	7.4
		Phenanthrene	85-01-8	0.059	5.6
		Pyrene	129-00-0	0.067	8.2
		Toluene	108-88-3	0.080	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
		Lead	7439-92-1	0.69	0.75 mg/L TCLP

Table 2. Treatment Standards for Hazardous Wastes

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Non-Wastewaters
		Common Name	CAS ² Number	Concentration in mg/L ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/L TCLP" or Technology Code ⁴

[See Prior Text in K002 – K010]					
K011	Bottom stream from the wastewater stripper in the production of acrylonitrile.	Acetonitrile	75-05-8	5.6	38
		Acrylonitrile	107-13-1	0.24	84
		Acrylamide	79-06-1	19	23
		Benzene	71-43-2	0.14	10
		Cyanide (Total)	57-12-5	1.2	590

[See Prior Text in K013 – K060]					
K061	Emission control dust/sludge from the primary production of steel in electric furnaces.	Antimony	7440-36-0	NA	1.15 mg/L TCLP
		Arsenic	7440-38-2	NA	5.0 mg/L TCLP
		Barium	7440-39-3	NA	21 mg/L TCLP
		Beryllium	7440-41-7	NA	1.22 mg/L TCLP
		Cadmium	7440-43-9	0.69	0.11 mg/L TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/L TCLP
		Lead	7439-92-1	0.69	0.75 mg/L TCLP
		Mercury	7439-97-6	NA	0.025 mg/L TCLP
		Nickel	7440-02-0	3.98	11 mg/L TCLP
		Selenium	7782-49-2	NA	5.7 mg/L TCLP
		Silver	7440-22-4	NA	0.14 mg/L TCLP
		Thallium	7440-28-0	NA	0.20 mg/L TCLP
		Zinc	7440-66-6	NA	4.3 mg/L TCLP

[See Prior Text in K062 – K085]					
K086	Solvent wastes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead.	Acetone	67-64-1	0.28	160
		Acetophenone	96-86-2	0.010	9.7
		bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
		n-Butyl alcohol	71-36-3	5.6	2.6
		Butylbenzyl phthalate	85-68-7	0.017	28
		Cyclohexanone	108-94-1	0.36	NA
		o-Dichlorobenzene	95-50-1	0.088	6.0
		Diethyl phthalate	84-66-2	0.20	28
		Dimethyl phthalate	131-11-3	0.047	28
		Di-n-butyl phthalate	84-74-2	0.057	28
		Di-n-octyl phthalate	117-84-0	0.017	28
		Ethyl acetate	141-78-6	0.34	33
		Ethylbenzene	100-41-4	0.057	10
		Methanol	67-56-1	5.6	NA
		Methyl ethyl ketone	78-93-3	0.28	36
		Methyl isobutyl ketone	108-10-1	0.14	33
		Methylene chloride	75-09-2	0.089	30
		Naphthalene	91-20-3	0.059	5.6
		Nitrobenzene	98-95-3	0.068	14
		Toluene	108-88-3	0.080	10
		1,1,1-Trichloroethane	71-55-6	0.054	6.0
		Trichloroethylene	79-01-6	0.054	6.0
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
		Chromium (Total)	7440-47-3	2.77	0.60 mg/L TCLP
		Cyanides (Total) ⁷	57-12-5	1.2	590
		Lead	7439-92-1	0.69	0.75 mg/L TCLP

[See Prior Text in K087]					
K088	Spent potliners from primary aluminum reduction.	Acenaphthene	83-32-9	0.059	3.4
		Anthracene	120-12-7	0.059	3.4
		Benzo(a)anthracene	56-55-3	0.059	3.4
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Benzo(b)fluoranthene	205-99-2	0.11	6.8
		Benzo(k)fluoranthene	207-08-9	0.11	6.8
		Benzo(g,h,i)perylene	191-24-2	0.0055	1.8
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Fluoranthene	206-44-0	0.068	3.4
		Indeno (1,2,3-c,d)pyrene	193-39-5	0.0055	3.4

Table 2. Treatment Standards for Hazardous Wastes

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Non-Wastewaters
		Common Name	CAS ² Number	Concentration in mg/L ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/L TCLP" or Technology Code ⁴
		Phenanthrene	85-01-8	0.059	5.6
		Pyrene	129-00-0	0.067	8.2
		Antimony	7440-36-0	1.9	1.15 mg/L TCLP
		Arsenic	7440-38-2	1.4	26.1
		Barium	7440-39-3	1.2	21 mg/L TCLP
		Beryllium	7440-41-7	0.82	1.22 mg/L TCLP
		Cadmium	7440-43-9	0.69	0.11 mg/L TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/L TCLP
		Lead	7439-92-1	0.69	0.75 mg/L TCLP
		Mercury	7439-97-6	0.15	0.025 mg/L TCLP
		Nickel	7440-02-0	3.98	11 mg/L TCLP
		Selenium	7782-49-2	0.82	5.7 mg/L TCLP
		Silver	7440-22-4	0.43	0.14 mg/L TCLP
		Cyanide (Total) ⁷	57-12-5	1.2	590
		Cyanide (Amenable) ⁷	57-12-5	0.86	30
		Fluoride	16984-48-8	35	N/A
* * *					
[See Prior Text in K093 – K161]					
K169	Crude oil tank sediment from petroleum refining operations.	Benz(a)anthracene	56-55-3	0.059	3.4
		Benzene	71-43-2	0.14	10
		Benzo(g,h,i)perylene	191-24-2	0.0055	1.8
		Chrysene	218-01-9	0.059	3.4
		Ethyl Benzene	100-41-4	0.057	10
		Fluorene	86-73-7	0.059	3.4
		Naphthalene	91-20-3	0.059	5.6
		Phenanthrene	81-05-8	0.059	5.6
		Pyrene	129-00-0	0.067	8.2
		Toluene (Methyl Benzene)	108-88-3	0.080	10
		Xylene(s) (Total)	1330-20-7	0.32	30
* * *					
[See Prior Text in K170 – K174]					
K175	Wastewater treatment sludge from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process.	Arsenic	7440-36-0	1.4	5.0 mg/L TCLP
		Mercury ¹²	7438-97-6	NA	0.025 mg/L TCLP
		pH ¹²		NA	pH≤6.0
	All K175 wastewaters.	Mercury	7438-97-6	0.15	NA
* * *					
[See Prior Text in K176 – P064]					
P065	Mercury fulminate nonwastewaters, regardless of their total mercury content, that are not incinerator residues or are not residues from RMERC.	Mercury	7439-97-6	NA	IMERC
	Mercury fulminate nonwastewaters that are either incinerator residues or are residues from RMERC; and contain greater than or equal to 260 mg/kg total mercury.	Mercury	7439-97-6	NA	RMERC
	Mercury fulminate nonwastewaters that are residues from RMERC and contain less than 260 mg/kg total mercury.	Mercury	7439-97-6	NA	0.20 mg/L TCLP
	Mercury fulminate nonwastewaters that are incinerator residues and contain less than 260 mg/kg total mercury.	Mercury	7439-97-6	NA	0.025 mg/L TCLP
	All mercury fulminate wastewaters.	Mercury	7439-97-6	0.15	NA
* * *					
[See Prior Text in P066 – P089]					
P092	Phenyl mercuric acetate nonwastewaters, regardless of their total mercury content, that are not incinerator residues or are not residues from RMERC.	Mercury	7439-97-6	NA	IMERC; or RMERC
	Phenyl mercuric acetate nonwastewaters that are either incinerator residues or are residues from RMERC; and still contain greater than or equal to 260 mg/kg total mercury.	Mercury	7439-97-6	NA	RMERC

Table 2. Treatment Standards for Hazardous Wastes

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Non-Wastewaters
		Common Name	CAS ² Number	Concentration in mg/L ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/L TCLP" or Technology Code ⁴
	Phenyl mercuric acetate nonwastewaters that are residues from RMERC and contain less than 260 mg/kg total mercury.	Mercury	7439-97-6	NA	0.20 mg/L TCLP
	Phenyl mercuric acetate nonwastewaters that are incinerator residues and contain less than 260 mg/kg total mercury.	Mercury	7439-97-6	NA	0.025 mg/L TCLP
	All phenyl mercuric acetate wastewaters.	Mercury	7439-97-6	0.15	NA
* * *					
[See Prior Text in P093 – U411]					

Footnote 1. - Footnote 12. ...

[Note: NA means Not Applicable.]

Table 3. - Table 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:834 (September 1996), LR 23:566

(May 1997), LR 24:301 (February 1998), LR 24:670 (April 1998), LR 24:1732 (September 1998), LR 25:451 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:282 (February 2000), LR 27:295 (March 2001), LR 29:322 (March 2003), LR 30:1682 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:828 (May 2006), LR 32:1843 (October 2006).

Chapter 33. Ground Water Protection
§3325. Ground Water Monitoring List

Table 4 lists ground water monitoring constituents.

Table 4. Ground Water Monitoring List¹

Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴
Acenaphthene	83-32-9	Acenaphthylene, 1,2-dihydro-
Acenaphthylene	208-96-8	Acenaphthylene
Acetone	67-64-1	2-Propanone
Acetophenone	98-86-2	Ethanone, 1-phenyl-
Acetonitrile; Methyl cyanide	75-05-8	Acetonitrile
2-Acetylamino-fluorene; 2-AAF	53-96-3	Acetamide, N-9H-fluoren-2-yl-
Acrolein	107-02-8	2-Propenal
Acrylonitrile	107-13-1	2-Propenenitrile
Aldrin	309-00-2	1,4:5,8-Dimethano-naph-thalene, 1,2,3,4,10,10- hexachloro-1,4,4a,5,8, 8a,-hexa-hydro (1 α ,4 α , 4 $\alpha\beta$,5 β ,8 α ,8 $\alpha\beta$)
Allyl chloride	107-05-1	1-Propene, 3-chloro-
4-Amino-biphenyl	92-67-1	[1,1'-Biphenyl]-4-amine
Aniline	62-53-3	Benzenamine
Anthracene	120-12-7	Anthracene
Antimony	(Total)	Antimony
Aramite	140-57-8	Sulfurous acid,2-chloro-ethyl 2-[4-(1,1-di-methylethyl) phenoxy]-1- methyl-ethyl ester
Arsenic	(Total)	Arsenic
Barium	(Total)	Barium
Benzene	71-43-2	Benzene
Benzo[a]anthracene; Benzanthracene	56-55-3	Benzo[a]anthracene
Benzo[b]-fluor-anthene	205-99-2	Benzo[e]acephen-anthry-lene
Benzo[k]-fluor-anthene	207-08-9	Benzo[k]fluoranthene
Benzo[ghi]perylene	191-24-2	Benzo[ghi]perylene
Benzo[a]pyrene	50-32-8	Benzo[a]pyrene
Benzyl alcohol	100-51-6	Benzenemethanol
Beryllium	(Total)	Beryllium
alpha-BHC	319-84-6	Cyclohexane,1,2,3,4,5, 6-hexachloro-, (1 α ,2 α ,3 β ,4 α ,5 β ,6 β)
beta-BHC	319-85-7	Cyclohexane, 1,2,3,4,5, 6-hexachloro-, (1 α ,2 β ,3 α ,4 β ,5 α ,6 β)-
delta-BHC	319-86-8	Cyclohexane, 1,2,3,4,5, 6-hexachloro-, (1 α ,2 α ,3 α , 4 β ,5 α ,6 β)-
gamma-BHC; Lindane	58-89-9	Cyclohexane, 1,2,3,4,5, 6-hexachloro-, (1 α ,2 α ,3 β ,4 α ,5 α ,6 β)
Bis(2-chloroethoxy) methane-	111-91-1	Ethane, 1,1'-[methyl- enebis(oxy)]bis[2- chloro-
Bis(2-chloroethyl) ether	111-44-4	Ethane, 1,1'-oxybis[2- chloro-
Bis(2-chloro-1-methylethyl)ether; 2,2'-Dichlorodi- isopropyl ether	108-60-1	Propane, 2,2'-oxybis [1-chloro-
Bis(2-ethyl-hexyl) phthalate	117-81-7	1,2-Benzenedicarboxylic acid,bis(2-ethylhexyl) ester
Bromodichloro- methane	75-27-4	Methane, bromodichloro-
Bromoform;Tri-bromomethane	75-25-2	Methane, tribromo-
4-Bromophenyl-phenyl ether	101-55-3	Benzene,1-bromo-4- phenoxy-

Table 4. Ground Water Monitoring List¹

Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴
Butyl benzyl phthalate;Benzyl butyl phthalate	85-68-7	1,2-Benzenedicarboxylic acid, butyl phenyl- methyl ester
Cadmium	(Total)	Cadmium
Carbon disulfide	75-15-0	Carbon disulfide
Carbon tetrachloride	56-23-5	Methane, tetrachloro-
Chlordane	57-74-9	4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-octa-chloro-2,3,3a,4,7,7a-hexahydro-
p-Chloroaniline	106-47-8	Benzenamine, 4 chloro-
Chlorobenzene	108-90-7	Benzene, chloro-
Chloro- benzilate	510-15-6	Benzenoacetic acid, 4-chloro- α -(4-chloro- phenyl)- α -hydroxy-, ethyl ester
p-Chloro- m-cresol	59-50-7	Phenol, 4-chloro-3- methyl-
Chloroethane; Ethyl chloride	75-00-3	Ethane, chloro-
Chloroform	67-66-3	Methane, trichloro-
2-Chloro- naphthalene	91-58-7	Naphthalene, 2-chloro-
2-Chlorophenol	95-57-8	Phenol, 2-chloro-
4-Chlorophenyl phenyl ether	7005-72-3	Benzene, 1-chloro-4- phenoxy-
Chloroprene	126-99-8	1,3-Butadiene, 2-chloro-
Chromium	(Total)	Chromium
Chrysene	218-01-9	Chrysene
Cobalt	(Total)	Cobalt
Copper	(Total)	Copper
m-Cresol	108-39-4	Phenol, 3-methyl-
o-Cresol	95-48-7	Phenol, 2-methyl-
p-Cresol	106-44-5	Phenol, 4-methyl-
Cyanide	57-12-5	Cyanide
2,4-D; 2,4-Di-chlorophenoxy-acetic acid	94-75-7	Acetic acid, (2,4- dichlorophenoxy)-
4,4'-DDD	72-54-8	Benzene, 1,1'-(2,2- dichloroethylidene) bis[4-chloro-
4,4'-DDE	72-55-9	Benzene, 1,1'-(dichloro- ethenylidene) bis[4- chloro-
4,4'-DDT	50-29-3	Benzene, 1,1'-(2,2,2- trichloroethylidene) bis[4-chloro-
Diallate	2303-16-4	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3-dichloro-2-propenyl)ester
Dibenz[a,h] anthracene	53-70-3	Dibenz[a,h]anthracene
Dibenzofuran	132-64-9	Dibenzofuran
Dibromochloro- methane; Chlorodi- bromomethane	124-48-1	Methane, dibromo- chloro-
1,2-Dibromo-3-chloropropane; DBCP	96-12-8	Propane, 1,2-dibromo- 3-chloro-
1,2-Dibromoethane; Ethylene dibromide	106-93-4	Ethane, 1,2-dibromo-
Di-n-butyl phthalate	84-74-2	1,2-Benzenedicarboxylic acid, dibutyl ester
o-Dichlorobenzene	95-50-1	Benzene, 1,2-dichloro-
m-Dichlorobenzene	541-73-1	Benzene, 1,3-dichloro-
p-Dichlorobenzene	106-46-7	Benzene, 1,4-dichloro-
3,3'-Dichloro- benzidine	91-94-1	[1,1'-Biphenyl]4,4'- diamine, 3,3'-dichloro-
trans-1,4- Dichloro-2-butene	110-57-6	2-Butene,1,4- dichloro-, (E)-
Dichlorodifluoro- methane	75-71-8	Methane, dichloro- difluoro-
1,1-Dichloro-ethane	75-34-3	Ethane,1,1-dichloro-
1,2-Dichloro-ethane; Ethylene dichloride	107-06-2	Ethane, 1,2-dichloro-
1,1-Dichloro- ethylene; Vinylidene chloride	75-35-4	Ethene, 1,1-dichloro-
trans-1,2- Dichloroethylene	156-60-5	Ethene,1,2-dichloro-(E)-
2,4-Dichlorophenol	120-83-2	Phenol, 2,4-dichloro-
2,6-Dichlorophenol	87-65-0	Phenol, 2,6-dichloro-
1,2-Dichloro-propane	78-87-5	Propane, 1,2- dichloro-
cis-1,3- Dichloro- propene	10061-01-5	1-Propene, 1,3- dichloro-,(Z)-
trans-1,3- Dichloropropene	10061-02-6	1-Propene, 1,3- dichloro-, (E)-
Dieldrin	60-57-1	2,7:3,6-Dimethanonaphth [2,3-b]oxirene,3,4,5, 6,9,9- hexachloro-1 α ,2,2 α ,3,6,6 α ,7,7 α -octahydro-, (1 $\alpha\alpha$,2 β ,2 $\alpha\alpha$,3 β ,6 β ,6 $\alpha\alpha$,7 β ,7 $\alpha\alpha$)-
Diethyl phthalate	84-66-2	1,2-Benzenedicarboxylic acid, diethyl ester
O,O-Diethyl O-2-pyrazinyl phosphorothioate; Thionazin	297-97-2	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester
Dimethoate	60-51-5	Phosphorodithioic acid, O,O-dimethyls-[2-(methylamino)-2-oxoethyl] ester
p-(Dimethyl-amino)azobenzene	60-11-7	Benzenamine, N,N-di-methyl-4- (phenylazo)-
7,12-Dimethyl- benz[a] anthracene	57-97-6	Benz[a]anthracene, 7,12-dimethyl-
3,3'-Dimethyl- benzidine	119-93-7	[1,1'-Biphenyl]-4,4'- diamine, 3,3'-dimethyl-
alpha, alpha- Dimethyl- phenethylamine	122-09-8	Benzenoethanamine, α,α -dimethyl-
2,4-Dimethyl- phenol	105-67-9	Phenol, 2,4-dimethyl-
Dimethyl phthalate	131-11-3	1,2-Benzenedicarboxylic acid, dimethyl ester
m-Dinitrobenzene	99-65-0	Benzene, 1,3-dinitro-
4,6-Dinitro- o- cresol	534-52-1	Phenol, 2-methyl-4,6- dinitro-
2,4-Dinitrophenol	51-28-5	Phenol, 2,4-dinitro-
2,4-Dinitro- toluene	121-14-2	Benzene, 1-methyl-2, 4-dinitro-
2,6-Dinitro- toluene	606-20-2	Benzene, 2-methyl- 1,3-dinitro-
Dinoseb; DNBP; 2-sec-Butyl- 4,6-dinitrophenol	88-85-7	Phenol, 2-(1-methyl- propyl)-4,6-dinitro-
Di-n-octyl phthalate	117-84-0	1,2-Benzenedicarboxylic acid, dioctyl ester

Table 4. Ground Water Monitoring List¹

Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴
1,4-Dioxane	123-91-1	1,4-Dioxane
Diphenylamine	122-39-4	Benzenamine, N-phenyl-
Disulfoton	298-04-4	Phosphorodithioic acid, O,O-diethyl S-[2- (ethylthio)ethyl]ester
Endosulfan I	959-98-8	6,9-Methano-2,4,3- benzodioxathiepin 6,7,8, 9,10,10-hexachloro-1,5, 5a,6,9,9a-hexahydro-, 3-oxide, (3 α ,5a β ,6 α ,9 α ,9a β)-
Endosulfan II	3213-65-9	6,9-Methano-2,4,3- benzodioxathiepin, 6,7,8,9,10,10-hexa-chloro- 1,5,5a,6,9, 9a-hexahydro-, 3-oxide, (3 α ,5a α ,6 β ,9 α ,9a α)-
Endosulfan sulfate	1031-07-8	6,9-Methano-2,4,3- benzodioxathiepin, 6,7,8,9,10,10-hexa-chloro- 1,5,5a,6,9,9a- hexahydro-, 3,3-dioxide
Endrin	72-20-8	2,7:3,6-Dimethanonaphth[2,3-b]oxirene,3,4,5,6,9,9-hexachloro- 1a,2,2a,3,6,6a,7,7a-octahydro-, (1 $\alpha\alpha$,2 β ,2a β , 3 α ,6 α ,6a β , 7 β ,7a α)-
Endrin aldehyde	7421-93-4	1,2,4-Methenocyclopenta[cd] pentalene- 5-carboxaldehyde, 2,2a,3,3,4,7- hexachloro-decahydro-,(1 α ,2 β ,2a β , 4 β ,4a β ,5 β ,6a β ,6 β ,7R*)-
Ethylbenzene	100-41-4	Benzene, ethyl-
Ethyl methacrylate	97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester
Ethyl methane- sulfonate	62-50-0	Methanesulfonic acid, ethyl ester
Famphur	52-85-7	Phosphorothioic acid, O-[4-[(dimethylamino) sulfonyl]phenyl]-O,O-di- methyl ester
Fluoranthene	206-44-0	Fluoranthene
Fluorene	86-73-7	9H-Fluorene
Heptachlor	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-hepta-chloro-3a,4,7,7a- tetrahydro-
Heptachlor epoxide	1024-57-3	2,5-Methano-2H-indeno [1,2-b]oxirene,2,3,4,5, 6,7,7-heptachloro- 1a,1b,5,5a, 6,6a-hexa-hydro-,(1 $\alpha\alpha$,1b β ,2 α , 5 α ,5a β ,6 β ,6a α)
Hexachlorobenzene	118-74-1	Benzene, hexachloro-
Hexachlorobutadiene	87-68-3	1,3-Butadiene, 1,1,2,3,4,4- hexachloro-
Hexachloro- cyclopentadiene	77-47-4	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-
Hexachloroethane	67-72-1	Ethane, hexachloro-
Hexachlorophene	70-30-4	Phenol,2,2'-methyl-enebis [3,4,6- tri-chloro-
Hexachloropropene	1888-71-7	1-Propene,1,1,2,3,3,3-hexachloro
2-Hexanone	591-78-6	2-Hexanone
Indeno(1,2,3- cd) pyrene	193-39-5	Indeno[1,2,3-cd] pyrene
Isobutyl alcohol	78-83-1	1-Propanol, 2-methyl-
Isodrin	465-73-6	1,4,5,8-Dimethano- naphthalene,1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a- hexahydro- (1 α ,4 α ,4a β , 5 β ,8 β ,8a β) -
Isophorone	78-59-1	2-Cyclohexen-1-one,3,5,5-trimethyl-
Isosafrole	120-58-1	1,3-Benzodioxole,5-(1- propenyl)-
Kepone	143-50-0	1,3,4-Metheno-2H-cylo-buta-[cd]pentalen-2- one,1,1a,3,3a,4,5,5,5a,5b,6-decachloroocta-hydro-
Lead	(Total)	Lead
Mercury	(Total)	Mercury
Methacrylonitrile	126-98-7	2-Propenenitrile, 2-methyl-
Methapyrilene	91-80-5	1,2,Ethanediamine, N,N- dimethyl-N'-2-pyridinyl-N'-(2-thienylmethyl)-
Methoxychlor	72-43-5	Benzene,1,1'-(2,2,2, trichloroethylidene) bis[4-methoxy-
Methyl bromide; Bromomethane	74-83-9	Methane, bromo-
Methyl chloride; Chloromethane	74-87-3	Methane, chloro-
3-Methyl-cholanthrene	56-49-5	Benz[<i>j</i>]aceanthrylene, 1,2-dihydro-3-methyl-
Methylene bromide; Dibromomethane	74-95-3	Methane, dibromo-
Methylene chloride; Dichloromethane	75-09-2	Methane, dichloro-
Methyl ethyl ketone; MEK	78-93-3	2-Butanone
Methyl iodide; Iodomethane	74-88-4	Methane, iodo-
Methylmethacrylate	80-62-6	2-Propenoic acid, 2- methyl-, methyl ester
Methyl methanesulfonate	66-27-3	Methanesulfonic acid, methyl ester
2-Methyl-naphthalene	91-57-6	Naphthalene, 2-methyl-
Methyl parathion; Parathion methyl	298-00-0	Phosphorothioic acid, O,O-dimethyl O-(4-nitrophenyl)ester
4-Methyl-2- pentanone; Methylisobutyl ketone	108-10-1	2-Pentanone, 4-methyl
Naphthalene	91-20-3	Naphthalene
1,4-Naphthoquinone	130-15-4	1,4-Naphthalene-dione
1-Naphthylamine	134-32-7	1-Naphthalenamine
2-Naphthylamine	91-59-8	2-Naphthalenamine
Nickel	(Total)	Nickel
o-Nitroaniline	88-74-4	Benzenamine, 2-nitro-
m-Nitroaniline	99-09-2	Benzenamine, 3-nitro-
p-Nitroaniline	100-01-6	Benzenamine, 4-nitro-
Nitrobenzene	98-95-3	Benzene, nitro-
o-Nitrophenol	88-75-5	Phenol, 2-nitro-
p-Nitrophenol	100-02-7	Phenol, 4-nitro-
4-Nitroquinoline, 1-oxide	56-57-5	Quinoline, 4-nitro-, 1-oxide
N-Nitrosodi-n- butylamine	924-16-3	1-Butanamine, N-butyl-N-nitroso
N-Nitroso- diethylamine	55-18-5	Ethanamine, N-ethyl- N-nitroso
N-Nitroso- dimethylamine	62-75-9	Methanamine, N- methyl-N-nitroso-

Table 4. Ground Water Monitoring List¹

Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴
N-Nitroso- diphenylamine	86-30-6	Benzenamine, N-nitroso-N-phenyl-
N-Nitrosodipropyl-amine;Di-n-propyl-nitrosamine	621-64-7	1-Propanamine, N-nitroso-N-propyl-
N-Nitrosom- ethylethylamine	10595-95-6	Ethanamine, N-methyl- N-nitroso-
N-Nitrosomor- pholine	59-89-2	Morpholine, 4-nitroso-
N-Nitrosopiperi- dine	100-75-4	Piperidine, 1- nitroso-
N-Nitrosopyrroli- dine	930-55-2	Pyrrolidine, 1- nitroso-
5-Nitro-o- toluidine	99-55-8	Benzenamine,2-methyl-5-nitro-
Parathion	56-38-2	Phosphorothioic acid, O,O-diethyl-O-(4-nitro-phenyl) ester
Polychlorinated biphenyls; PCBs	See Note 5	1,1'-Biphenyl, chloro derivatives
Polychlorinated dibenzo-p- dioxins; PCDDs	See Note 6	Dibenzo[b,e][1,4]dioxin, chloro derivatives
Polychlorinated dibenzofurans; PCDFs	See Note 7	Dibenzofuran, chloro derivatives
Pentachlorobenzene	608-93-5	Benzene, pentachloro-
Pentachloroethane	76-01-7	Ethane, pentachloro-
Pentachloro- nitrobenzene	82-68-8	Benzene, pentachloro- nitro-
Pentachlorophenol	87-86-5	Phenol, pentachloro-
Phenacetin	62-44-2	Acetamide, N-(4- ethoxyphenyl)
Phenanthrene	85-01-8	Phenanthrene
Phenol	108-95-2	Phenol
p-Phenylenediamine	106-50-3	1,4- Benzenediamine
Phorate	298-02-2	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester
2-Picoline	109-06-8	Pyridine, 2-methyl-
Pronamide	23950-58-5	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-pro-pynyl)-
Propionitrile; Ethyl cyanide	107-12-0	Propanenitrile
Pyrene	129-00-0	Pyrene
Pyridine	110-86-1	Pyridine
Safrole	94-59-7	1,3-Benzodioxole, 5- (2-propenyl)-
Selenium	(Total)	Selenium
Silver	(Total)	Silver
Silvex; 2,4,5-TP	93-72-1	Propanoic acid,2-(2,4, 5-trichlorophenoxy)-
Styrene	100-42-5	Benzene, ethenyl-
Sulfide	18496-25-8	Sulfide
2,4,5-T; 2,4,5-, Trichlorophenoxy-acetic acid	93-76-5	Acetic acid, (2,4,5- trichlorophenoxy)-
2,3,7,8-TCDD; 2,3,7,8-Tetra-chlorodibenzo-p- dioxin	1746-01-6	Dibenzo[b,e][1,4]dioxin 2,3,7,8-tetrachloro-
1,2,4,5-Tetra- chlorobenzene	95-94-3	Benzene, 1,2,4,5-tetrachloro-
1,1,1,2-Tetra- chloroethane	630-20-6	Ethane, 1,1,1,2- tetrachloro-
1,1,2,2-Tetra- chloroethane	79-34-5	Ethane, 1,1,2,2- tetrachloro-
Tetrachloro- ethylene; Perchloroethylene; Tetrachloroethene	127-18-4	Ethene, tetrachloro-
2,3,4,6-Tetra- chlorophenol	58-90-2	Phenol, 2,3,4,6- tetrachloro-
Tetraethyl dithio-pyrophosphate; Sulfotepp	3689-24-5	Thiodiphosphoric acid ((HO) ₂ P(S)) ₂ O), tetraethyl ester
Thallium	(Total)	Thallium
Tin	(Total)	Tin
Toluene	108-88-3	Benzene, methyl-
o-Toluidine	95-53-4	Benzenamine, 2-methyl-
Toxaphene	8001-35-2	Toxaphene
1,2,4-Tri- chlorobenzene	120-82-1	Benzene, 1,2,4-trichloro-
1,1,1-Tri- chloroethane; Methylchloroform	71-55-6	Ethane, 1,1,1-trichloro-
1,1,2-Tri- chloroethane	79-00-5	Ethane, 1,1,2-trichloro-
Trichloro- ethylene; Trichloroethene	79-01-6	Ethene, trichloro-
Trichlorofluoro-methane	75-69-4	Methane, trichlorofluoro-
2,4,5-Tri- chlorophenol	95-95-4	Phenol, 2,4,5-trichloro-
2,4,6-Tri- chlorophenol	88-06-2	Phenol, 2,4,6-trichloro-
1,2,3-Tri- chloropropane	96-18-4	Propane, 1,2,3-tri-chloro-
O,O,O-Triethyl phosphorothioate	126-68-1	Phosphorothioic acid, O,O,O-triethyl ester
sym-Trinitro- benzene	99-35-4	Benzene, 1,3,5- trinitro
Vanadium	(Total)	Vanadium
Vinyl acetate	108-05-4	Acetic acid, ethenyl ester
Vinyl chloride	75-01-4	Ethene, chloro-
Xylene (total)	1330-20-7	Benzene, dimethyl-
Zinc	(Total)	Zinc

¹The regulatory requirements pertain only to the list of substances.

²Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

³Chemical Abstracts Service registry number. Where "Total" is entered, all species in the ground water that contain this element are included.

⁴CAS index names are those used in the ninth Cumulative Index.

⁵Polychlorinated biphenyls (CAS RN 1336-36-3); this category contains congener chemicals, including constituents of Aroclor-1016 (CAS RN 12674-11-2), Aroclor-1221 (CAS RN 11104-28-2), Aroclor-1232 (CAS RN 11141-16-5), Aroclor-1242 (CAS RN 53469-21-9), Aroclor-1248 (CAS RN 12672-29-6), Aroclor-1254 (CAS RN 11097-69-1), and Aroclor-1260 (CAS RN 11096-82-5).

⁶This category contains congener chemicals, including tetrachlorodibenzo-p-dioxins (see also 2,3,7,8-TCDD), pentachlorodibenzo-p-dioxins, and hexachlorodibenzo-p-dioxins.

⁷This category contains congener chemicals, including tetrachlorodibenzofurans, pentachlorodibenzofurans, and hexachlorodibenzofurans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:399 (May 1990), amended LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1742 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1848 (October 2006).

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 1. General Provisions

§107. Definitions

Designated Water Use—repealed.

Primary Contact—repealed.

Secondary Contact—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 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 32:1852 (October 2006).

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

Chapter 71. Appendices

§7107. Appendix D—Permit Application Testing Requirements (LAC 33:IX.2501)

Table I. Testing Requirements for Organic Toxic Pollutants by Industrial Category for Existing Dischargers				
Industrial Category	GC/MS Fraction ⁽¹⁾			
	Volatile	Acid	Base/Neutral	Pesticides

[See Prior Text in Adhesives and Sealants – Petroleum Refining]				
Pharmaceutical Preparations	*	*	*	

[See Prior Text in Photographic Equipment and Supplies – Timber Products Processing]				

⁽¹⁾The toxic pollutants in each fraction are listed in Table II.

* Testing required.

Table II. – Table V. Editorial Note. ...

For the duration of the suspensions, therefore, Table I effectively reads:

Table I. Testing Requirements for Organic Toxic Pollutants by Industry Category				
Industrial Category	GC/MS Fraction ⁽¹⁾			
	Volatile	Acid	Base/Neutral	Pesticides

[See Prior Text in Adhesives and Sealants - Foundries]				
Gum and Wood (All Subparts except D and F)	*	*		
Subpart D—tall oil rosin	*	*	*	
Subpart F—rosin-based derivatives	*	*	*	
Inorganic Chemicals Manufacturing	*	*	*	

[See Prior Text in Iron and Steel Manufacturing - Petroleum Refining]				
Pharmaceutical Preparations	*	*	*	
Photographic Equipment and Supplies	*	*	*	

[See Prior Text in Plastic and Synthetic Materials Manufacturing - Timber Products Processing]				

⁽¹⁾The pollutants in each fraction are listed in Item V-C in the NPDES permit application.

*Testing required.

Table I.A. – Footnote †. ...

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 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1852 (October 2006).

Part XI. Underground Storage Tanks

Chapter 3. Registration Requirements, Standards, and Fee Schedule

§301. Registration Requirements

A. - B.1. ...

a. tank and piping installation in accordance with LAC 33:XI.303.B.4;

b. cathodic protection of steel tanks and piping in accordance with LAC 33:XI.303.B.1-2;

B.1.c. - C.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), LR 20:294 (March 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:475 (March 2002),

amended by the Office of Environmental Assessment, LR 31:1066 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2520 (October 2005), repromulgated LR 32:393 (March 2006), amended LR 32:1852 (October 2006).

Part XV. Radiation Protection

Chapter 1. General Provisions

§102. Definitions and Abbreviations

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain chapter may be found in that chapter.

* * *

Byproduct Material—

1. ...

2. the tailings or wastes produced by the extraction or concentration of uranium or thorium (R.S. 30:2103) from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute byproduct material within this definition.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2563 (November 2000), LR 26:2767 (December 2000), LR 30:1171, 1188 (June 2004), amended by the Office of Environmental Assessment, LR 31:44 (January 2005), LR 31:1064 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:811 (May 2006), LR 32:1853 (October 2006).

Chapter 3. Licensing of Radioactive Material

Subchapter Z. Appendices

§399. Schedules A and B, and Appendices A, B, C, D, E, and F

Schedule A. - Note 4. ...

Schedule B Exempt Quantities	
Byproduct Material	Microcuries
Antimony 122 (Sb 122)	100
Antimony 124 (Sb 124)	10
Antimony 125 (Sb 125)	10
Arsenic 73 (As 73)	100
Arsenic 74 (As 74)	10
Arsenic 76 (As 76)	10
Arsenic 77 (As 77)	100
Barium 131 (Ba 131)	10
Barium 133 (Ba 133)	10
Barium 140 (Ba 140)	10
Bismuth 210 (Bi 210)	1
Bromine 82 (Br 82)	10
Cadmium 109 (Cd 109)	10
Cadmium 115m (Cd 115m)	10
Cadmium 115 (Cd 115)	100
Calcium 45 (Ca 45)	10
Calcium 47 (Ca 47)	10
Carbon 14 (C 14)	100
Cerium 141 (Ce 141)	100
Cerium 143 (Ce 143)	100
Cerium 144 (Ce 144)	1
Cesium 131 (Cs 131)	1,000

Schedule B Exempt Quantities	
Byproduct Material	Microcuries
Cesium 134m (Cs 134m)	100
Cesium 134 (Cs 134)	1
Cesium 135 (Cs 135)	10
Cesium 136 (Cs 136)	10
Cesium 137 (Cs 137)	10
Chlorine 36 (Cl 36)	10
Chlorine 38 (Cl 38)	10
Chromium 51 (Cr 51)	1,000
Cobalt 58m (Co 58m)	10
Cobalt 58 (Co 58)	10
Cobalt 60 (Co 60)	1
Copper 64 (Cu 64)	100
Dysprosium 165 (Dy 165)	10
Dysprosium 166 (Dy 166)	100
Erbium 169 (Er 169)	100
Erbium 171 (Er 171)	100
Europium 152 9.2h (Eu 152 9.2h)	100
Europium 152 13 yr (Eu 152 13 yr)	1
Europium 154 (Eu 154)	1
Europium 155 (Eu 155)	10
Fluorine 18 (F 18)	1,000
Gadolinium 153 (Gd 153)	10
Gadolinium 159 (Gd 159)	100
Gallium 67 (Ga 67)	100
Gallium 72 (Ga 72)	10
Germanium 71 (Ge 71)	100
Gold 198 (Au 198)	100
Gold 199 (Au 199)	100
Hafnium 181 (Hf 181)	10
Holmium 166 (Ho 166)	100
Hydrogen 3 (H 3)	1,000
Indium 113m (In 113m)	100
Indium 114m (In 114m)	10
Indium 115m (In 115m)	100
Indium 115 (In 115)	10
Iodine 125 (I 125)	1
Iodine 126 (I 126)	1
Iodine 129 (I 129)	0.1
Iodine 131 (I 131)	1
Iodine 132 (I 132)	10
Iodine 133 (I 133)	1
Iodine 134 (I 134)	10
Iodine 135 (I 135)	10
Iridium 192 (Ir 192)	10
Iridium 194 (Ir 194)	100
Iron 55 (Fe 55)	100
Iron 59 (Fe 59)	10
Krypton 85 (Kr 85)	100
Krypton 87 (Kr 87)	10
Lanthanum 40 (La 140)	10
Lutetium 177 (Lu 177)	100
Manganese 52 (Mn 52)	10
Manganese 54 (Mn 54)	10
Manganese 56 (Mn 56)	10
Mercury 197m (Hg 197m)	100
Mercury 197 (Hg 197)	100
Mercury 203 (Hg 203)	10
Molybdenum 99 (Mo 99)	100
Neodymium 147 (Nd 147)	100
Neodymium 149 (Nd 149)	100
Nickel 59 (Ni 59)	100
Nickel 63 (Ni 63)	10
Nickel 65 (Ni 65)	100
Niobium 93m (Nb 93m)	10
Niobium 95 (Nb 95)	10
Niobium 97 (Nb 97)	10
Osmium 185 (Os 185)	10
Osmium 191m (Os 191m)	100
Osmium 191 (Os 191)	100

Schedule B Exempt Quantities	
Byproduct Material	Microcuries
Osmium 193 (Os 193)	100
Palladium 103 (Pd 103)	100
Palladium 109 (Pd 109)	100
Phosphorus 32 (P 32)	10
Platinum 191 (Pt 191)	100
Platinum 193m (Pt 193m)	100
Platinum 193 (Pt 193)	100
Platinum 197m (Pt 197m)	100
Platinum 97 (Pt 197)	100
Polonium 210 (P 210)	0.1
Potassium 42 (K 42)	10
Praseodymium 142 (Pr 142)	100
Praseodymium 143 (Pr 143)	100
Promethium 147 (Pm 147)	10
Promethium 149 (Pm 149)	10
Rhenium 186 (Re 186)	100
Rhenium 188 (Re 188)	100
Rhodium 103m (Rh 103m)	100
Rhodium 105 (Rh 105)	100
Rubidium 86 (Rb 86)	10
Rubidium 87 (Rb 87)	10
Ruthenium 97 (Ru 97)	100
Ruthenium 103 (Ru 103)	10
Ruthenium 105 (Ru 105)	10
Ruthenium 106 (Ru 106)	1
Samarium 151 (Sm 151)	10
Samarium 153 (Sm 153)	100
Scandium 46 (Sc 46)	10
Scandium 47 (Sc 47)	100
Scandium 48 (Sc 48)	10
Selenium 75 (Se 75)	10
Silicon 31 (Si 31)	100
Silver 105 (Ag 105)	10
Silver 110m (Ag 110m)	1
Silver 111 (Ag 111)	100
Sodium 24 (Na 24)	10
Strontium 85 (Sr 85)	10
Strontium 89 (Sr 89)	1
Strontium 90 (Sr 90)	0.1
Strontium 91 (Sr 91)	10
Strontium 92 (Sr 92)	10
Sulfur 35 (S 35)	100
Tantalum 182 (Ta 182)	10
Technetium 96 (Tc 96)	10
Technetium 97m (Tc 97m)	100
Technetium 97 (Tc 97)	100
Technetium 99m (Tc 99m)	100
Technetium 99 (Tc 99)	10
Tellurium 125m (Te 125m)	10
Tellurium 127m (Te 127m)	10
Tellurium 127 (Te 127)	100
Tellurium 129m (Te 129m)	10
Tellurium 129 (Te 129)	100
Tellurium 131m (Te 131m)	10
Tellurium 132 (Te 132)	10
Terbium 60 (Tb 160)	10
Thallium 200 (Tl 200)	100
Thallium 201 (Tl 201)	100
Thallium 202 (Tl 202)	100
Thallium 204 (Tl 204)	10
Thulium 170 (Tm 170)	10
Thulium 171 (Tm 171)	10
Tin 113 (Sn 113)	10
Tin 125 (Sn 125)	10
Tungsten 181 (W 181)	10
Tungsten 185 (W 185)	10
Tungsten 187 (W 187)	100
Vanadium 48 (V 48)	10
Xenon 131m (Xe 131m)	1,000

Schedule B Exempt Quantities	
Byproduct Material	Microcuries
Xenon 133 (Xe 133)	100
Xenon 135 (Xe 135)	100
Ytterbium 175 (Yb 175)	100
Yttrium 90 (Y 90)	Section 399
Yttrium 91 (Y 91)	10
Yttrium 92 (Y 92)	100
Yttrium 93 (Y 93)	100
Zinc 65 (Zn 65)	10
Zinc 69m (Zn 69m)	100
Zinc 69 (Zn 69)	1,000
Zirconium 93 (Zr 93)	10
Zirconium 95 (Zr 95)	10
Zirconium 97 (Zr 97)	10
Any byproduct material not listed above other than alpha-emitting byproduct material.	0.1

Appendix A. - Appendix F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 20:180 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2574 (November 2000), LR 27:1228 (August 2001), amended by the Office of Environmental Assessment, LR 31:46 (January 2005), LR 31:1580 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005), LR 32:820 (May 2006), LR 32:1853 (October 2006).

Herman Robinson, CPM
Executive Counsel

0610#047

RULE

**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 has amended 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 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 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 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.

3. - 5. ...

6. General permits shall not be issued for new *major stationary sources* and *major modifications* as defined in LAC 33:III.504 or 509.

B. - 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 32:1855 (October 2006).

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0610#045

RULE

Office of the Governor
Division of Administration
Office of Group Benefits

EPO Plan of Benefits
(LAC 32:V.Chapters 1-7)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(1), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document. The reason for this action is to enhance member clarification and enable fair and effective administration health care benefits effectively for the program and members.

Accordingly, OGB hereby adopts the following Rule to become effective upon promulgation.

Title 32
EMPLOYEE BENEFITS
Part V. Exclusive Provider Organization (EPO)
Plan of Benefits

Chapter 1. Eligibility

§101. Persons to Be Covered

Eligibility requirements apply to all participants in the program, including the PPO plan, the EPO plan, the MCO plan, an HMO plan, or the life insurance plan.

A. - A.2. ...

3. Effective Dates of Coverage, New Employee, Transferring Employee. Coverage for each employee who completes the applicable enrollment form and agrees to make the required payroll contributions to his participant employer is effective as follows.

a. If employment begins on the first day of the month, coverage is effective on the first day of the following month (For example, if hired on July 1, coverage will begin on August 1).

b. If employment begins on or after the second day of the month, coverage is effective on the first day of the second month following employment (For example, if hired on July 15, coverage will begin on September 1).

c. Employee coverage will not become effective unless the employee completes an enrollment form within 30 days following the date of employment. If completed after 30 days following the date of employment, the employee will be considered an overdue applicant.

d. An employee who transfers employment to another participating employer must complete a transfer form within 30 days following the date of transfer to maintain coverage without interruption. If completed after

30 days following the date of transfer, the employee will be considered an overdue applicant.

4. Re-Enrollment, Previous Employment for Health Benefits and Life Insurance

A.4.a. - B.1.a. ...

b. An employee retired from a participant employer may not be covered as an employee.

c. Retirees are not eligible for coverage as overdue applicants.

2. Effective Date of Coverage

a. Retiree coverage will be effective on the first day of the month following the date of retirement if the retiree and participant employer have agreed to make and are making the required contributions (For example, if retired July 15, coverage will begin August 1).

C. - C.2. ...

a. Dependents of Employees. Coverage will be effective on the date the employee becomes eligible for dependent coverage.

C.2.b. - D. ...

1. The terms of the following paragraphs apply to all eligible employees who apply for coverage after 30 days from the date the employee became eligible for coverage and to all eligible dependents of employees and retirees for whom the application for coverage was not completed within 30 days from the date acquired.

D.2. - E.2. ...

a. A special enrollment application must be made within 30 days of either the termination date of the prior coverage or the date the new dependent is acquired. If it is made more than 30 days after eligibility, they will be considered overdue applicants subject to a pre-existing condition limitation.

b. ...

i. For loss of other coverage or marriage, the first day of the month following the date the program receives all required forms for enrollment;

ii. - iii. ...

c. Special enrollment applicants must complete the "Acknowledgment of Pre-existing Condition" form and "Statement of Physical Condition" form.

E.2.d. - G.3. ...

H. Medicare+Choice/Medicare Advantage Option for Retirees (effective July 1, 1999). Retirees who are eligible to participate in a Medicare+Choice/Medicare Advantage Plan who cancel coverage with the program upon enrollment in a Medicare+Choice/Medicare Advantage Plan may re-enroll in the program upon withdrawal from or termination of coverage in the Medicare+Choice/Medicare Advantage Plan, at the earlier of the following:

1. - 2. ...

I. Tricare for Life Option for Military Retirees. Retirees eligible to participate in the Tricare for Life (TFL) option on and after October 1, 2001 who cancel coverage with the program upon enrollment in TFL may re-enroll in the program in the event that the TFL option is discontinued or its benefits significantly reduced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1804 (October 1999), amended LR 27:718 (May 2001), LR

28:2339 (November 2002), LR 29:336,338 (March 2003), LR 32:1855 (October 2006).

§103. Continued Coverage

A. ...

1. Leave of Absence without Pay, Employer Contributions to Premiums

a. A participating employee who is granted leave of absence without pay due to a service related injury may continue coverage and the participating employer shall continue to pay its portion of health plan premiums for up to twelve months.

b. A participating employee who suffers a service related injury that meets the definition of a total and permanent disability under the workers' compensation laws of Louisiana may continue coverage and the participating employer shall continue to pay its portion of the premiums until the employee becomes gainfully employed or is placed on state disability retirement.

c. A participating employee who is granted leave of absence without pay in accordance with the federal Family and Medical Leave Act (F.M.L.A.) may continue coverage during the time of such leave and the participating employer may continue to pay its portion of premiums.

2. Leave of Absence without Pay; No Employer Contributions to Premiums. An employee granted leave of absence without pay for reasons other than those stated in Paragraph A, may continue to participate in an Office of Group Benefits benefit plan for a period up to twelve months upon the employee's payment of the full premiums due.

B. - B.2. ...

C. Surviving Dependents/Spouse

1. Benefits under the plan for covered dependents of a deceased covered employee or retiree will terminate on the last day of the month in which the employee's or retiree's death occurred unless the surviving covered dependents elect to continue coverage.

a. The surviving legal spouse of an employee or retiree may continue coverage unless or until the surviving spouse is or becomes eligible for coverage in a Group Health Plan other than Medicare.

b. The surviving never married dependent child of an employee or retiree may continue coverage unless or until such dependent child is or becomes eligible for coverage under a group health plan other than Medicare, or until attainment of the termination age for children, whichever occurs first.

c. Surviving dependents will be entitled to receive the same participant employer premium contributions as employees and retirees, subject to the provisions of Louisiana Revised Statutes, Title 42, Section 851 and rules promulgated pursuant thereto by the Office of Group Benefits.

d. Coverage provided by the Civilian Health and Medical Program for the Uniformed Service (CHAMPUS/TRICARE) or successor program will not be sufficient to terminate the coverage of an otherwise eligible surviving legal spouse or a dependent child.

2. A surviving spouse or dependent child cannot add new dependents to continued coverage other than a child of the deceased employee born after the employee's death.

3. Participant Employer/Dependent Responsibilities

a. It is the responsibility of the participant employer and surviving covered dependent to notify the program within 60 days of the death of the employee or retiree.

b. The program will notify the surviving dependents of their right to continue coverage.

c. Application for continued coverage must be made in writing to the program within 60 days of receipt of notification, and premium payment must be made within 45 days of the date continued coverage is elected for coverage retroactive to the date coverage would have otherwise terminated.

d. Coverage for the surviving spouse under this section will continue until the earliest of the following:

i. failure to pay the applicable premium timely;

ii. eligibility of the surviving spouse for coverage under a Group Health Plan other than Medicare.

e. Coverage for a surviving dependent child under this section will continue until the earliest of the following events:

i. failure to pay the applicable premium timely;

ii. eligibility of the surviving dependent child for coverage under any group health plan other than Medicare.

iii. the attainment of the termination age for children.

4. The provisions of paragraphs 1 through 3 this subsection are applicable to surviving dependents who, on or after July 1, 1999, elect to continue coverage following the death of an employee or retiree. Continued coverage for surviving dependents who made such election before July 1, 1999, shall be governed by the rules in effect at the time.

D. - D.3. ...

E. Military Service. Members of the National Guard or of the United States military reserves who are called to active military duty, and who are OGB participating employees or covered dependents will have access to continued coverage under OGB's health and life plans.

1. Health Plan Participation. When called to active military duty, participating employees and covered dependents may:

a. continue participation in the OGB health plan during the period of active military service, in which case the participating employer may continue to pay its portion of premiums; or

b. cancel participation in the OGB health plan during the period of active military service, in which case such plan participants may apply for reinstatement of OGB coverage within 30 days of:

i. the date of the employee's reemployment with a participating employer,

ii. the dependent's date of discharge from active military duty, or

iii. the date of termination of extended health coverage provided as a benefit of active military duty, such as TRICARE Reserve Select;

iv. plan participants who elect this option and timely apply for reinstatement of OGB coverage will not be subject to a pre-existing condition (PEC) limitation, and the lapse in coverage during active military duty or extended military coverage will not result in any adverse consequences with respect to the participation schedule set forth in R.S. 42:851.E and the corresponding Rules promulgated by OGB.

2. Life Insurance. When called to active military duty, employees with OGB life insurance coverage may:

a. continue participation in the OGB life insurance during the period of active military service, however, the accidental death and dismemberment coverage will not be in effect during the period of active military duty; or

b. cancel participation in the OGB life insurance during the period of active military service, in which case such employee may apply for reinstatement of OGB life insurance within 30 days of the date of the employee's reemployment with a participating employer; employees who elect this option and timely apply for reinstatement of OGB life insurance will not be required to provide evidence of insurability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1806 (October 1999), amended LR 30:1190 (June 2004), LR 32:1856 (October 2006).

§105. COBRA

A. Employees

1. Coverage under this plan for a covered employee will terminate on the last day of the calendar month during which employment is terminated (voluntarily or involuntarily) or significantly reduced, the employee no longer meets the definition of an employee, or coverage under a leave of absence has expired, unless the covered employee elects to continue coverage at the employee's own expense. Employees terminated for gross misconduct are not eligible for COBRA coverage.

2. It is the responsibility of the participant employer to notify the program within 30 days of the date coverage would have terminated because of any of the foregoing events, and the program will notify the employee within 14 days of his or her right to continue coverage.

3. Application for continued coverage must be made in writing to the program within 60 days of the date of the election notification and premium payment must be made within 45 days of the date the employee elects continued coverage, for coverage retroactive to the date coverage would have otherwise terminated. After the first payment for COBRA coverage, monthly payments for each subsequent month of COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

4. Coverage under this Section will continue until the earliest of the following:

a. failure to pay the applicable premium timely;

b. 18 months from the date coverage would have otherwise terminated;

c. entitlement to Medicare;

d. coverage under a Group Health Plan, but only after any pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied; or

e. the employer ceases to provide any group health plan for its employees.

5. If employment for a covered employee is terminated (voluntarily or involuntarily) or significantly reduced, the employee no longer meets the definition of an

employee, or a leave of absence has expired, and the employee has not elected to continue coverage, the covered spouse and/or covered dependent children may elect to continue coverage at his/her/their own expense. The elected coverage will be subject to the above-stated notification and termination provisions.

B. Surviving Dependents

1. Coverage under this plan for covered surviving dependents of an employee or retiree will terminate on the last day of the month in which the employee's or retiree's death occurs, unless the surviving covered dependents elect to continue coverage at his/her own expense.

2. It is the responsibility of the participant employer or surviving covered dependents to notify the program within 30 days of the death of the employee or retiree. The Program will notify the surviving dependents of their right to continue coverage. Application for continued coverage must be made in writing to the program within 60 days of the date of the election notification.

3. Premium payment must be made within 45 days of the date the continued coverage was elected, retroactive to the date coverage would have terminated. After the first payment for COBRA coverage, monthly payments for each subsequent month of COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

4. Coverage for the surviving dependents under this Section will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 36 months beyond the date coverage would have otherwise terminated;
- c. entitlement to Medicare;
- d. coverage under a group health plan, but only after pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied; or
- e. the employer ceases to provide any group health plan for its employees.

C. Divorced Spouse

1. Coverage under this plan for an employee's spouse will terminate on the last day of the month during which dissolution of the marriage occurs by virtue of a legal decree of divorce from the employee or retiree, unless the covered divorced spouse elects to continue coverage at his or her own expense.

2. It is the responsibility of the divorced spouse to notify the program within 60 days from the date of divorce and the program will notify the divorced spouse within 14 days of his or her right to continue coverage. Application for continued coverage must be made in writing to the program within 60 days of the election notification.

3. Premium payment must be made within 45 days of the date continued coverage is elected, for coverage retroactive to the date coverage would have otherwise terminated. After the first payment for COBRA coverage, monthly payments for each subsequent month of COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

4. Coverage for the divorced spouse under this Section will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 36 months beyond the date coverage would have otherwise terminated;
- c. entitlement to Medicare;
- d. coverage under a group health plan, but only after any pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied; or
- e. the Employer ceases to provide any group health plan for its employees.

D. Dependent Children

1. Coverage under this plan for a covered dependent child of a covered employee or retiree will terminate on the last day of the month during which the dependent child no longer meets the definition of an eligible covered dependent, unless the dependent elects to continue coverage at his or her own expense.

2. It is the responsibility of the dependent to notify the program within 60 days of the date coverage would have terminated and the program will notify the dependent within 14 days of his or her right to continue coverage. Application for continued coverage must be made in writing to the program within 60 days of receipt of the election notification.

3. Premium payment must be made within 45 days of the date the continued coverage is elected, for coverage retroactive to the date coverage would have otherwise terminated. After the first payment for COBRA coverage, monthly payments for each subsequent month of COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

4. Coverage for children under this Section will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 36 months beyond the date coverage would have otherwise terminated;
- c. entitlement to Medicare;
- d. coverage under a Group Health Plan, but only after any pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied; or
- e. the Employer ceases to provide any group health plan for its employees.

E. Dependents of COBRA Participants

1.a. If a covered terminated employee has elected to continue coverage and if during the period of continued coverage the covered spouse or a covered dependent child becomes ineligible for coverage due to:

- i. death of the employee;
- ii. divorce from the employee; or
- iii. a dependent child no longer meets the definition of an eligible covered dependent;

b. Then, the spouse and/or dependent child may elect to continue COBRA coverage at his/her own expense. Coverage will not be continued beyond 36 months from the date coverage would have otherwise terminated.

2. It is the responsibility of the spouse and/or the dependent child to notify the program within 60 days of the date COBRA coverage would have terminated.

3. Monthly payments for each month of COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

4. Coverage for children under this Section will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 36 months beyond the date coverage would have otherwise terminated;
- c. entitlement to Medicare;
- d. coverage under a group health plan, but only after any pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied; or
- e. the employer ceases to provide any group health plan for its employees.

F. Disability COBRA

1. If a covered employee or covered dependent is determined by the Social Security Administration or by the program staff (in the case of a person who is ineligible for Social Security disability benefits due to insufficient "quarters" of employment), to have been totally disabled on the date the covered person became eligible for continued coverage or within the initial 18 months of coverage, coverage under this plan for the covered person who is totally disabled may be extended at his or her own expense up to a maximum of 29 months from the date coverage would have otherwise terminated.

2. To qualify the covered person must:

a. submit a copy of his or her Social Security Administration's disability determination to the program before the initial 18-month continued coverage period expires and within 60 days after the latest of:

- i. the date of issuance of the Social Security Administration's disability determination; and
- ii. the date on which the qualified beneficiary loses (or would lose) coverage under the terms of the plan as a result of the covered employee's termination or reduction of hours.

b. In the case of a person who is ineligible for Social Security disability benefits due to insufficient "quarters" of employment, submit proof of total Disability to the program before the initial 18-month continued coverage period expires. The staff and medical director of the program will make the determination of total Disability based upon medical evidence, not conclusions, presented by the applicant's physicians, work history, and other relevant evidence presented by the applicant.

3. For purposes of eligibility for continued coverage under this Section, total disability means the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to last for a continuous period of 12 months. To meet this definition one must have a severe impairment which makes one unable to do his previous work or any other substantial gainful activity which exists in the national economy, based upon a person's residual functional capacity, age, education, and work experience.

4. Monthly payments for each month of extended COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

5. Coverage under this Section will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 29 months from the date coverage would have otherwise terminated;
- c. entitlement to Medicare;
- d. coverage under a Group Health Plan, but only after any pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied;
- e. the Employer ceases to provide any group health plan for its employees; or
- f. 30 days after the month in which the Social Security Administration determines that the covered person is no longer disabled. (The covered person must report the determination to the program within 30 days after the date of issuance by the Social Security Administration.) In the case of a person who is ineligible for Social Security disability benefits due to insufficient "quarters" of employment, 30 days after the month in which the program determines that the covered person is no longer disabled.

G. Medicare COBRA

1. If an employee becomes entitled to Medicare less than 18 months before the date the employee's eligibility for benefits under this plan terminates, the period of continued coverage available for the employee's covered dependents will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 36 months from the date of the employee's Medicare entitlement;
- c. entitlement to Medicare;
- d. coverage under a Group Health Plan, but only after any pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied; or
- e. the employer ceases to provide any group health plan for its employees.

2. Monthly payments for each month of COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

H. Miscellaneous Provisions. During the period of continuation, benefits will be identical to those provided to others enrolled in this plan under its standard eligibility provisions for employees and retirees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1807 (October 1999), amended LR 32:1857 (October 2006).

§107. Change of Classification

A. Adding or Deleting Dependents. The plan member must notify the program when a dependent is added to or deleted from the plan member's coverage that results in a change in the class of coverage. Notice must be provided within 30 days of the addition or deletion.

B. Change in Coverage

1. When there is a change in family status (e.g., marriage, birth of child) that affects the class of coverage, the change in classification will be effective on the date of the event. Application for the change must be made within 30 days of the date of the event.

2. When the addition of a dependent changes the class of coverage, the additional premium will be charged for the entire month if the date of change occurs before the 15th day of the month. If the date of change occurs on or after the 15th day of the month, an additional premium will not be charged until the first day of the following month.

C. Notification of Change. It is the employee's responsibility to notify the program of any change in classification of coverage that affects the employee's contribution amount. If failure to notify is later determined, it will be corrected on the first day of the following month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1809 (October 1999), amended LR 32:1859 (October 2006).

Chapter 2. Termination of Coverage

§201. Active Employee and Retired Employee Coverage

A. ...

1. the date the program terminates;
2. the date the group or agency employing the covered employee terminates or withdraws from the program;
3. the date contribution is due if the group or agency fails to pay the required contribution for the covered employee;
4. the date contribution is due if the covered person fails to make any contribution which is required for the continuation of coverage;
5. the last day of the month of the covered employee's death;
6. the last day of the month in which the covered employee ceases to be eligible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1809 (October 1999), amended LR 32:1860 (October 2006).

§203. Dependent Coverage

A. ...

1. the last day of the month the employee ceases to be covered;
2. the last day of the month in which the dependent, as defined in this plan, ceases to be an eligible dependent of the covered employee;
3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1)

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1809 (October 1999), amended LR 32:1860 (October 2006).

Chapter 3. Medical Benefits

§301. Eligible Expenses

A. Eligible Expenses are the charges incurred for the following services, drugs, supplies, and devices, when performed, prescribed, or ordered by a physician and medically necessary for the treatment of a covered person. All charges are subject to applicable deductibles,

copayments, and/or coinsurance amounts (unless otherwise specifically provided), fee schedule limitations, Schedule of Benefits, exclusions, and other provisions of the plan. A charge is incurred on the date that the service, drug, supply, or device is performed or furnished.

1. - 3. ...

4. anesthesia and its administration when ordered by the operating physician and administered by an appropriately licensed nurse anesthetist or physician in conjunction with a covered surgical service;

5. - 6. ...

7. Blood, blood derivatives, and blood processing, when not replaced;

8. - 8.c. ...

d. Ostomy Supplies, except supplies for nutritional and/or enteral feeding;

e. - l. ...

9. Services of a licensed speech therapist when pre-approved through Outpatient Procedure Certification (§309, below) for the purpose of restoring partial or complete loss of speech resulting from stroke, surgery, cancer, radiation laryngitis, cerebral palsy, accidental injury, or other similar structural or neurological disease, limited to 26 visits per plan year;

10. ...

11. Services rendered by a Doctor of Dental Surgery (D.D.S.) or Doctor of Dental Medicine (D.M.D.) for the treatment of accidental injury to a covered person's natural teeth, under the following conditions:

a. Coverage was in effect with respect to the individual at the time of the accident;

b. Treatment commences within 90 days from the date of the accident and is completed within two years from the date of the accident;

c. Coverage remains continuously in effect with respect to the covered person during the course of the treatment;

d. Eligible expenses are limited to the cost of treatment as estimated at the time of initial treatment;

e. Eligible expenses may include dental braces and orthodontic appliances, upon review and approval by the program's dental consultant, and only under the following circumstances:

i. to return the alveolar alignment to its former state prior to a covered dental accident. The program will allow benefits for orthopedic correction to establish reasonable occlusal function;

ii. a covered surgery that requires the use of braces for stabilization;

iii. severe skeletal deformity (i.e., cleft palate).

The program will allow benefits for orthopedic correction to establish reasonable occlusal function;

f. As used herein Accidental Injury means a condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from an external force, and with respect to injuries to teeth, the act of chewing does not constitute an external force.

12. Durable medical equipment subject to the lifetime maximum payment limitation as listed in the schedule of benefits. The program will require written certification by the treating physician to substantiate the medical necessity for the equipment and the length of time that it will be used.

The purchase of durable medical equipment will be considered an eligible expense only upon a showing that the rental cost would exceed the purchase price. Under no circumstances may the eligible expense for an item of durable medical equipment exceed the purchase price of such item;

13. - 17. ...

18. Orthopedic shoes prescribed by a physician and completely custom built, limit one pair per plan year;

19. Acupuncture when rendered by a medical doctor licensed in the state in which the services are rendered;

20. - 20.d. ...

21. Services of a physical therapist or occupational therapist licensed in the state in which the services are rendered, under the following conditions:

a. services are prescribed by a licensed physician and rendered in an individual setting;

b. restorative potential exists;

c. services meet the generally accepted standards for medical practice;

d. services are reasonable and medically necessary for treatment of a disease, illness, accident, injury, or post-operative condition;

e. services are approved through case management when rendered in the home;

f. services are limited to 50 visits per plan year. Additional visits subject to approval by UTILIZATION MANAGEMENT.

22. Cardiac Rehabilitation when:

a. Rendered at a medical facility under the supervision of a licensed physician;

b. - c. ...

NOTE: Charges incurred for dietary instruction, educational services, behavior modification literature, biofeedback, health club membership, exercise equipment, preventive programs, and any other items excluded by the plan are not covered, unless provided for under Paragraph 30 of this subsection.

23. Preventive care consisting of routine physical examinations, lab work, and immunizations (including a yearly influenza vaccination) as follows:

a. Well baby care expenses subject to the annual deductible and co-payments:

i. newborn facility and professional charges;

ii. birth to age 1—all office visits for scheduled immunizations and screening;

b. Well child care expenses subject to the annual deductible and co-payments:

i. age 1 until age 3—three office visits per year for scheduled immunizations and screening;

ii. age 3 until age 15—one office visit per year for scheduled immunizations and screening;

c. Well adult care expenses, not subject to the annual deductible, but limited to a maximum benefit of \$200.00:

i. age 16 until age 40—once during a 3-year period;

ii. age 40 until age 50—once during a 2-year period;

iii. age 50 and over—once during a 1-year period.

NOTE: Benefits for well baby care, well child care and routine physical examinations for well adult care, including immunizations, are based on the U.S. Preventive Services Task Force guidelines and recommendations of the National Immunization Program of the Centers for Disease Control and

Prevention. All services must be rendered on an outpatient basis to monitor and maintain health and to prevent illness.

24. Specialized, age-appropriate wellness care, not subject to the annual deductible, as follows:

a. One pap test for cervical cancer per plan year;

b. Mammographic examinations performed according to the following schedule:

i. one mammogram during the five-year period a person is 35-39 years of age;

ii. one mammogram every two Plan Years for any person who is 40-49 years of age;

iii. one mammogram every 12 months for any person who is 50 years of age or older;

c. Testing for detection of prostate cancer, including digital rectal examination and prostate-specific antigen testing, once every 12 months for men over the age of 50 years;

25. - 26. ...

27. Services rendered by the following, when billed by the supervising physician:

a. perfusionists and registered nurse assistants assisting in the operating room;

b. physician assistants and registered nurse practitioners;

28. - 30.c. ...

31. Testing of sleep disorders only when the tests are performed at either:

a. a facility accredited by the American Academy of Sleep Medicine or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or

b. a sleep study facility located within a healthcare facility accredited by JCAHO. No benefits are payable for surgical treatment of sleep disorders (including LAUP) except following demonstrated failure of non-surgical treatment and upon approval by the program;

32. - 33.c. ...

34. Treatment provided in accordance with a clinical trial for cancer, including costs of investigational treatments and of associated protocol-related patient care if all of the following criteria are met:

a. treatment is being provided with a therapeutic or palliative intent for patients with cancer, or for the prevention or early detection of cancer;

b. treatment is being provided or the studies are being conducted in a Phase II, Phase III, or Phase IV clinical trial for cancer;

c. treatment is being provided in accordance with a clinical trial approved by one of the following entities:

i. one of the United States National Institutes of Health;

ii. a cooperative group funded by one of the United States National Institutes of Health;

iii. the FDA in the form of an investigational new drug application;

iv. the United States Department of Veterans Affairs;

v. the United States Department of Defense;

vi. a federally funded general clinical research center;

vii. the Coalition of National Cancer Cooperative Groups;

d. the proposed protocol has been reviewed and approved by a qualified institutional review board which

operates in this state and which has a multiple project assurance contract approved by the office of protection from research risks;

e. the facility and personnel providing the protocol provided the treatment within their scope of practice, experience, and training and are capable of doing so by virtue of their experience, training, and volume of patients treated to maintain expertise;

f. there is no clearly superior, non-investigational approach;

g. the available clinical or preclinical data provide a reasonable expectation that the treatment will be at least as efficacious as the non-investigational alternative; and

h. the patient has signed an institutional review board-approved consent form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1)

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1810 (October 1999), amended LR 28:478 (March 2002), LR 29:334, 338 (March 2003), LR 30:1190 (June 2004), LR 31:440 (February 2005), LR 32:1860 (October 2006).

§303. Fee Schedule

A. The fee schedule establishes the maximum allowable charges for eligible expenses. The fee schedule applies to both contracted (EPO) health care providers, who have entered into agreements with OGB regarding reimbursement under this plan, and to non-contracted (non-EPO) health care providers who have not entered into such agreements.

B. Plan members may be subject to greater financial responsibility for services, drugs, supplies, and devices provided by non-contracted health care providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1811 (October 1999), amended LR 32:1862 (October 2006).

§305. Automated Claims Adjusting

A. OGB utilizes commercially licensed software that applies all claims against its medical logic program to identify improperly billed charges and charges for which this plan provides no benefits. Any claim with diagnosis or procedure codes deemed inadequate or inappropriate will be automatically reduced or denied. Providers accepting assignment of benefits cannot bill the plan member for the differential on the denial amount, in whole or in part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1811 (October 1999), amended LR 32:1862 (October 2006).

§307. Utilization Review—Pre-Admission

Certification, Continued Stay Review

A. - A.2. ...

B. For a routine vaginal delivery, PAC is not required for a stay of two days or less. If the mother's stay exceeds or is expected to exceed two days, PAC is required within 24 hours after delivery or on the date on which any complications arose, whichever is applicable. If the baby's stay exceeds the mother's stay, PAC is required within 72 hours of the mother's discharge, and a separate pre-certification number must be obtained for the baby. In the case of a caesarean section, PAC is required if the mother's stay exceeds or is expected to exceed four days.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1812 (October 1999), amended LR 32:1862 (October 2006).

§309. Outpatient Procedure Certification (OPC)

A. The purpose of OPC is for the plan to certify that particular outpatient procedures and therapies are medically necessary. If OPC is not obtained when required, no benefits are payable under this Plan.

A.1. - B. ...

1. Speech therapy, subject to the limitations set forth in §301.A.9 of this part.

2. - 7.d. repealed.

C. - C.2. ...

D. repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1812 (October 1999), amended LR 32:1862 (October 2006).

§311. Case Management

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

E. repealed.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1812 (October 1999), amended LR 32:1862 (October 2006).

§313. Dental Surgical Benefits

A. ...

B. If a covered person requires dental treatment in a hospital setting that is otherwise an Eligible Expense, the plan will provide benefits for anesthesia rendered in the hospital and associated hospital charges. Prior authorization for hospitalization for dental treatment is required in the same manner as prior authorization is required for other covered medical services.

C. Eligible Expenses incurred in connection with the removal of impacted teeth, including pre-operative and post-operative care, anesthesia, radiology, pathology services, and facility charges, are subject to a deductible, co-insurance, and the maximum benefit provisions of the plan.

D. The provisions of this section shall not apply to treatment rendered for Temporomandibular joint (TMJ) diseases or disorders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1813 (October 1999), amended LR 32:1862 (October 2006).

§315. Medicare Reduction

A. ...

B. Retiree 100-Medicare COB. Upon enrollment and payment of the additional monthly premium, a plan member and dependents who are covered under Medicare Parts A and B (both) may choose to have full coordination of benefits with Medicare. Enrollment must be made within 30 days of eligibility for Medicare, or within 30 days of retirement if already eligible for Medicare, and at the annual enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1813 (October 1999), amended LR 32:1862 (October 2006).

§317. Exceptions and Exclusions

A. No benefits are provided under this Plan for the following:

1. injury compensable under any worker's compensation program, regardless of whether the patient has filed a claim for benefits. This applies to compensation provided on an expense-incurred basis or blanket settlements for past and future losses;

2. maintenance therapy consisting of convalescent, skilled nursing, sanitarium, custodial care, assisted living facilities, or rest cures designed to assist in daily living activities, maintain present physical and/or mental condition, or provide a structured or safe environment;

3. expenses for elective, non-therapeutic voluntary abortions (abortions performed for reasons other than to save the life of the mother);

4. injuries sustained by a covered person while in an aggressor role;

5. expenses incurred as a result of a covered person's commission or attempted commission of an illegal act;

6. services, supplies, or treatment for cosmetic purposes, including cosmetic surgery and any cosmetic complications of cosmetic surgery, unless necessary for the immediate repair of a deformity caused by a disease and/or injury that occurs while coverage is in force. No payment will be made for expenses incurred in connection with the treatment of any body part not affected by the disease and/or injury;

7. shoes and related items, such as wedges, cookies, and arch supports;

8. dental and orthodontic services, appliances, supplies, and devices, including, but not limited to the following:

a. dental braces and orthodontic appliances, except as specifically provided in §301.A.11.e of this Part;

b. treatment of periodontal disease;

c. dentures, dental implants, and any surgery for their use, except if needed as the result of an accident that meets the program's requirements;

d. treatment for Temporomandibular Joint (TMJ) diseases or disorders, except as specifically provided in §301.A.28 of this Part;

e. expenses incurred for services rendered by a dentist or oral surgeon and any ancillary or related services, except for covered dental surgical procedures, as specifically set forth herein, dental procedures which fall under the guidelines of treatment of accidental injury, procedures necessitated as a result of or secondary to cancer, or oral and maxillofacial surgeries which are shown to the satisfaction of the program to be medically necessary, non-dental, non-cosmetic procedures;

9. medical services, supplies, treatments, and prescription drugs provided without charge to the covered person or for which the covered person is not legally obligated to pay;

10. maternity expenses incurred by any person other than the employee or the employee's legal spouse;

11. personal convenience items including, but not limited to, admit kits, bedside kits, telephone, television, guest meals, and beds, and charges for luxury

accommodations in any hospital or allied health facility provided primarily for the patient's convenience which are not deemed medically necessary by the program;

12. charges for services, supplies, treatment, drugs, and devices which are in excess of the maximum allowable under the medical fee schedule, outpatient surgical facility fee schedule, or any other limitations of the plan;

13. services, supplies, treatment, drugs, devices, and deluxe medical equipment which are not deemed medically necessary by the program;

14. services rendered for remedial reading and recreational, visual, and behavioral modification therapy, biofeedback, pain rehabilitation control and/or therapy, and dietary or educational instruction for all diseases and/or illnesses, except diabetes;

15. services and supplies for the treatment of and/or related to gender dysphoria or reverse sterilization;

16. artificial organ implants, penile implants, transplantation of non-human organs, and any surgery and other treatment, services, or supplies, related to such procedures, or to complications related to such procedures;

17. expenses subsequent to the initial diagnosis for infertility and complications, including but not limited to, services, drugs, procedures, or devices to achieve fertility, in-vitro fertilization, low tubal transfer, artificial insemination, intracytoplasmic sperm injection, embryo transfer, gamete transfer, zygote transfer, surrogate parenting, donor semen, donor eggs, and reversal of sterilization procedures;

18. non-medical supplies such as air conditioners and/or filters, dehumidifiers, air purifiers, wigs or toupees, heating pads, cold devices, home enema equipment, rubber gloves, swimming pools, saunas, whirlpool baths, home pregnancy tests, lift chairs, devices or kits to stimulate the penis, exercise equipment, any other items not normally considered medical supplies, and any items the program determines are not medical supplies;

19. administrative fees, interest, penalties, or sales tax;

20. marriage counseling, family relations counseling, divorce counseling, parental counseling, job counseling, and career counseling;

21. charges for physician services rendered to a covered person over the telephone or in a non-face-to-face setting;

22. radial keratotomy, laser surgery, and any other procedures, services, or supplies for the correction of refractive errors of the eyes;

23. services, supplies, surgeries, and treatments for excess body fat, resection of excess skin and/or fat following weight loss or pregnancy, and/or obesity, and morbid obesity;

24. hearing aids and any examination to determine the fitting or necessity of hearing aids, except as specifically provided for in §301(A)(33) of this Part;

25. hair plugs and/or transplants;

26. routine physical examinations and/or immunizations not provided for under eligible expenses;

27. eye examinations, glasses, and contact lenses, except as specifically provided for as an eligible expense in §301.A.15 of this Part;

28. diagnostic or treatment measures that are not recognized as generally accepted medical practice;

29. medical supplies not listed under eligible expenses;
30. treatment or services for mental health and substance abuse provided outside the treatment plan developed by the program's managed care contractor or by therapists with whom or at facilities with which the program's managed care contractor does not have a contract;
31. genetic testing, except when determined to be medically necessary during a covered pregnancy;
32. services rendered by a private-duty registered nurse (R.N.) or by a private-duty licensed practical nurse (L.P.N.);
33. services rendered by a physician or other health care provider related to the patient by blood, adoption, or marriage;
34. expenses for services rendered by a physician or other health care provider who is not licensed in the state where such services are rendered or in any facility not holding a valid license in the state and for the services rendered;
35. facility fees for services rendered in a physician's office or in any facility not approved by the federal Health Care Finance Administration for Medicare reimbursement;
36. glucometers;
37. augmentative communication devices;
38. charges to obtain medical records or any other information needed and/or required to adjudicate a claim;
39. charges greater than the global allowance for any laboratory, pathology, or radiological procedure;
40. speech therapy or the services of a speech therapist except as specifically provided in §301.A.9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1813 (October 1999), amended LR 26:487 (March 2000), LR 27:717 (May 2001), LR 28:2340 (November 2002), LR 31:440 (February 2005), LR 32:1863 (October 2006).

§321. Exclusive Provider Program

A. The Program may implement Exclusive Provider Organization (EPO) arrangements or other agreements to discount payable fees. The program reserves the right to negotiate the amount of discounts, incentives offered to plan members, and all other provisions which are a part of any discount fee arrangement. To be eligible, the program must be the primary carrier at the time services are rendered.

1. If a covered person obtains medical services or hospital services from an eligible provider who has agreed to provide the services at a mutually agreed upon discount from the maximum medical fee schedule or at a per diem or discounted rate from a hospital, the program will pay, after applicable copays, as specified in the Schedule of Benefits. There is a contractual assignment to all EPO providers.

2. If a covered person receives services from a non-EPO Provider, the program will pay, after satisfaction of applicable deductibles, as specified in the Schedule of Benefits. Eligible Expenses of non-EPO Providers are based upon the OGB's fee schedule.

NOTE: Both EPO and non-EPO services are subject to the applicable co-pays or deductibles, limitations, and exclusions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1835 (October 1999), amended LR 27:722 (May 2001), LR 29:339 (March 2003), LR 32:1864 (October 2006).

§325. Prescription Drug Benefits

A. This Plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor that require a prescription and are dispensed by a licensed pharmacist or pharmaceutical company.

1. These include and shall not be limited to:

- a. Insulin;
- b. Retin-A dispensed for covered persons under the age of 27;
- c. Vitamin B-12 injections;
- d. prescription Potassium Chloride; and
- e. over-the-counter diabetic supplies including, but not limited to, strips, lancets, and swabs.

2. In addition, this plan allows benefits limited to \$200 per month for expenses incurred for the purchase of low protein food products for the treatment of inherited metabolic diseases if the low protein food products are medically necessary and are obtained from a source approved by the OGB. Such expenses shall be subject to coinsurance and co-payments relating to prescription drug benefits. In connection with this benefit, the following words shall have the following meanings:

a. *Inherited Metabolic Disease*—a disease caused by an inherited abnormality of body chemistry and shall be limited to:

- i. Phenylketonuria (PKU);
- ii. Maple Syrup Urine Disease (MSUD);
- iii. Methylmalonic Acidemia (MMA);
- iv. Isovaleric Acidemia (IVA);
- v. Propionic Acidemia;
- vi. Glutaric Acidemia;
- vii. Urea Cycle Defects; or
- viii. Tyrosinemia.

b. *Low Protein Food Products*—food products that are especially formulated to have less than 1 gram of protein per serving and are intended to be used under the direction of a physician for the dietary treatment of an inherited metabolic disease. Low protein food products shall not include natural foods that are naturally low in protein.

B. The following drugs, medicines, and related services and supplies are not covered:

1. appetite suppressant drugs;
2. dietary supplements;
3. topical forms of Minoxidil;
4. Retin-A dispensed for a covered person over age 26;
5. amphetamines dispensed for diagnoses other than Attention Deficit Disorder or Narcolepsy;
6. nicotine, gum, patches, or other products, services, or programs intended to assist an individual to reduce or cease smoking, or other use of tobacco products;
7. nutritional or parenteral therapy;
8. vitamins and minerals;
9. drugs available over the counter;
10. serostim dispensed for any diagnoses or therapeutic purposes other than AIDS wasting;
11. drugs prescribed for the treatment of impotence, except following the surgical removal of the prostate gland; and
12. glucometers.

C. - C.7 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1815 (October 1999), amended LR 27:717,718 (May 2001), LR 27:1886 (November 2001), LR 28:2340 (November 2002), LR 29:337 (March 2003), LR 32:1864 (October 2006).

Chapter 4. Uniform Provisions

§401. Statement of Contractual Agreement

A. This plan, as amended, including the schedule of benefits, together with the application for coverage and any related documents executed by or on behalf of the covered employee, constitute the entire agreement between the parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1816 (October 1999), amended LR 32:1865 (October 2006).

§403. Properly Submitted Claim

A. For Plan reimbursement, a claim must include:

1. - 4. ...
5. type of services rendered, with diagnosis and/or procedure codes that are valid and current for the date of service;
6. date and place of service;
7. - 10. ...

B. The program may require additional documentation in order to determine the extent of coverage or the appropriate reimbursement. Failure to furnish information within 90 days of the request will constitute a reason for the denial of benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1816 (October 1999), amended LR 32:1865 (October 2006).

§405. When Claims Must Be Filed

A. - B. ...

C. Requests for review of payment or corrected bills must be submitted within 18 months of receipt date of the original claim. Requests for review of payment or corrected bills received after that time will not be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1816 (October 1999), amended LR 28:476 (March 2002), LR 32:1865 (October 2006).

§407. Right to Receive and Release Information

A. Without notice or consent the program may release to or obtain from any company, organization, or person, any information regarding any person which the program deems necessary to carry out the provisions of this Plan, or to determine how, or if, they apply. Any claimant under the plan must furnish the program with any information necessary to implement this provision. OGB retains information for the minimum period of time required by law. After such time, information may no longer be available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1816 (October 1999), amended LR 32:1865 (October 2006).

§409. Legal Limitations

A. ...

B. Information provided by the program or any of its employees or agents to plan members does not modify or override the terms and provisions of the plan. In the event of any conflict between the written provisions of this plan and any information provided, the written provisions of this Plan shall supercede and control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1816 (October 1999), amended LR 28:477 (March 2002), LR 32:1865 (October 2006).

§413. Recovery of Overpayments

A. If an overpayment occurs, the program retains the right to recover the overpayment. The covered person, institution, or provider receiving the overpayment must return the overpayment. At the plan's discretion, the overpayment may be deducted from future claims. Should legal action be required as a result of fraudulent statements or deliberate omissions on the application for coverage or a claim for benefits, the defendant will be responsible for attorney fees of 25 percent of the overpayment or \$1,000, whichever is greater. The defendant will also be responsible for court costs and legal interest from the date of judicial demand until paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1816 (October 1999), amended LR 32:1865 (October 2006).

§415. Subrogation and Reimbursement

A. Upon payment of any eligible benefits covered under this Plan, the Office of Group Benefits shall succeed and be subrogated to all rights of recovery of the covered employee, his dependents or other covered persons, or their heirs or assigns, for whose benefit payment is made, and they shall execute and deliver instruments and papers and do whatever is necessary to secure such rights, and shall do nothing after loss to prejudice such rights.

B. The Office of Group Benefits shall be entitled, to the extent of any payment made to a covered employee, his dependents or other covered persons, to the proceeds of any settlement or judgment that may result from the exercise of any rights of recovery of a covered employee, his dependents or other covered persons, against any person or entity legally responsible for the disease, illness, accident or injury for which said payment was made. To this end, covered employees, their dependents, or other covered persons agree to immediately notify the Office of Group Benefits of any action taken to attempt to collect any sums against any person or entity responsible for the disease, illness, accident or injury.

C. These subrogation and reimbursement rights also apply when a covered person recovers under, but not limited to, an uninsured or underinsured motorist plan, homeowner's plan, renter's plan, medical malpractice plan, worker's compensation plan or any general liability plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1817 (October 1999), amended LR 32:1865 (October 2006).

§417. Employer Responsibility

A. It is the responsibility of the participant employer to submit enrollment and change forms and all other necessary documentation to the program on behalf of its employees. Employees of a participant employer will not, by virtue of furnishing any documentation to the program, be considered agents of the program, and no representation made by any such person at any time will change the provisions of this Plan.

B. A participant employer shall immediately inform OGB when a retiree with OGB coverage returns to full-time employment. The employee shall be placed in the Re-employed retiree category for premium calculation. The Re-employed retiree premium classification applies to retirees with and without Medicare. The premium rates applicable to the re-employed retiree premium classification shall be identical to the premium rates applicable to the classification for retirees without Medicare.

C. A participant employer that receives a Medicare secondary payer (MSP) collection notice or demand letter shall deliver the MSP notice to the OGB MSP Adjuster within 15 days of receipt. If timely forwarded, OGB will assume responsibility for medical benefits, interest, fines and penalties due to Medicare for a covered employee. If not timely forwarded, OGB will assume responsibility only for covered plan benefits due to Medicare for a covered employee. The participant employer will be responsible for interest, fines, and penalties due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1817 (October 1999), amended LR 29:1819 (September 2003), LR 32:1866 (October 2006).

§419. Program Responsibility

A. OGB will administer the plan in accordance with its terms, state and federal law, the OGB's established policies, interpretations, practices, and procedures. OGB will have maximum legal discretionary authority to construe and interpret the terms and provisions of the plan, to make determinations regarding eligibility for benefits and to decide disputes which may arise relative to a covered person's rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1817 (October 1999), amended LR 32:1866 (October 2006)

§423. Amendments to or Termination of the Plan and/or Contract

A. OGB has the statutory responsibility of providing health and accident and death benefits to covered persons to the extent that funds are available. OGB reserves the right to terminate or amend the eligibility and benefit provisions of the plan from time to time as necessary to prudently discharge its duties. Such modifications will be promulgated subject to the applicable provisions of law, and nothing contained herein shall be construed to guarantee or vest benefits for any employee, whether active or retired.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1818 (October 1999), amended LR 32:1866 (October 2006).

Chapter 6. Definitions

§601. Definitions

Accidental Injury—a condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from an external force. With respect to injuries to teeth, the act of chewing does not constitute an external force.

Appeal—a request by a plan member for and a formal review of a medical claim for benefits or an eligibility determination.

Benefit Payment—payment of eligible expenses due or owing by a covered person, after applicable deductibles, co-payments, and coinsurance, and subject to all limitations and exclusions, at the rate shown under Percentage Payable in the Schedule of Benefits.

Board of Trustees—repealed.

Brand Drug—the trademark name of a drug approved by the U. S. Food and Drug Administration.

Calendar Year—repealed.

* * *

Child or Children includes—

1. a legitimate, duly acknowledged, and/or legally adopted child of the employee and/or the employee's legal spouse's who is dependent upon the employee for support;

2. a child in the process of being adopted by the employee through an agency adoption, who is living in the household of the employee, and is or will be included as a dependent on the employee's federal income tax return for the current or following tax year (if filing is required);

3. a child in the legal custody of the employee, who lives in the household of the employee and is or will be included as a dependent on the employee's federal income tax return for the current or following tax year (if filing is required);

4. a grandchild of the employee that is not in the legal custody of the employee, who is dependent upon the employee for support and whose parent is a covered dependent. If the employee seeking to cover a grandchild is a paternal grandparent, the program will require that the biological father, i.e., the covered son of the employee, execute an acknowledgement of paternity.

NOTE: If the employee dependent parent becomes ineligible for coverage under the program, the employee's grandchild will also be ineligible for coverage, unless the employee has legal custody of his/her grandchild.

COBRA—the federal continuation of coverage laws originally enacted in the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended from time to time.

Committee—repealed.

Convalescent, Maintenance Care, or Rest Cures—treatment or services, regardless of by whom recommended or where provided, in which the service could be rendered safely and reasonably by oneself, family, or other caregivers who are not eligible providers. The services are primarily designed to help the patient with daily living activities, maintain the patient's present physical and mental condition, and/or provide a structured or safe environment.

Covered Person—an active or retired employee, his/her eligible dependent, or any other individual eligible for coverage for whom the necessary application forms have been completed and for whom the required contribution is made.

Covered Services—to those health care services for which a plan member is entitled to receive benefit payments in accordance with the terms of this plan.

Custodial Care—

1. care designed to assist an individual in the performance of daily living activities (i.e., services which constitute personal care such as walking, getting in and out of bed, bathing, dressing, eating, and using the toilet) that does not require admission to a hospital or other institution for the treatment of a disease, illness, accident, or injury, or for the performance of surgery;

2. care primarily intended to provide room and board to an individual with or without routine nursing care, training in personal hygiene, or other forms of self-care;

3. supervisory care provided by a physician whose patient who is mentally or physically incapacitated and is not under specific medical, surgical, or psychiatric treatment, when such care is intended to reduce the patient's incapacity to the extent necessary to enable the patient to live outside of an institution providing medical care, or when, despite treatment, there is not reasonable a likelihood that the incapacity will be reduced.

Date Acquired—the date a dependent of a covered employee is acquired in the following instances and on the following dates only:

1. legal spouse—the date of marriage;

2. child or children:

a. natural child—the date of birth;

b. child in the process of being adopted;

c. agency adoption—the date the adoption contract was executed between the employee and the adoption agency;

d. private adoption—the date the Act of Voluntary Surrender is executed in favor of the employee. The program must be furnished with certification by the appropriate clerk of court setting forth the date of execution of the Act and the date the Act became irrevocable, or the date of the first court order granting legal custody, whichever occurs first;

e. child who lives in the household of the covered employee and is currently or will be included as a dependent on the employee's federal income tax return—the date of the court order granting legal custody;

f. grandchild of the employee that is not in the legal custody of the employee, but who is dependent upon the employee for support and whose parent is a covered dependent:

i. the date of birth of the Grandchild, if all of the above requirements are met at the time of birth; or

ii. the date on which the coverage becomes effective for the covered dependent, if all of the above requirements are not met at the time of birth.

Deductible—the dollar amount that a covered person must pay as shown in the schedule of benefits before benefits will be paid in a plan year.

Dependent—any of the following persons who are enrolled for coverage as dependents, if they are not also covered as an employee:

1. the covered employee's legal spouse;

2. a never married child from date of birth up to 21 years of age and dependent upon the employee for support;

3. a never married child who is a fulltime student under 24 years of age and financially dependent upon the employee for support;

4. a never married child of any age who meets the criteria set forth in §103.D, above;

Durable Medical Equipment (DME)—equipment which can withstand repeated use, is primarily and customarily used to serve a medical purpose, is not generally useful to a person in the absence of a illness or injury, and is appropriate for use in the home. DME includes, but is not limited to, items such as wheelchairs, hospital beds, respirators, braces (non-dental), custom orthotics which must be specially made and not available at retail stores.

Emergency Medical Condition—a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part, or with respect to a pregnant woman who is having contractions that there is inadequate time to effect a safe transfer to another hospital before delivery, or the transfer may pose a threat to the health or safety of the woman or unborn child.

Emergency Room Services—medical services eligible for reimbursement that are necessary to screen, evaluate, and stabilize an emergency medical condition and are provided at a hospital emergency room and billed by a hospital.

Employee—a full-time employee as defined by a participant employer and in accordance with state law.

Family Unit Limit—each of three covered members of a family unit have met the dollar amount shown in the schedule of benefits as plan year deductible for an individual. Once the family unit limit is met, the deductibles of all other covered members of the family unit will be considered satisfied for that plan year.

Fee Schedule—the maximum allowable charges for professional or hospital services adopted by the OGB that may be considered as an eligible expense.

Future Medical Recovery—repealed.

Generic Drug—a chemically equivalent copy of a "brand name" drug.

Group Health Plan—a plan (including a self-insured plan) offered or contributed to, by an employer (including a self-employed person) or employee organization to provide health care to employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, and/or their families.

Health Insurance Coverage—benefits consisting of medical care offered by a health insurance issuer under any hospital or medical service policy or certificate, hospital or medical service plan contract, or HMO contract.

HIPAA—the Health Insurance Portability and Accountability Act of 1996 (U.S. Public Law 104-191) and Federal Regulations promulgated pursuant thereto.

Hospital—an institution that is currently licensed as a hospital by the state in which services are rendered and is not primarily an institution for rest, the aged, the treatment of pulmonary tuberculosis, a nursing home, extended care facility, remedial training institution, or a facility primarily for the treatment of conduct and behavior disorders.

Incurred Date—the date when a particular service or supply is rendered or obtained. When a single charge is made for a series of services, each service will bear a prorated share of the charge.

* * *

Lifetime Maximum Benefit—the maximum amount of benefits that will be paid under the plan for all Eligible Expenses incurred by a covered person.

Medically Necessary—a service, treatment, procedure, equipment, drug, device, item, or supply, which, in the judgment of the program:

1. is appropriate and consistent with a covered person's diagnosis and treatment as well as with nationally accepted medical standards; and

2. is not primarily for personal comfort or convenience or Custodial Care.

Medicare—the health insurance available through Medicare laws enacted by the Congress of the United States.

* * *

Occupational Therapy—the application of any activity one engages in for the purposes of evaluation, interpretation, treatment planning, and treatment of problems interfering with functional performance in persons impaired by physical illness or injury in order to significantly improve functioning.

* * *

Participating Provider—an EPO, as defined herein.

Physical Therapy means the evaluation of physical status as related to functional abilities and treatment procedures as indicated by that evaluation. And licensed for the state where services are rendered.

Physician—

1. *Physician* means the following persons, appropriately licensed to practice their respective professional skills at the time and place the service is rendered:

- a. a Doctor of Medicine (M.D.);
- b. a Doctor of Dental Surgery (D.D.S.);
- c. a Doctor of Dental Medicine (D.M.D.);
- d. a Doctor of Osteopathy (D.O.);
- e. a Doctor of Podiatric Medicine (D.P.M.);
- f. a Doctor of Chiropractic (D.C.);
- g. a Doctor of Optometry (O.D.);
- h. a psychologist meeting the requirements of the National Register of Health Service Providers in Psychology;
- i. a mental health counselor;
- j. a substance abuse counselor;
- k. an Audiologist.

2. The term *physician* does not include a medical doctor in the capacity of supervising interns, residents, senior residents, or fellows enrolled in a training program who does not personally provide medical treatment or perform a surgical procedure for the covered person.

Plan—coverage offered by the Office of Group Benefits under this contract including EPO benefits, prescription drug

benefits, mental health and substance abuse benefits, and comprehensive medical benefits. The term plan as defined herein is used interchangeably with the term program as defined below.

* * *

Plan Year—the period from July 1, or the date the covered person first becomes covered under the plan, through the next following June 30. Each successive Plan Year will be the twelve month period from July 1 through the next following June 30.

PPO—repealed.

Program—the Office of Group Benefits and/or the plan.

Provider—one or more entities which offer health care services and shall include but not be limited to individuals, or groups of physicians, individuals or groups of psychologists, nurse midwives, ambulance service companies, hospitals, and other health care entities that provide covered services to covered individuals.

Recovery—with respect to subrogation and reimbursement (§413) recovery means any and all monies paid to the covered person by way of judgment, settlement, or otherwise to compensate for losses allegedly caused by injury or sickness, whether or not the losses reflect medical or dental charges covered by the program.

Referee—repealed.

Rehabilitation and Rehabilitation Therapy—care concerned with the management and functional ability of patients disabled by disease, illness, accident, or injury.

Reimbursement—repayment to the program for Benefits Payments made by the program.

Retiree—

1. *Retiree* means an individual who was a covered employee immediately prior to the date of retirement and who, upon retirement, satisfied one of the following categories:

- a. immediately received retirement benefits from an approved state or governmental agency defined benefit plan;
- b. was not eligible for participation in such plan or legally opted not to participate in such plan; and either:
 - i. began employment prior to September 15, 1979, has 10 years of continuous state service, and has reached the age of 65; or
 - ii. began employment after September 16, 1979, has 10 years of continuous state service, and has reached the age of 70; or
 - iii. was employed after July 8, 1992, has 10 years of continuous state service, has a credit for a minimum of 40 quarters in the Social Security system at the time of employment, and has reached the age of 65; or
 - iv. maintained continuous coverage with the program as an eligible dependent until he/she became eligible as a former state employee to receive a retirement benefit from an approved state governmental agency defined benefit plan;
- c. immediately received retirement benefits from a state-approved or state governmental agency-approved defined contribution plan and has accumulated the total number of years of creditable service which would have entitled him/her to receive a retirement allowance from the defined benefit plan of the retirement system for which the employee would have otherwise been eligible. The appropriate state governmental agency or retirement system

responsible for administration of the defined contribution plan is responsible for certification of eligibility to the Office of Group Benefits.

2. Retiree also means an individual who was a covered employee and continued the coverage through the provisions of COBRA immediately prior to the date of retirement and who, upon retirement, qualified for any of Subparagraphs a., b., and c above.

Room and Board—all expenses necessary to maintain and sustain a covered person upon admittance to a hospital and during a hospital confinement. This can include, but is not limited to, facility charges for the maintenance of the covered person's hospital room, dietary and food services, nursing services performed by nurses employed by or under contract with the hospital, and housekeeping services.

* * *

Utilization Management—the process of evaluating the necessity, appropriateness, and efficiency of health care services against established guidelines and criteria.

Utilization Review Organization (URO)—an entity that has established one or more utilization review programs which evaluates the medical necessity, appropriateness, and efficiency of the uses of health care services, procedures, and facilities.

Well Adult Care—covered persons age 16 and older and means a routine physical examination by a physician that may include an influenza vaccination, lab work, and x-rays performed as part of the exam in that physician's office, when such services are billed by that physician with wellness procedure and diagnosis codes. Other health care services billed with wellness procedures and diagnosis codes, as well as treatment and/or diagnosis of a specific illness, will not be considered as *well adult care*.

Well Baby Care—covered persons from birth until age 1 and means routine care to a well, newborn infant that may include physical examinations and active immunizations provided by a physician when such services are billed by that physician with wellness procedure and diagnosis codes. Other health care services billed with wellness procedures and diagnosis codes, as well as treatment and/or diagnosis of a specific illness, will not be considered as *well baby care*.

Well Child Care—covered persons from age 1 through age 15 and means routine physical examinations and active immunizations provided by a physician, when such services are billed by that physician with wellness procedure and diagnosis codes. Other health care services billed with wellness procedure and diagnosis codes, as well as treatment and/or diagnosis of a specific illness, will not be considered as *well child care*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1)

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1820 (October 1999), amended LR 29:335 (March 2003), LR 32:1866 (October 2006).

Chapter 7. Schedule of Benefits—EPO

§701. Comprehensive Medical Benefits

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

Lifetime maximum for all benefits, except outpatient prescription drug benefits, per person	\$2,000,000
Lifetime maximum for outpatient prescription drug benefits, per person	\$250,000

1. ...

2. Percentage Payable, Member Co-Payments

A.2.a. - C.3. ...

²Participating providers are reimbursed at 100 percent of Eligible Expenses up to the maximum benefit; Non-Participating providers are reimbursed at 70 percent of Eligible Expenses up to the maximum benefit

Services include screenings to detect illness or health risks during a Physician office visit. The covered services are based on prevailing medical standards and may vary according to age and family history.

Specialized age appropriate wellness (not subject to deductible). For a complete list of benefits, see §301(A)24 of this Part.

D. Pre-Natal and Postpartum Maternity. See percentage payable after member co-payment and satisfaction of applicable deductibles (§701.A.2.a above). \$90 one-time member copay to include physician delivery charge, all pre-natal, and one post-partum visit.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1823 (October 1999), amended LR 26: 487 (March 2000), LR 27:717, 719 (May 2001), LR 27:1886 (November 2001), LR 28:476 (March 2002), LR 28:2342, 2343 (November 2002), LR 28:2509 (December 2002), LR 29:335, 337, 338 (March 2003), LR 30:1190 (June 2004), LR 32:1869 (October 2006).

Tommy D. Teague
Chief Executive Officer

0610#072

RULE

Office of the Governor Division of Administration Office of Group Benefits

MCO Plan of Benefits
(LAC 32:IX.Chapters 1-6)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(1), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the MCO Plan Document. The reason for this action is to enhance member clarification and be able to administer health care benefits effectively for the program and member.

Accordingly, OGB hereby adopts the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part IX. Managed Care Option (MCO) Plan of Benefits

Chapter 1. Eligibility

§101. Persons to Be Covered

NOTE: Eligibility requirements apply to all participants in the Program, including the PPO plan, the MCO plan, the MCO plan, an HMO plan, or the life insurance plan.

A. - A.2. ...

3. Effective Dates of Coverage, New Employee, Transferring Employee. Coverage for each employee who completes the applicable enrollment form and agrees to make the required payroll contributions to his participant employer is effective as follows.

a. If employment begins on the first day of the month, coverage is effective on the first day of the following month (for example, if hired on July 1, coverage will begin on August 1).

b. If employment begins on or after the second day of the month, coverage is effective on the first day of the second month following employment (for example, if hired on July 15, coverage will begin on September 1).

c. Employee coverage will not become effective unless the employee completes an enrollment form within 30 days following the date of employment. If completed after 30 days following the date of employment, the employee will be considered an overdue applicant.

d. An employee who transfers employment to another participating employer must complete a transfer form within 30 days following the date of transfer to maintain coverage without interruption. If completed after 30 days following the date of transfer, the employee will be considered an overdue applicant.

4. Re-Enrollment, Previous Employment for Health Benefits and Life Insurance

A.4.a. - B.1.a. ...

b. An employee retired from a participant employer may not be covered as an employee.

c. Retirees are not eligible for coverage as overdue applicants.

2. Effective Date of Coverage

a. Retiree coverage will be effective on the first day of the month following the date of retirement if the retiree and participant employer have agreed to make and are making the required contributions (For example, if retired July 15, coverage will begin August 1).

C. - C.2. ...

a. Dependents of Employees. Coverage will be effective on the date the employee becomes eligible for dependent coverage.

C.2.b. - D. ...

1. The terms of the following paragraphs apply to all eligible employees who apply for coverage after 30 days from the date the employee became eligible for coverage and to all eligible dependents of employees and retirees for whom the application for coverage was not completed within 30 days from the date acquired.

D.2.-E.1.c. ...

2. After Acquired Dependents. Special enrollment will be permitted for employees or dependents for whom the option to enroll for coverage was previously declined when the employee acquires a new dependent by marriage, birth, adoption, or placement for adoption.

a. A special enrollment application must be made within 30 days of either the termination date of the prior coverage or the date the new dependent is acquired. If it is made more than 30 days after eligibility, they will be considered overdue applicants subject to a pre-existing condition limitation.

b. ...

i. for loss of other coverage or marriage, the first day of the month following the date the program receives all required forms for enrollment;

ii. - iii. ...

c. Special enrollment applicants must complete the "Acknowledgment of Pre-existing Condition" form and "Statement of Physical Condition" form.

E.2.d. - G.3. ...

H. Medicare+Choice/Medicare Advantage Option for Retirees (effective July 1, 1999). Retirees who are eligible to participate in a Medicare+Choice/Medicare Advantage plan who cancel coverage with the program upon enrollment in a Medicare+Choice/Medicare Advantage plan may re-enroll in the program upon withdrawal from or termination of coverage in the Medicare+Choice/Medicare Advantage plan, at the earlier of the following:

H.1. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:883 (June 2003), amended LR 32:1870 (October 2006).

§103. Continued Coverage

A. ...

1. Leave of Absence without Pay, Employer Contributions to Premiums

a. A participating employee who is granted leave of absence without pay due to a service related injury may continue coverage and the participating employer shall continue to pay its portion of health plan premiums for up to 12 months.

b. A participating employee who suffers a service related injury that meets the definition of a total and permanent disability under the workers' compensation laws of Louisiana may continue coverage and the participating employer shall continue to pay its portion of the premiums until the employee becomes gainfully employed or is placed on state disability retirement.

c. A participating employee who is granted leave of absence without pay in accordance with the federal Family and Medical Leave Act (F.M.L.A.) may continue coverage during the time of such leave and the participating employer may continue to pay its portion of premiums.

2. Leave of Absence without Pay; No Employer Contributions to Premiums. An employee granted leave of absence without pay for reasons other than those stated in Paragraph A, may continue to participate in an Office of Group Benefits benefit plan for a period up to 12 months upon the employee's payment of the full premiums due.

B. - B.2. ...

C. Surviving Dependents/Spouse

1. Benefits under the plan for covered dependents of a deceased covered employee or retiree will terminate on the last day of the month in which the employee's or retiree's death occurred unless the surviving covered dependents elect to continue coverage.

a. The surviving legal spouse of an employee or retiree may continue coverage unless or until the surviving spouse is or becomes eligible for coverage in a Group Health Plan other than Medicare.

b. The surviving never married dependent child of an employee or retiree may continue coverage unless or until such dependent child is or becomes eligible for coverage under a Group Health Plan other than Medicare, or until attainment of the termination age for children, whichever occurs first.

c. Surviving dependents will be entitled to receive the same participant employer premium contributions as employees and retirees, subject to the provisions of Louisiana Revised Statutes, Title 42, Section 851 and rules promulgated pursuant thereto by the Office of Group Benefits.

d. Coverage provided by the Civilian Health and Medical Program for the Uniformed Service (CHAMPUS/TRICARE) or successor program will not be sufficient to terminate the coverage of an otherwise eligible surviving legal spouse or a dependent child.

2. A surviving spouse or dependent child cannot add new dependents to continued coverage other than a child of the deceased employee born after the employee's death.

3. Participant Employer/Dependent Responsibilities

a. It is the responsibility of the participant employer and surviving covered dependent to notify the program within 60 days of the death of the employee or retiree.

b. The program will notify the surviving dependents of their right to continue coverage.

c. Application for continued coverage must be made in writing to the program within 60 days of receipt of notification, and premium payment must be made within 45 days of the date continued coverage is elected for coverage retroactive to the date coverage would have otherwise terminated.

d. Coverage for the surviving spouse under this Section will continue until the earliest of the following:

i. failure to pay the applicable premium timely;

ii. eligibility of the surviving spouse for coverage under a Group Health Plan other than Medicare.

e. Coverage for a surviving dependent child under this section will continue until the earliest of the following events:

i. failure to pay the applicable premium timely;

ii. eligibility of the surviving dependent child for coverage under any Group Health Plan other than Medicare;

iii. the attainment of the termination age for children.

4. The provisions of Paragraphs 1 through 3 this Subsection are applicable to surviving dependents who, on or after July 1, 1999, elect to continue coverage following the death of an employee or retiree. Continued coverage for surviving dependents who made such election before July 1, 1999, shall be governed by the rules in effect at the time.

D. - D.3. ...

E. Military Service. Members of the National Guard or of the United States military reserves who are called to active military duty, and who are OGB participating employees or covered dependents will have access to continued coverage under OGB's health and life plans.

1. Health Plan Participation. When called to active military duty, participating employees and covered dependents may:

a. continue participation in the OGB health plan during the period of active military service, in which case the participating employer may continue to pay its portion of premiums; or

b. cancel participation in the OGB health plan during the period of active military service, in which case such plan participants may apply for reinstatement of OGB coverage within 30 days of:

i. the date of the employee's reemployment with a participating employer;

ii. the dependent's date of discharge from active military duty; or

iii. the date of termination of extended health coverage provided as a benefit of active military duty, such as TRICARE Reserve Select;

iv. plan participants who elect this option and timely apply for reinstatement of OGB coverage will not be subject to a pre-existing condition (PEC) limitation, and the lapse in coverage during active military duty or extended military coverage will not result in any adverse consequences with respect to the participation schedule set forth in R.S. 42:851(E) and the corresponding rules promulgated by OGB.

2. Life Insurance. When called to active military duty, employees with OGB life insurance coverage may:

a. continue participation in the OGB life insurance during the period of active military service, however, the accidental death and dismemberment coverage will not be in effect during the period of active military duty; or

b. cancel participation in the OGB life insurance during the period of active military service, in which case such employee may apply for reinstatement of OGB life insurance within 30 days of the date of the employee's reemployment with a participating employer; employees who elect this option and timely apply for reinstatement of OGB life insurance will not be required to provide evidence of insurability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:885 (June 2003), amended LR 30:1191 (June 2004), LR 32:1870 (October 2006).

§105. COBRA

A. Employees

1. Coverage under this plan for a covered employee will terminate on the last day of the calendar month during which employment is terminated (voluntarily or involuntarily) or significantly reduced, the employee no longer meets the definition of an employee, or coverage under a leave of absence has expired, unless the covered employee elects to continue coverage at the employee's own expense. Employees terminated for gross misconduct are not eligible for COBRA coverage.

2. It is the responsibility of the participant employer to notify the program within 30 days of the date coverage would have terminated because of any of the foregoing events, and the program will notify the employee within 14 days of his or her right to continue coverage.

3. Application for continued coverage must be made in writing to the program within 60 days of the date of the election notification and premium payment must be made within 45 days of the date the employee elects continued coverage, for coverage retroactive to the date coverage would have otherwise terminated. After the first payment for COBRA coverage, monthly payments for each subsequent month of COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

4. Coverage under this Section will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 18 months from the date coverage would have otherwise terminated;
- c. entitlement to Medicare;
- d. coverage under a Group Health Plan, but only after any pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied; or
- e. the employer ceases to provide any group health plan for its employees.

5. If employment for a covered employee is terminated (voluntarily or involuntarily) or significantly reduced, the employee no longer meets the definition of an employee, or a leave of absence has expired, and the employee has not elected to continue coverage, the covered spouse and/or covered dependent children may elect to continue coverage at his/her/their own expense. The elected coverage will be subject to the above-stated notification and termination provisions.

B. Surviving Dependents

1. Coverage under this plan for covered surviving dependents of an employee or retiree will terminate on the last day of the month in which the employee's or retiree's death occurs, unless the surviving covered dependents elect to continue coverage at his/her own expense.

2. It is the responsibility of the participant employer or surviving covered dependents to notify the program within 30 days of the death of the employee or retiree. The program will notify the surviving dependents of their right to continue coverage. Application for continued coverage must be made in writing to the program within 60 days of the date of the election notification.

3. Premium payment must be made within 45 days of the date the continued coverage was elected, retroactive to the date coverage would have terminated. After the first payment for COBRA coverage, monthly payments for each subsequent month of COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

4. Coverage for the surviving dependents under this Section will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 36 months beyond the date coverage would have otherwise terminated;
- c. entitlement to Medicare;
- d. coverage under a Group Health Plan, but only after pre-existing condition exclusions of that other plan for

a pre-existing condition of the covered person have been exhausted or satisfied; or

e. the employer ceases to provide any group health plan for its employees.

C. Divorced Spouse

1. Coverage under this plan for an employee's spouse will terminate on the last day of the month during which dissolution of the marriage occurs by virtue of a legal decree of divorce from the employee or retiree, unless the covered divorced spouse elects to continue coverage at his or her own expense.

2. It is the responsibility of the divorced spouse to notify the program within 60 days from the date of divorce and the program will notify the divorced spouse within 14 days of his or her right to continue coverage. Application for continued coverage must be made in writing to the program within 60 days of the election notification.

3. Premium payment must be made within 45 days of the date continued coverage is elected, for coverage retroactive to the date coverage would have otherwise terminated. After the first payment for COBRA coverage, monthly payments for each subsequent month of COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

4. Coverage for the divorced spouse under this Section will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 36 months beyond the date coverage would have otherwise terminated;
- c. entitlement to Medicare;
- d. coverage under a Group Health Plan, but only after any pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied; or
- e. the employer ceases to provide any group health plan for its employees.

D. Dependent Children

1. Coverage under this plan for a covered dependent child of a covered employee or retiree will terminate on the last day of the month during which the dependent child no longer meets the definition of an eligible covered dependent, unless the dependent elects to continue coverage at his or her own expense.

2. It is the responsibility of the dependent to notify the program within 60 days of the date coverage would have terminated and the program will notify the dependent within 14 days of his or her right to continue coverage. Application for continued coverage must be made in writing to the program within 60 days of receipt of the election notification.

3. Premium payment must be made within 45 days of the date the continued coverage is elected, for coverage retroactive to the date coverage would have otherwise terminated. After the first payment for COBRA coverage, monthly payments for each subsequent month of COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

4. Coverage for children under this Section will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 36 months beyond the date coverage would have otherwise terminated;
- c. entitlement to Medicare;
- d. coverage under a Group Health Plan, but only after any pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied; or
- e. the employer ceases to provide any group health plan for its employees.

E. Dependents of COBRA Participants

1. If a covered terminated employee has elected to continue coverage and if during the period of continued coverage the covered spouse or a covered dependent child becomes ineligible for coverage due to:

- a. death of the employee;
- b. divorce from the employee; or
- c. a dependent child no longer meets the definition of an eligible covered dependent; then, the spouse and/or dependent child may elect to continue COBRA coverage at his/her own expense. Coverage will not be continued beyond 36 months from the date coverage would have otherwise terminated.

2. It is the responsibility of the spouse and/or the dependent child to notify the program within 60 days of the date COBRA coverage would have terminated.

3. Monthly payments for each month of COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

4. Coverage for children under this Section will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 36 months beyond the date coverage would have otherwise terminated;
- c. entitlement to Medicare;
- d. coverage under a Group Health Plan, but only after any pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied; or
- e. the employer ceases to provide any group health plan for its employees.

F. Disability COBRA

1. If a covered employee or covered dependent is determined by the Social Security Administration or by the program staff (in the case of a person who is ineligible for Social Security disability benefits due to insufficient "quarters" of employment), to have been totally disabled on the date the covered person became eligible for continued coverage or within the initial 18 months of coverage, coverage under this plan for the covered person who is totally disabled may be extended at his or her own expense up to a maximum of 29 months from the date coverage would have otherwise terminated.

2. To qualify the covered person must:

- a. submit a copy of his or her Social Security Administration's disability determination to the program before the initial 18-month continued coverage period expires and within 60 days after the latest of:

- i. the date of issuance of the Social Security Administration's disability determination; and

- ii. the date on which the qualified beneficiary loses (or would lose) coverage under the terms of the plan as a result of the covered employee's termination or reduction of hours;

- b. in the case of a person who is ineligible for Social Security disability benefits due to insufficient "quarters" of employment, submit proof of total disability to the program before the initial 18-month continued coverage period expires. The staff and medical director of the program will make the determination of total disability based upon medical evidence, not conclusions, presented by the applicant's physicians, work history, and other relevant evidence presented by the applicant.

3. For purposes of eligibility for continued coverage under this Section, total disability means the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to last for a continuous period of 12 months. To meet this definition one must have a severe impairment which makes one unable to do his previous work or any other substantial gainful activity which exists in the national economy, based upon a person's residual functional capacity, age, education, and work experience.

4. Monthly payments for each month of extended COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

5. Coverage under this Section will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 29 months from the date coverage would have otherwise terminated;
- c. entitlement to Medicare;
- d. coverage under a Group Health Plan, but only after any pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied;
- e. the employer ceases to provide any group health plan for its employees; or
- f. 30 days after the month in which the Social Security Administration determines that the covered person is no longer disabled. (The covered person must report the determination to the program within 30 days after the date of issuance by the Social Security Administration.) In the case of a person who is ineligible for Social Security disability benefits due to insufficient "quarters" of employment, 30 days after the month in which the program determines that the covered person is no longer disabled.

G. Medicare COBRA

1. If an employee becomes entitled to Medicare less than 18 months before the date the employee's eligibility for benefits under this plan terminates, the period of continued coverage available for the employee's covered dependents will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 36 months from the date of the employee's Medicare entitlement;
- c. entitlement to Medicare;

d. coverage under a Group Health Plan, but only after any pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied; or

e. the employer ceases to provide any group health plan for its employees.

2. Monthly payments for each month of COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

H. Miscellaneous Provisions. During the period of continuation, benefits will be identical to those provided to others enrolled in this plan under its standard eligibility provisions for employees and retirees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:886 (June 2003), amended LR 32:1871 (October 2006).

§107. Change of Classification

A. Adding or Deleting Dependents. The plan member must notify the program when a dependent is added to or deleted from the plan member's coverage that results in a change in the class of coverage. Notice must be provided within 30 days of the addition or deletion.

B. Change in Coverage

1. When there is a change in family status (e.g., marriage, birth of child) that affects the class of coverage, the change in classification will be effective on the date of the event. Application for the change must be made within 30 days of the date of the event.

2. When the addition of a dependent changes the class of coverage, the additional premium will be charged for the entire month if the date of change occurs before the fifteenth day of the month. If the date of change occurs on or after the fifteenth day of the month, an additional premium will not be charged until the first day of the following month.

C. Notification of Change. It is the employee's responsibility to notify the program of any change in classification of coverage that affects the employee's contribution amount. If failure to notify is later determined, it will be corrected on the first day of the following month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:887 (June 2003), amended LR 32:1874 (October 2006).

Chapter 2. Termination of Coverage

§201. Active Employee and Retired Employee Coverage

A. ...

1. the date the program terminates;
2. the date the group or agency employing the covered employee terminates or withdraws from the program;
3. the date contribution is due if the group or agency fails to pay the required contribution for the covered employee;
4. the date contribution is due if the covered person fails to make any contribution which is required for the continuation of coverage;
5. the last day of the month of the covered employee's death;

6. the last day of the month in which the covered employee ceases to be eligible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:888 (June 2003), amended LR 32:1874 (October 2006).

§203. Dependent Coverage

A. ...

1. the last day of the month the employee ceases to be covered;
2. the last day of the month in which the dependent, as defined in this plan, ceases to be an eligible dependent of the covered employee;

3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1)

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:888 (June 2003), amended LR 32:1874 (October 2006).

Chapter 3. Medical Benefits

§301. Eligible Expenses

A. Eligible expenses are the charges incurred for the following services, drugs, supplies, and devices, when performed, prescribed, or ordered by a physician and medically necessary for the treatment of a covered person. All charges are subject to applicable deductibles, copayments, and/or coinsurance amounts (unless otherwise specifically provided), Fee Schedule limitations, Schedule of Benefits, exclusions, and other provisions of the plan. A charge is incurred on the date that the service, drug, supply, or device is performed or furnished.

1. - 3. ...

4. anesthesia and its administration when ordered by the operating physician and administered by an appropriately licensed nurse anesthetist or physician in conjunction with a covered surgical service;

5. - 6. ...

7. blood, blood derivatives, and blood processing, when not replaced;

8. - 8.c. ...

d. ostomy supplies, except supplies for nutritional and/or enteral feeding;

e. - l. ...

9. services of a licensed speech therapist when pre-approved through Outpatient Procedure Certification (§309, below) for the purpose of restoring partial or complete loss of speech resulting from stroke, surgery, cancer, radiation laryngitis, cerebral palsy, accidental injury, or other similar structural or neurological disease, limited to 26 visits per plan year;

10. ...

11. services rendered by a Doctor of Dental Surgery (D.D.S.) or Doctor of Dental Medicine (D.M.D.) for the treatment of accidental injury to a covered person's natural teeth, under the following conditions:

a. coverage was in effect with respect to the individual at the time of the accident;

b. treatment commences within 90 days from the date of the accident and is completed within two years from the date of the accident;

c. coverage remains continuously in effect with respect to the covered person during the course of the treatment;

d. eligible expenses are limited to the cost of treatment as estimated at the time of initial treatment;

e. eligible expenses may include dental braces and orthodontic appliances, upon review and approval by the program's dental consultant, and only under the following circumstances:

i. to return the alveolar alignment to its former state prior to a covered dental accident. The program will allow benefits for orthopedic correction to establish reasonable occlusal function;

ii. a covered surgery that requires the use of braces for stabilization;

iii. severe skeletal deformity (i.e., cleft palate). The program will allow benefits for orthopedic correction to establish reasonable occlusal function;

f. as used herein accidental injury means a condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from an external force, and with respect to injuries to teeth, the act of chewing does not constitute an external force;

12. durable medical equipment subject to the lifetime maximum payment limitation as listed in the Schedule of Benefits. The program will require written certification by the treating physician to substantiate the medical necessity for the equipment and the length of time that it will be used. The purchase of durable medical equipment will be considered an eligible expense only upon a showing that the rental cost would exceed the purchase price. Under no circumstances may the eligible expense for an item of durable medical equipment exceed the purchase price of such item;

13. - 17. ...

18. orthopedic shoes prescribed by a physician and completely custom built, limit one pair per plan year;

19. acupuncture when rendered by a medical doctor licensed in the state in which the services are rendered;

20. - 20.d. ...

21. services of a physical therapist or occupational therapist licensed in the state in which the services are rendered, under the following conditions:

a. services are prescribed by a licensed physician and rendered in an individual setting;

b. restorative potential exists;

c. services meet the generally accepted standards for medical practice;

d. services are reasonable and medically necessary for treatment of a disease, illness, accident, injury, or post-operative condition;

e. services are approved through case management when rendered in the home;

f. services are limited to 50 visits per plan year. Additional visits subject to approval by utilization management;

22. cardiac rehabilitation when:

a. rendered at a medical facility under the supervision of a licensed physician;

b. - c. ...

NOTE: Charges incurred for dietary instruction, educational services, behavior modification literature, biofeedback, health club membership, exercise equipment, preventive programs,

and any other items excluded by the plan are not covered, unless provided for under Paragraph 30 of this Subsection.

23. preventive care consisting of routine physical examinations, lab work, and immunizations (including a yearly influenza vaccination) as follows:

a. well baby care expenses subject to the annual deductible and co-payments:

i. newborn facility and professional charges;

ii. birth to age 1—all office visits for scheduled immunizations and screening;

b. well child care expenses subject to the annual deductible and co-payments:

i. age 1 until age 3—three office visits per year for scheduled immunizations and screening;

ii. age 3 until age 15—one office visit per year for scheduled immunizations and screening;

c. well adult care expenses, not subject to the annual deductible, but limited to a maximum benefit of \$200.00:

i. age 16 until age 40—once during a 3-year period;

ii. age 40 until age 50—once during a 2-year period;

iii. age 50 and over—once during a 1-year period.

NOTE: Benefits for well baby care, well child care and routine physical examinations for well adult care, including immunizations, are based on the U.S. Preventive Services Task Force guidelines and recommendations of the National Immunization Program of the Centers for Disease Control and Prevention. All services must be rendered on an outpatient basis to monitor and maintain health and to prevent illness.

24. specialized, age-appropriate wellness care, not subject to the annual deductible, as follows:

a. one Pap test for cervical cancer per plan year;

b. mammographic examinations performed according to the following schedule:

i. one mammogram during the five-year period a person is 35-39 years of age;

ii. one mammogram every two plan years for any person who is 40-49 years of age;

iii. one mammogram every 12 months for any person who is 50 years of age or older;

c. testing for detection of prostate cancer, including digital rectal examination and prostate-specific antigen testing, once every 12 months for men over the age of 50 years;

25. - 26. ...

27. services rendered by the following, when billed by the supervising physician:

a. physicianists and registered nurse assistants assisting in the operating room;

b. physician assistants and registered nurse practitioners;

28. - 30.c. ...

31. testing of sleep disorders only when the tests are performed at either:

a. a facility accredited by the American Academy of Sleep Medicine or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or

b. a sleep study facility located within a healthcare facility accredited by JCAHO. No benefits are payable for surgical treatment of sleep disorders (including LAUP) except following demonstrated failure of non-surgical treatment and upon approval by the program;

32. - 33.c. ...

34. treatment provided in accordance with a clinical trial for cancer, including costs of investigational treatments and of associated protocol-related patient care if all of the following criteria are met:

a. treatment is being provided with a therapeutic or palliative intent for patients with cancer, or for the prevention or early detection of cancer;

b. treatment is being provided or the studies are being conducted in a Phase II, Phase III, or Phase IV clinical trial for cancer;

c. treatment is being provided in accordance with a clinical trial approved by one of the following entities:

i. one of the United States National Institutes of Health;

ii. a cooperative group funded by one of the United States National Institutes of Health;

iii. the FDA in the form of an investigational new drug application;

iv. the United States Department of Veterans Affairs;

v. the United States Department of Defense;

vi. a federally funded general clinical research center;

vii. the Coalition of National Cancer Cooperative Groups;

d. the proposed protocol has been reviewed and approved by a qualified institutional review board which operates in this state and which has a multiple project assurance contract approved by the office of protection from research risks;

e. the facility and personnel providing the protocol provided the treatment within their scope of practice, experience, and training and are capable of doing so by virtue of their experience, training, and volume of patients treated to maintain expertise;

f. there is no clearly superior, non-investigational approach;

g. the available clinical or preclinical data provide a reasonable expectation that the treatment will be at least as efficacious as the non-investigational alternative; and

h. the patient has signed an institutional review board-approved consent form.

B. Emergency Services. Subject to all applicable terms of the plan, emergency services will be considered eligible expenses whether rendered by a participating provider or non-participating provider, as follows.

1. Emergency services provided to a covered person who is later determined not to have required emergency services will be considered eligible expenses except:

a. when the covered person's medical condition would not have led a prudent lay person, acting reasonably and possessing an average knowledge of health and medicine, to believe that the absence of immediate medical attention could reasonably be expected to result in serious jeopardy to health, serious impairment to bodily functions, or serious dysfunction of any bodily organ, unless the covered person was referred for emergency services by a participating provider or by an agent of OGB; or

b. when there was material misrepresentation, fraud, omission, or clerical error.

2. If a covered person requires hospitalization at a non-participating provider medically necessary inpatient services rendered by the non-participating provider will be considered eligible expenses until the covered person can be transferred to a participating provider.

3. OGB must be notified of the emergency services within 48 hours following commencement of treatment or admission, or as soon as medical circumstances permit. See also §307.C regarding the requirement for pre-admission certification (PAC) for emergency admissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:888 (June 2003), amended LR 30:1191 (June 2004), LR 31:440 (February 2005), LR 32:1874 (October 2006).

§303. Fee Schedule

A. The fee schedule establishes the maximum allowable charges for eligible expenses. The fee schedule applies to both contracted (MCO) health care providers, who have entered into agreements with OGB regarding reimbursement under this plan, and to non-contracted (non-MCO) health care providers who have not entered into such agreements.

B. Plan members may be subject to greater financial responsibility for services, drugs, supplies, and devices provided by non-contracted health care providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:890 (June 2003), amended LR 32:1876 (October 2006).

§305. Automated Claims Adjusting

A. OGB utilizes commercially licensed software that applies all claims against its medical logic program to identify improperly billed charges and charges for which this plan provides no benefits. Any claim with diagnosis or procedure codes deemed inadequate or inappropriate will be automatically reduced or denied. Providers accepting assignment of benefits cannot bill the plan member for the differential on the denial amount, in whole or in part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:890 (June 2003), LR 32:1876 (October 2006).

§307. Utilization Review—Pre-Admission Certification, Continued Stay Review

A. ...

B. For a routine vaginal delivery, PAC is not required for a stay of two days or less. If the mother's stay exceeds or is expected to exceed two days, PAC is required within 24 hours after delivery or on the date on which any complications arose, whichever is applicable. If the baby's stay exceeds the mother's stay, PAC is required within 72 hours of the mother's discharge, and a separate pre-certification number must be obtained for the baby. In the case of a Caesarean section, PAC is required if the mother's stay exceeds or is expected to exceed four days.

C. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:890 (June 2003), amended LR 32:1876 (October 2006).

§309. Outpatient Procedure Certification (OPC)

A. The purpose of OPC is for the plan to certify that particular outpatient procedures and therapies are medically necessary. If OPC is not obtained when required, no benefits are payable under this plan.

B. OPC is required on the following procedures:

1. - 3. ...
4. all PET scans and MRI's, as follows:
 - a. brain/head;
 - b. upper extremity;
 - c. lower extremity;
 - d. spine;
5. - 7.d. ...
8. 23 hour observation;
9. hyperbaric treatment.

C. - C.2. ...

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:891 (June 2003), amended LR 32:1877 (October 2006).

§311. Case Management

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

E. - E.8. Repealed.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:891 (June 2003), amended LR 32:1877 (October 2006).

§313. Dental Surgical Benefits

A. ...

B. If a covered person requires dental treatment in a hospital setting that is otherwise an eligible expense, the plan will provide benefits for anesthesia rendered in the hospital and associated hospital charges. Prior authorization for hospitalization for dental treatment is required in the same manner as prior authorization is required for other covered medical services.

C. Eligible expenses incurred in connection with the removal of impacted teeth, including pre-operative and post-operative care, anesthesia, radiology, pathology services, and facility charges, are subject to a deductible, co-insurance, and the maximum benefit provisions of the plan.

D. The provisions of this section shall not apply to treatment rendered for Temporomandibular Joint (TMJ) diseases or disorders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:891 (June 2003), amended LR 32:1877 (October 2006).

§315. Medicare Reduction

A. ...

B. Retiree 100-Medicare COB—Upon enrollment and payment of the additional monthly premium, a plan member and dependents who are covered under Medicare Parts A and B (both) may choose to have full coordination of benefits

with Medicare. Enrollment must be made within 30 days of eligibility for Medicare, or within 30 days of retirement if already eligible for Medicare, and at the annual enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:891 (June 2003), amended LR 32:1877 (October 2006).

§317. Exceptions and Exclusions

A. No benefits are provided under this plan for the following:

1. injury compensable under any worker's compensation program, regardless of whether the patient has filed a claim for benefits. This applies to compensation provided on an expense-incurred basis or blanket settlements for past and future losses;

2. maintenance therapy consisting of convalescent, skilled nursing, sanitarium, custodial care, assisted living facilities, or rest cures designed to assist in daily living activities, maintain present physical and/or mental condition, or provide a structured or safe environment;

3. expenses for elective, non-therapeutic voluntary abortions (abortions performed for reasons other than to save the life of the mother);

4. injuries sustained by a covered person while in an aggressor role;

5. expenses incurred as a result of a covered person's commission or attempted commission of an illegal act;

6. services, supplies, or treatment for cosmetic purposes, including cosmetic surgery and any cosmetic complications of cosmetic surgery, unless necessary for the immediate repair of a deformity caused by a disease and/or injury that occurs while coverage is in force. No payment will be made for expenses incurred in connection with the treatment of any body part not affected by the disease and/or injury;

7. shoes and related items, such as wedges, cookies, and arch supports;

8. dental and orthodontic services, appliances, supplies, and devices, including, but not limited to the following:

a. dental braces and orthodontic appliances, except as specifically provided in §301.A.11.e of this Part;

b. treatment of periodontal disease;

c. dentures, dental implants, and any surgery for their use, except if needed as the result of an accident that meets the program's requirements;

d. treatment for Temporomandibular Joint (TMJ) diseases or disorders, except as specifically provided in §301.A.28 of this Part;

e. expenses incurred for services rendered by a dentist or oral surgeon and any ancillary or related services, except for covered dental surgical procedures, as specifically set forth herein, dental procedures which fall under the guidelines of treatment of accidental injury, procedures necessitated as a result of or secondary to cancer, or oral and maxillofacial surgeries which are shown to the satisfaction of the program to be medically necessary, non-dental, non-cosmetic procedures;

9. medical services, supplies, treatments, and prescription drugs provided without charge to the covered person or for which the covered person is not legally obligated to pay;

10. maternity expenses incurred by any person other than the employee or the employee's legal spouse;

11. personal convenience items including, but not limited to, admit kits, bedside kits, telephone, television, guest meals, and beds, and charges for luxury accommodations in any hospital or allied health facility provided primarily for the patient's convenience which are not deemed medically necessary by the program;

12. charges for services, supplies, treatment, drugs, and devices which are in excess of the maximum allowable under the Medical Fee Schedule, Outpatient Surgical Facility Fee Schedule, or any other limitations of the plan;

13. services, supplies, treatment, drugs, devices, and deluxe medical equipment which are not deemed medically necessary by the program;

14. services rendered for remedial reading and recreational, visual, and behavioral modification therapy, biofeedback, pain rehabilitation control and/or therapy, and dietary or educational instruction for all diseases and/or illnesses, except diabetes;

15. services and supplies for the treatment of and/or related to gender dysphoria or reverse sterilization;

16. artificial organ implants, penile implants, transplantation of non-human organs, and any surgery and other treatment, services, or supplies, related to such procedures, or to complications related to such procedures;

17. expenses subsequent to the initial diagnosis for infertility and complications, including but not limited to, services, drugs, procedures, or devices to achieve fertility, in-vitro fertilization, low tubal transfer, artificial insemination, intracytoplasmic sperm injection, embryo transfer, gamete transfer, zygote transfer, surrogate parenting, donor semen, donor eggs, and reversal of sterilization procedures;

18. non-medical supplies such as air conditioners and/or filters, dehumidifiers, air purifiers, wigs or toupees, heating pads, cold devices, home enema equipment, rubber gloves, swimming pools, saunas, whirlpool baths, home pregnancy tests, lift chairs, devices or kits to stimulate the penis, exercise equipment, any other items not normally considered medical supplies, and any items the program determines are not medical supplies;

19. administrative fees, interest, penalties, or sales tax;

20. marriage counseling, family relations counseling, divorce counseling, parental counseling, job counseling, and career counseling;

21. charges for physician services rendered to a covered person over the telephone or in a non-face-to-face setting;

22. radial keratotomy, laser surgery, and any other procedures, services, or supplies for the correction of refractive errors of the eyes;

23. services, supplies, surgeries, and treatments for excess body fat, resection of excess skin and/or fat following weight loss or pregnancy, and/or obesity, and morbid obesity;

24. hearing aids and any examination to determine the fitting or necessity of hearing aids, except as specifically provided for in §301.A.33 of this Part;

25. hair plugs and/or transplants;

26. routine physical examinations and/or immunizations not provided for under eligible expenses;

27. eye examinations, glasses, and contact lenses, except as specifically provided for as an eligible expense in §301.A.15 of this Part;

28. diagnostic or treatment measures that are not recognized as generally accepted medical practice;

29. medical supplies not listed under eligible expenses;

30. treatment or services for mental health and substance abuse provided outside the treatment plan developed by the program's managed care contractor or by therapists with whom or at facilities with which the program's managed care contractor does not have a contract;

31. genetic testing, except when determined to be medically necessary during a covered pregnancy;

32. services rendered by a private-duty Registered Nurse (R.N.) or by a private-duty Licensed Practical Nurse (L.P.N.);

33. services rendered by a physician or other health care provider related to the patient by blood, adoption, or marriage;

34. expenses for services rendered by a physician or other health care provider who is not licensed in the state where such services are rendered or in any facility not holding a valid license in the state and for the services rendered;

35. facility fees for services rendered in a physician's office or in any facility not approved by the federal Health Care Finance Administration for Medicare reimbursement;

36. glucometers;

37. augmentative communication devices;

38. charges to obtain medical records or any other information needed and/or required to adjudicate a claim;

39. charges greater than the global allowance for any laboratory, pathology, or radiological procedure;

40. speech therapy or the services of a speech therapist except as specifically provided in §301.A.9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1834 (October 1999), amended LR 26:488 (March 2000), LR 27:720 (May 2001), LR 28:2343 (November 2002), LR 29:892 (June 2003), LR 31:441 (February 2005), LR 32:1877 (October 2006).

§323. Prescription Drug Benefits

A. This plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor that require a prescription and are dispensed by a licensed pharmacist or pharmaceutical company.

1. These include and shall not be limited to:

a. insulin;

b. Retin-A dispensed for covered persons under the age of 27;

c. Vitamin B12 injections;

d. prescription potassium chloride; and

e. over-the-counter diabetic supplies including, but not limited to, strips, lancets, and swabs.

2. In addition, this plan allows benefits limited to \$200 per month for expenses incurred for the purchase of low protein food products for the treatment of inherited metabolic diseases if the low protein food products are medically necessary and are obtained from a source approved by the OGB. Such expenses shall be subject to coinsurance and co-payments relating to prescription drug

benefits. In connection with this benefit, the following words shall have the following meanings:

a. "inherited metabolic disease" shall mean a disease caused by an inherited abnormality of body chemistry and shall be limited to:

- i. Phenylketonuria (PKU);
- ii. Maple Syrup Urine Disease (MSUD);
- iii. Methylmalonic Acidemia (MMA);
- iv. Isovaleric Acidemia (IVA);
- v. Propionic Acidemia;
- vi. Glutaric Acidemia;
- vii. Urea Cycle Defects; or
- viii. Tyrosinemia;

b. "low protein food products" mean food products that are especially formulated to have less than one gram of protein per serving and are intended to be used under the direction of a physician for the dietary treatment of an inherited metabolic disease. Low protein food products shall not include natural foods that are naturally low in protein.

B. The following drugs, medicines, and related services and supplies are not covered:

1. appetite suppressant drugs;
2. dietary supplements;
3. topical forms of Minoxidil;
4. Retin-A dispensed for a covered person over age 26;
5. amphetamines dispensed for diagnoses other than Attention Deficit Disorder or Narcolepsy;
6. nicotine, gum, patches, or other products, services, or programs intended to assist an individual to reduce or cease smoking, or other use of tobacco products;
7. nutritional or parenteral therapy;
8. vitamins and minerals;
9. drugs available over the counter;
10. serostim dispensed for any diagnoses or therapeutic purposes other than AIDS wasting;
11. drugs prescribed for the treatment of impotence, except following the surgical removal of the prostate gland; and
12. glucometers.

C. - C.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:893 (June 2003), amended LR 32:1878 (October 2006).

Chapter 4. Uniform Provisions

§401. Statement of Contractual Agreement

A. This plan, as amended, including the Schedule of Benefits, together with the application for coverage and any related documents executed by or on behalf of the covered employee, constitute the entire agreement between the parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:894 (June 2003), amended LR 32:1879 (October 2006).

§403. Properly Submitted Claim

A. For plan reimbursement, a claim must include:

1. - 4. ...

5. type of services rendered, with diagnosis and/or procedure codes that are valid and current for the date of service;

6. date and place of service;

7. - 10. ...

B. The program may require additional documentation in order to determine the extent of coverage or the appropriate reimbursement. Failure to furnish information within 90 days of the request will constitute a reason for the denial of benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:894 (June 2003), amended LR 32:1879 (October 2006).

§405. When Claims Must Be Filed

A. - B. ...

C. Requests for review of payment or corrected bills must be submitted within 18 months of receipt date of the original claim. Requests for review of payment or corrected bills received after that time will not be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:895 (June 2003), amended LR 32:1879 (October 2006).

§407. Right to Receive and Release Information

A. Without notice or consent the program may release to or obtain from any company, organization, or person, any information regarding any person which the program deems necessary to carry out the provisions of this plan, or to determine how, or if, they apply. Any claimant under the plan must furnish the program with any information necessary to implement this provision. OGB retains information for the minimum period of time required by law. After such time, information may no longer be available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:895 (June 2003), amended LR 32:1879 (October 2006).

§409. Legal Limitations

A. ...

B. Information provided by the program or any of its employees or agents to plan members does not modify or override the terms and provisions of the plan. In the event of any conflict between the written provisions of this plan and any information provided, the written provisions of this plan shall supersede and control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:895 (June 2003), amended LR 32:1879 (October 2006).

§413. Recovery of Overpayments

A. If an overpayment occurs, the program retains the right to recover the overpayment. The covered person, institution, or provider receiving the overpayment must return the overpayment. At the plan's discretion, the overpayment may be deducted from future claims. Should legal action be required as a result of fraudulent statements

or deliberate omissions on the application for coverage or a claim for benefits, the defendant will be responsible for attorney fees of 25 percent of the overpayment or \$1,000, whichever is greater. The defendant will also be responsible for court costs and legal interest from the date of judicial demand until paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:895 (June 2003), amended LR 32:1879 (October 2006).

§415. Subrogation and Reimbursement

A. Upon payment of any eligible benefits covered under this plan, the Office of Group Benefits shall succeed and be subrogated to all rights of recovery of the covered employee, his dependents or other covered persons, or their heirs or assigns, for whose benefit payment is made, and they shall execute and deliver instruments and papers and do whatever is necessary to secure such rights, and shall do nothing after loss to prejudice such rights.

B. The Office of Group Benefits shall be entitled, to the extent of any payment made to a covered employee, his dependents or other covered persons, to the proceeds of any settlement or judgment that may result from the exercise of any rights of recovery of a covered employee, his dependents or other covered persons, against any person or entity legally responsible for the disease, illness, accident or injury for which said payment was made. To this end, covered employees, their dependents, or other covered persons agree to immediately notify the Office of Group Benefits of any action taken to attempt to collect any sums against any person or entity responsible for the disease, illness, accident or injury.

C. These subrogation and reimbursement rights also apply when a covered person recovers under, but not limited to, an uninsured or underinsured motorist plan, homeowner's plan, renter's plan, medical malpractice plan, worker's compensation plan or any general liability plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:895 (June 2003), amended LR 32:1880 (October 2006).

§417. Employer Responsibility

A. It is the responsibility of the participant employer to submit enrollment and change forms and all other necessary documentation to the program on behalf of its employees. Employees of a participant employer will not, by virtue of furnishing any documentation to the program, be considered agents of the program, and no representation made by any such person at any time will change the provisions of this plan.

B. A participant employer shall immediately inform OGB when a retiree with OGB coverage returns to full-time employment. The employee shall be placed in the re-employed retiree category for premium calculation. The re-employed retiree premium classification applies to retirees with and without Medicare. The premium rates applicable to the re-employed retiree premium classification shall be identical to the premium rates applicable to the classification for retirees without Medicare.

C. A participant employer that receives a Medicare Secondary Payer (MSP) collection notice or demand letter shall deliver the MSP notice to the OGB MSP Adjuster within 15 days of receipt. If timely forwarded, OGB will assume responsibility for medical benefits, interest, fines and penalties due to Medicare for a covered employee. If not timely forwarded, OGB will assume responsibility only for covered plan benefits due to Medicare for a covered employee. The participant employer will be responsible for interest, fines, and penalties due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:896 (June 2003), amended LR 32:1880 (October 2006).

§419. Program Responsibility

A. OGB will administer the plan in accordance with its terms, state and federal law, the OGB's established policies, interpretations, practices, and procedures. OGB will have maximum legal discretionary authority to construe and interpret the terms and provisions of the plan, to make determinations regarding eligibility for benefits and to decide disputes which may arise relative to a covered person's rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:896 (June 2003), amended LR 32:1880 (October 2006).

§423. Amendments to or Termination of the Plan and/or Contract

A. OGB has the statutory responsibility of providing health and accident and death benefits to covered persons to the extent that funds are available. OGB reserves the right to terminate or amend the eligibility and benefit provisions of the plan from time to time as necessary to prudently discharge its duties. Such modifications will be promulgated subject to the applicable provisions of law, and nothing contained herein shall be construed to guarantee or vest benefits for any employee, whether active or retired.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:896 (June 2003), amended LR 32:1880 (October 2006).

Chapter 6. Definitions

§601. Definitions

Accidental Injury—a condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from an external force. With respect to injuries to teeth, the act of chewing does not constitute an external force.

Appeal—a request by a plan member for and a formal review of a medical claim for benefits or an eligibility determination.

Benefit Payment—payment of eligible expenses due or owing by a covered person, after applicable deductibles, co-payments, and coinsurance, and subject to all limitations and exclusions, at the rate shown under percentage payable in the Schedule of Benefits.

Brand Drug—the trademark name of a drug approved by the U. S. Food and Drug Administration.

Child or Children includes—

1. a legitimate, duly acknowledged, and/or legally adopted child of the employee and/or the employee's legal spouse's who is dependent upon the employee for support;

2. a child in the process of being adopted by the employee through an agency adoption, who is living in the household of the employee, and is or will be included as a dependent on the employee's federal income tax return for the current or following tax year (if filing is required);

3. a child in the legal custody of the employee, who lives in the household of the employee and is or will be included as a dependent on the employee's federal income tax return for the current or following tax year (if filing is required);

4. a grandchild of the employee that is not in the legal custody of the employee, who is dependent upon the employee for support and whose parent is a covered dependent. If the employee seeking to cover a grandchild is a paternal grandparent, the program will require that the biological father, i.e., the covered son of the employee, execute an acknowledgement of paternity.

NOTE: If the employee dependent parent becomes ineligible for coverage under the program, the employee's grandchild will also be ineligible for coverage, unless the employee has legal custody of his/her grandchild.

COBRA—the federal continuation of coverage laws originally enacted in the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended from time to time.

Committee—Repealed.

Convalescent, Maintenance Care, or Rest Cures—treatment or services, regardless of by whom recommended or where provided, in which the service could be rendered safely and reasonably by oneself, family, or other caregivers who are not eligible providers. The services are primarily designed to help the patient with daily living activities, maintain the patient's present physical and mental condition, and/or provide a structured or safe environment.

Covered Person—an active or retired employee, his/her eligible dependent, or any other individual eligible for coverage for whom the necessary application forms have been completed and for whom the required contribution is made.

Covered Services—those health care services for which a plan member is entitled to receive benefit payments in accordance with the terms of this plan.

Custodial Care—

1. care designed to assist an individual in the performance of daily living activities (i.e., services which constitute personal care such as walking, getting in and out of bed, bathing, dressing, eating, and using the toilet) that does not require admission to a hospital or other institution for the treatment of a disease, illness, accident, or injury, or for the performance of surgery;

2. care primarily intended to provide room and board to an individual with or without routine nursing care, training in personal hygiene, or other forms of self-care;

3. supervisory care provided by a physician whose patient who is mentally or physically incapacitated and is not under specific medical, surgical, or psychiatric treatment, when such care is intended to reduce the patient's incapacity to the extent necessary to enable the patient to live outside of an institution providing medical care, or when, despite

treatment, there is not reasonable a likelihood that the incapacity will be reduced.

Date Acquired—the date a dependent of a covered employee is acquired in the following instances and on the following dates only:

1. legal spouse—the date of marriage;

2. child or children□

a. natural child—the date of birth;

b. child in the process of being adopted;

c. agency adoption—the date the adoption contract was executed between the employee and the adoption agency;

d. private adoption—the date the Act of Voluntary Surrender is executed in favor of the employee. The program must be furnished with certification by the appropriate clerk of court setting forth the date of execution of the Act and the date it Act became irrevocable, or the date of the first court order granting legal custody, whichever occurs first;

e. child who lives in the household of the covered employee and is currently or will be included as a dependent on the employee's federal income tax return—the date of the court order granting legal custody;

f. grandchild of the employee that is not in the legal custody of the employee, but who is dependent upon the employee for support and whose parent is a covered dependent:

i. the date of birth of the grandchild, if all of the above requirements are met at the time of birth; or

ii. the date on which the coverage becomes effective for the covered dependent, if all of the above requirements are not met at the time of birth.

Deductible—the dollar amount that a covered person must pay as shown in the Schedule of Benefits before benefits will be paid in a plan year.

Dependent—any of the following persons who are enrolled for coverage as dependents, if they are not also covered as an employee:

1. the covered employee's legal spouse;

2. a never married child from date of birth up to 21 years of age and dependent upon the employee for support;

3. a never married child who is a fulltime student under 24 years of age and financially dependent upon the employee for support;

4. a never married child of any age who meets the criteria set forth in §103.D, above;

Durable Medical Equipment (DME)—equipment which can withstand repeated use, is primarily and customarily used to serve a medical purpose, is not generally useful to a person in the absence of a illness or injury, and is appropriate for use in the home. DME includes, but is not limited to, items such as wheelchairs, hospital beds, respirators, braces (non-dental), custom orthotics which must be specially made and not available at retail stores.

Employee—a full-time *employee* as defined by a participant employer and in accordance with state law.

Family Unit Limit—that each of three covered members of a family unit have met the dollar amount shown in the Schedule of Benefits as plan year deductible for an individual. Once the family unit limit is met, the deductibles of all other covered members of the family unit will be considered satisfied for that plan year.

Fee Schedule—the maximum allowable charges for professional or hospital services adopted by the OGB that may be considered as an eligible expense.

Future Medical Recovery—Repealed.

Generic Drug—a chemically equivalent copy of a "brand name" drug.

Group Health Plan—a plan (including a self-insured plan) offered or contributed to, by an employer (including a self-employed person) or employee organization to provide health care to employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, and/or their families.

Health Insurance Coverage—benefits consisting of medical care offered by a health insurance issuer under any hospital or medical service policy or certificate, hospital or medical service plan contract, or HMO contract.

HIPAA—the Health Insurance Portability and Accountability Act of 1996 (U.S. Public Law 104-191) and Federal Regulations promulgated pursuant thereto.

Hospital—an institution that is currently licensed as a hospital by the state in which services are rendered and is not primarily an institution for rest, the aged, the treatment of pulmonary tuberculosis, a nursing home, extended care facility, remedial training institution, or a facility primarily for the treatment of conduct and behavior disorders.

Incurred Date—the date when a particular service or supply is rendered or obtained. When a single charge is made for a series of services, each service will bear a prorated share of the charge.

Lifetime Maximum Benefit—the maximum amount of benefits that will be paid under the plan for all eligible expenses incurred by a covered person.

Medically Necessary—a service, treatment, procedure, equipment, drug, device, item, or supply, which, in the judgment of the program:

1. is appropriate and consistent with a covered person's diagnosis and treatment as well as with nationally accepted medical standards; and

2. is not primarily for personal comfort or convenience or custodial care.

Medicare—the health insurance available through Medicare laws enacted by the Congress of the United States.

Occupational Therapy—the application of any activity one engages in for the purposes of evaluation, interpretation, treatment planning, and treatment of problems interfering with functional performance in persons impaired by physical illness or injury in order to significantly improve functioning.

Physical Therapy—the evaluation of physical status as related to functional abilities and treatment procedures as

indicated by that evaluation. And licensed for the state where services are rendered.

Physician—

1. the following persons, appropriately licensed to practice their respective professional skills at the time and place the service is rendered:

- a. a Doctor of Medicine (M.D.);
- b. a Doctor of Dental Surgery (D.D.S.);
- c. a Doctor of Dental Medicine (D.M.D.);
- d. a Doctor of Osteopathy (D.O.);
- e. a Doctor of Podiatric Medicine (D.P.M.);
- f. a Doctor of Chiropractic (D.C.);
- g. a Doctor of Optometry (O.D.);
- h. a Psychologist meeting the requirements of the National Register of Health Service Providers in Psychology;
- i. a mental health counselor;
- j. a substance abuse counselor;
- k. an Audiologist.

2. does not include a medical doctor in the capacity of supervising interns, residents, senior residents, or fellows enrolled in a training program who does not personally provide medical treatment or perform a surgical procedure for the covered person.

Plan—coverage offered by the Office of Group Benefits under this contract including MCO benefits, prescription drug benefits, mental health and substance abuse benefits, and comprehensive medical benefits. The term *plan* as defined herein is used interchangeably with the term *program* as defined below.

Plan Year—the period from July 1, or the date the covered person first becomes covered under the plan, through the next following June 30. Each successive plan year will be the 12 month period from July 1 through the next following June 30.

Program—the Office of Group Benefits and/or the plan.

Provider—one or more entities which offer health care services and shall include but not be limited to individuals, or groups of physicians, individuals or groups of psychologists, nurse midwives, ambulance service companies, hospitals, and other health care entities that provide covered services to covered individuals.

Recovery—with respect to Subrogation and Reimbursement (§415) recovery means any and all monies paid to the covered person by way of judgment, settlement, or otherwise to compensate for losses allegedly caused by injury or sickness, whether or not the losses reflect medical or dental charges covered by the program.

Referee—Repealed.

Rehabilitation and Rehabilitation Therapy—care concerned with the management and functional ability of patients disabled by disease, illness, accident, or injury.

Reimbursement—repayment to the program for benefits payments made by the program.

Retiree—

1. an individual who was a covered employee immediately prior to the date of retirement and who, upon retirement, satisfied one of the following categories:

- a. immediately received retirement benefits from an approved state or governmental agency defined benefit plan;

b. was not eligible for participation in such plan or legally opted not to participate in such plan; and either:

i. began employment prior to September 15, 1979, has 10 years of continuous state service, and has reached the age of 65; or

ii. began employment after September 16, 1979, has 10 years of continuous state service, and has reached the age of 70; or

iii. was employed after July 8, 1992, has 10 years of continuous state service, has a credit for a minimum of 40 quarters in the Social Security system at the time of employment, and has reached the age of 65; or

iv. maintained continuous coverage with the program as an eligible dependent until he/she became eligible as a former state employee to receive a retirement benefit from an approved state governmental agency defined benefit plan;

b. immediately received retirement benefits from a state-approved or state governmental agency-approved defined contribution plan and has accumulated the total number of years of creditable service which would have entitled him/her to receive a retirement allowance from the defined benefit plan of the retirement system for which the employee would have otherwise been eligible. The appropriate state governmental agency or retirement system responsible for administration of the defined contribution plan is responsible for certification of eligibility to the Office of Group Benefits;

2. also means an individual who was a covered employee and continued the coverage through the provisions of COBRA immediately prior to the date of retirement and who, upon retirement, qualified for any of Paragraphs 1, 2, or 3 above.

Room and Board—all expenses necessary to maintain and sustain a covered person upon admittance to a hospital and during a hospital confinement. This can include, but is not limited to, facility charges for the maintenance of the covered person's hospital room, dietary and food services, nursing services performed by nurses employed by or under contract with the hospital, and housekeeping services.

Utilization Management—the process of evaluating the necessity, appropriateness, and efficiency of health care services against established guidelines and criteria.

Utilization Review Organization (URO)—an entity that has established one or more utilization review programs which evaluates the medical necessity, appropriateness, and efficiency of the uses of health care services, procedures, and facilities.

Well Adult Care—applies to covered persons age 16 and older and means a routine physical examination by a physician that may include an influenza vaccination, lab work, and X-rays performed as part of the exam in that physician's office, when such services are billed by that physician with wellness procedure and diagnosis codes. Other health care services billed with wellness procedures and diagnosis codes, as well as treatment and/or diagnosis of a specific illness, will not be considered as well adult care.

Well Baby Care—applies to covered persons from birth until age 1 and means routine care to a well, newborn infant that may include physical examinations and active

immunizations provided by a physician when such services are billed by that physician with wellness procedure and diagnosis codes. Other health care services billed with wellness procedures and diagnosis codes, as well as treatment and/or diagnosis of a specific illness, will not be considered as well baby care.

Well Child Care—applies to covered persons from age 1 through age 15 and means routine physical examinations and active immunizations provided by a physician, when such services are billed by that physician with wellness procedure and diagnosis codes. Other health care services billed with wellness procedure and diagnosis codes, as well as treatment and/or diagnosis of a specific illness, will not be considered as well child care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1)

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:898 (June 2003), amended LR 32:1880 (October 2006).

Tommy D. Teague
Chief Executive Officer

0610#071

RULE

Office of the Governor Division of Administration Office of Group Benefits

PPO Plan of Benefits (LAC 32:III.Chapters 1-7)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(1), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document. The reason for this action is to enhance member clarification and be able to administer health care benefits effectively for the program and member.

Accordingly, OGB hereby adopts the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 1. Eligibility

§101. Persons to Be Covered

Eligibility requirements apply to all participants in the program, including the PPO plan, the EPO plan, the MCO plan, an HMO plan, or the life insurance plan.

A. - A.2. ...

3. Effective Dates of Coverage, New Employee, Transferring Employee. Coverage for each Employee who completes the applicable Enrollment Form and agrees to make the required payroll contributions to his Participant Employer is effective as follows:

a. if employment begins on the first day of the month, coverage is effective on the first day of the following

month (For example, if hired on July 1, coverage will begin on August 1);

b. if employment begins on or after the second day of the month, coverage is effective on the first day of the second month following employment (For example, if hired on July 15, coverage will begin on September 1);

c. employee coverage will not become effective unless the Employee completes an Enrollment Form within 30 days following the date of employment. If completed after 30 days following the date of employment, the Employee will be considered an overdue applicant;

d. an Employee who transfers employment to another Participating Employer must complete a transfer form within 30 days following the date of transfer to maintain coverage without interruption. If completed after 30 days following the date of transfer, the Employee will be considered an overdue applicant.

4. Re-Enrollment, Previous Employment for Health Benefits and Life Insurance

A.4.a. - B.1.a. ...

b. An Employee retired from a Participant Employer may not be covered as an Employee.

c. Retirees are not eligible for coverage as overdue applicants.

2. Effective Date of Coverage

a. Retiree coverage will be effective on the first day of the month following the date of retirement if the Retiree and Participant Employer have agreed to make and are making the required contributions (For example, if retired July 15, coverage will begin August 1).

C. - C.2. ...

a. Dependents of Employees. Coverage will be effective on the date the Employee becomes eligible for Dependent Coverage.

C.2.b. - D. ...

1. The terms of the following paragraphs apply to all eligible Employees who apply for coverage after 30 days from the date the Employee became eligible for coverage and to all eligible Dependents of Employees and Retirees for whom the application for coverage was not completed within 30 days from the Date Acquired.

D.2. - E.2. ...

a. A special enrollment application must be made within 30 days of either the termination date of the prior coverage or the date the new Dependent is acquired. If it is made more than 30 days after eligibility, they will be considered overdue applicants subject to a pre-existing condition limitation.

b. ...

i. for loss of other coverage or marriage, the first day of the month following the date the program receives all required forms for enrollment;

ii. - iii. ...

c. Special enrollment applicants must complete the "Acknowledgment of Pre-existing Condition" form and "Statement of Physical Condition" form.

E.2.d. - G.2. ...

H. Medicare+Choice/Medicare Advantage Option for Retirees (effective July 1, 1999). Retirees who are eligible to participate in a Medicare+Choice/Medicare Advantage plan who cancel coverage with the program upon enrollment in a Medicare+Choice/Medicare Advantage plan may re-enroll in

the program upon withdrawal from or termination of coverage in the Medicare+Choice/Medicare Advantage plan, at the earlier of the following:

H.1. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1825 (October 1999), amended LR 27:721 (May 2001), LR 28:2343 (November 2002), LR 29:341, 342 (March 2003), LR 32:1883 (October 2006).

§103. Continued Coverage

A. ...

1. Leave of Absence without Pay, Employer Contributions to Premiums

a. A participating employee who is granted leave of absence without pay due to a service related injury may continue coverage and the participating employer shall continue to pay its portion of health plan premiums for up to 12 months.

b. A participating employee who suffers a service related injury that meets the definition of a total and permanent disability under the workers' compensation laws of Louisiana may continue coverage and the participating employer shall continue to pay its portion of the premiums until the employee becomes gainfully employed or is placed on state disability retirement.

c. A participating employee who is granted leave of absence without pay in accordance with the federal Family and Medical Leave Act (F.M.L.A.) may continue coverage during the time of such leave and the participating employer may continue to pay its portion of premiums.

2. Leave of Absence without Pay; No Employer Contributions to Premiums. An employee granted leave of absence without pay for reasons other than those stated in Paragraph A, may continue to participate in an Office of Group Benefits benefit plan for a period up to 12 months upon the employee's payment of the full premiums due.

B. - B.2. ...

C. Surviving Dependents/Spouse

1. Benefits under the Plan for covered Dependents of a deceased covered Employee or Retiree will terminate on the last day of the month in which the Employee's or Retiree's death occurred unless the surviving covered Dependents elect to continue coverage.

a. The surviving legal spouse of an Employee or Retiree may continue coverage unless or until the surviving spouse is or becomes eligible for coverage in a Group Health Plan other than Medicare.

b. The surviving never married Dependent Child of an Employee or Retiree may continue coverage unless or until such Dependent Child is or becomes eligible for coverage under a Group Health Plan other than Medicare, or until attainment of the termination age for Children, whichever occurs first.

c. Surviving Dependents will be entitled to receive the same Participant Employer premium contributions as Employees and Retirees, subject to the provisions of Louisiana Revised Statutes, Title 42, Section 851 and rules promulgated pursuant thereto by the Office of Group Benefits.

d. Coverage provided by the Civilian Health and Medical Program for the Uniformed Service

(CHAMPUS/TRICARE) or successor program will not be sufficient to terminate the coverage of an otherwise eligible surviving legal spouse or a Dependent Child.

2. A surviving spouse or dependent child cannot add new dependents to continued coverage other than a child of the deceased employee born after the employee's death.

3. Participant Employer/Dependent Responsibilities

a. It is the responsibility of the participant employer and surviving covered dependent to notify the program within 60 days of the death of the employee or retiree.

b. The program will notify the surviving dependents of their right to continue coverage.

c. Application for continued coverage must be made in writing to the program within 60 days of receipt of notification, and premium payment must be made within 45 days of the date continued coverage is elected for coverage retroactive to the date coverage would have otherwise terminated.

d. Coverage for the surviving spouse under this section will continue until the earliest of the following:

- i. failure to pay the applicable premium timely;
- ii. eligibility of the surviving spouse for coverage under a group health plan other than Medicare.

e. Coverage for a surviving dependent child under this section will continue until the earliest of the following events:

- i. failure to pay the applicable premium timely;
- ii. eligibility of the surviving dependent child for coverage under any group health plan other than Medicare;
- iii. the attainment of the termination age for children.

4. The provisions of Paragraphs 1 through 3 this subsection are applicable to surviving dependents who, on or after July 1, 1999, elect to continue coverage following the death of an employee or retiree. Continued coverage for surviving dependents who made such election before July 1, 1999, shall be governed by the rules in effect at the time.

D. - D.3. ...

E. Military Service. Members of the National Guard or of the United States military reserves who are called to active military duty, and who are OGB participating employees or covered dependents will have access to continued coverage under OGB's health and life plans.

1. Health Plan Participation. When called to active military duty, participating employees and covered dependents may:

a. continue participation in the OGB health plan during the period of active military service, in which case the participating employer may continue to pay its portion of premiums; or

b. cancel participation in the OGB health plan during the period of active military service, in which case such plan participants may apply for reinstatement of OGB coverage within 30 days of:

- i. the date of the employee's reemployment with a participating employer;
- ii. the dependent's date of discharge from active military duty; or
- iii. the date of termination of extended health coverage provided as a benefit of active military duty, such as TRICARE Reserve Select;

iv. plan participants who elect this option and timely apply for reinstatement of OGB coverage will not be subject to a pre-existing condition (PEC) limitation, and the lapse in coverage during active military duty or extended military coverage will not result in any adverse consequences with respect to the participation schedule set forth in R.S. 42:851E and the corresponding Rules promulgated by OGB.

2. Life Insurance. When called to active military duty, employees with OGB life insurance coverage may:

a. continue participation in the OGB life insurance during the period of active military service, however, the accidental death and dismemberment coverage will not be in effect during the period of active military duty; or

b. cancel participation in the OGB life insurance during the period of active military service, in which case such employee may apply for reinstatement of OGB life insurance within 30 days of the date of the employee's reemployment with a participating employer; employees who elect this option and timely apply for reinstatement of OGB life insurance will not be required to provide evidence of insurability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1827 (October 1999), amended LR 30:1191 (June 2004), LR 32:1884 (October 2006).

§105. COBRA

A. Employees

1. Coverage under this plan for a covered employee will terminate on the last day of the calendar month during which employment is terminated (voluntarily or involuntarily) or significantly reduced, the Employee no longer meets the definition of an employee, or coverage under a leave of absence has expired, unless the covered employee elects to continue coverage at the employee's own expense. Employees terminated for gross misconduct are not eligible for COBRA coverage.

2. It is the responsibility of the participant employer to notify the program within 30 days of the date coverage would have terminated because of any of the foregoing events, and the program will notify the employee within 14 days of his or her right to continue coverage.

3. Application for continued coverage must be made in writing to the program within 60 days of the date of the election notification and premium payment must be made within 45 days of the date the employee elects continued coverage, for coverage retroactive to the date coverage would have otherwise terminated. After the first payment for COBRA coverage, monthly payments for each subsequent month of COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

4. Coverage under this Section will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 18 months from the date coverage would have otherwise terminated;
- c. entitlement to Medicare;

d. coverage under a Group Health Plan, but only after any pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied; or

e. the employer ceases to provide any group health plan for its employees.

5. If employment for a covered employee is terminated (voluntarily or involuntarily) or significantly reduced, the employee no longer meets the definition of an employee, or a leave of absence has expired, and the employee has not elected to continue coverage, the covered spouse and/or covered dependent children may elect to continue coverage at his/her/their own expense. The elected coverage will be subject to the above-stated notification and termination provisions.

B. Surviving Dependents

1. Coverage under this plan for covered surviving dependents of an employee or retiree will terminate on the last day of the month in which the employee's or retiree's death occurs, unless the surviving covered dependents elect to continue coverage at his/her own expense.

2. It is the responsibility of the participant employer or surviving covered dependents to notify the program within 30 days of the death of the employee or retiree. The program will notify the surviving dependents of their right to continue coverage. Application for continued coverage must be made in writing to the program within 60 days of the date of the election notification.

3. Premium payment must be made within 45 days of the date the continued coverage was elected, retroactive to the date coverage would have terminated. After the first payment for COBRA coverage, monthly payments for each subsequent month of COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

4. Coverage for the surviving dependents under this Section will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 36 months beyond the date coverage would have otherwise terminated;
- c. entitlement to Medicare;
- d. coverage under a group health plan, but only after pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied; or
- e. the employer ceases to provide any group health plan for its employees.

C. Divorced Spouse

1. Coverage under this plan for an employee's spouse will terminate on the last day of the month during which dissolution of the marriage occurs by virtue of a legal decree of divorce from the employee or retiree, unless the covered divorced spouse elects to continue coverage at his or her own expense.

2. It is the responsibility of the divorced spouse to notify the program within 60 days from the date of divorce and the program will notify the divorced spouse within 14 days of his or her right to continue coverage. Application for continued coverage must be made in writing to the program within 60 days of the election notification.

3. Premium payment must be made within 45 days of the date continued coverage is elected, for coverage retroactive to the date coverage would have otherwise terminated. After the first payment for COBRA coverage, monthly payments for each subsequent month of COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

4. Coverage for the divorced spouse under this Section will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 36 months beyond the date coverage would have otherwise terminated;
- c. entitlement to Medicare;
- d. coverage under a group health plan, but only after any pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied; or
- e. the employer ceases to provide any group health plan for its employees.

D. Dependent Children

1. Coverage under this Plan for a covered dependent child of a covered employee or retiree will terminate on the last day of the month during which the dependent child no longer meets the definition of an eligible covered dependent, unless the dependent elects to continue coverage at his or her own expense.

2. It is the responsibility of the dependent to notify the program within 60 days of the date coverage would have terminated and the program will notify the dependent within 14 days of his or her right to continue coverage. Application for continued coverage must be made in writing to the program within 60 days of receipt of the election notification.

3. Premium payment must be made within 45 days of the date the continued coverage is elected, for coverage retroactive to the date coverage would have otherwise terminated. After the first payment for COBRA coverage, monthly payments for each subsequent month of COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

4. Coverage for children under this Section will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 36 months beyond the date coverage would have otherwise terminated;
- c. entitlement to Medicare;
- d. coverage under a group health plan, but only after any pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied; or
- e. the employer ceases to provide any group health plan for its employees.

E. Dependents of COBRA Participants

1.a. If a covered terminated employee has elected to continue coverage and if during the period of continued coverage the covered spouse or a covered dependent child becomes ineligible for coverage due to:

- i. death of the employee;
- ii. divorce from the employee; or
- iii. a dependent child no longer meets the definition of an eligible covered dependent.

b. Then, the spouse and/or dependent child may elect to continue COBRA coverage at his/her own expense. Coverage will not be continued beyond 36 months from the date coverage would have otherwise terminated.

2. It is the responsibility of the spouse and/or the dependent child to notify the program within 60 days of the date COBRA coverage would have terminated.

3. Monthly payments for each month of COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

4. Coverage for children under this Section will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 36 months beyond the date coverage would have otherwise terminated;
- c. entitlement to Medicare;
- d. coverage under a Group Health Plan, but only after any pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied; or
- e. the employer ceases to provide any group health plan for its employees.

F. Disability COBRA

1. If a covered employee or covered dependent is determined by the Social Security Administration or by the program staff (in the case of a person who is ineligible for Social Security disability benefits due to insufficient "quarters" of employment), to have been totally disabled on the date the covered person became eligible for continued coverage or within the initial 18 months of coverage, coverage under this plan for the covered person who is totally disabled may be extended at his or her own expense up to a maximum of 29 months from the date coverage would have otherwise terminated.

2. To qualify the covered person must:

- a. submit a copy of his or her Social Security Administration's disability determination to the program before the initial 18-month continued coverage period expires and within 60 days after the latest of:
 - i. the date of issuance of the Social Security Administration's disability determination; and
 - ii. the date on which the qualified beneficiary loses (or would lose) coverage under the terms of the plan as a result of the covered employee's termination or reduction of hours;
- b. in the case of a person who is ineligible for Social Security disability benefits due to insufficient "quarters" of employment, submit proof of total disability to the program before the initial 18-month continued coverage period expires. The staff and medical director of the program will make the determination of total disability based upon medical evidence, not conclusions, presented by the applicant's physicians, work history, and other relevant evidence presented by the applicant.

3. For purposes of eligibility for continued coverage under this section, total disability means the inability to do

any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to last for a continuous period of 12 months. To meet this definition one must have a severe impairment which makes one unable to do his previous work or any other substantial gainful activity which exists in the national economy, based upon a person's residual functional capacity, age, education, and work experience.

4. Monthly payments for each month of extended COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

5. Coverage under this Section will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 29 months from the date coverage would have otherwise terminated;
- c. entitlement to Medicare;
- d. coverage under a group health plan, but only after any pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied;
- e. the employer ceases to provide any group health plan for its employees; or
- f. 30 days after the month in which the Social Security Administration determines that the Covered Person is no longer disabled. (The covered person must report the determination to the program within 30 days after the date of issuance by the Social Security Administration.) In the case of a person who is ineligible for Social Security disability benefits due to insufficient "quarters" of employment, 30 days after the month in which the program determines that the covered person is no longer disabled.

G. Medicare COBRA

1. If an employee becomes entitled to medicare less than 18 months before the date the employee's eligibility for benefits under this plan terminates, the period of continued coverage available for the employee's covered dependents will continue until the earliest of the following:

- a. failure to pay the applicable premium timely;
- b. 36 months from the date of the employee's medicare entitlement;
- c. entitlement to Medicare;
- d. coverage under a group health plan, but only after any pre-existing condition exclusions of that other plan for a pre-existing condition of the covered person have been exhausted or satisfied; or
- e. the employer ceases to provide any group health plan for its employees.

2. Monthly payments for each month of COBRA coverage are due on the first day of the month for that month's COBRA coverage. A grace period of 30 days after the first day of the month will be provided for each monthly payment.

H. Miscellaneous Provisions. During the period of continuation, benefits will be identical to those provided to others enrolled in this plan under its standard eligibility provisions for employees and retirees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1828 (October 1999), amended LR 32:1885 (October 2006).

§107. Change of Classification

A. Adding or Deleting Dependents. The plan member must notify the program when a dependent is added to or deleted from the plan member's coverage that results in a change in the class of coverage. Notice must be provided within 30 days of the addition or deletion.

B. ...

1. When there is a change in family status (e.g., marriage, birth of child) that affects the class of coverage, the change in classification will be effective on the date of the event. Application for the change must be made within 30 days of the date of the event.

2. When the addition of a dependent changes the class of coverage, the additional premium will be charged for the entire month if the date of change occurs before the 15th day of the month. If the date of change occurs on or after the 15th day of the month, an additional premium will not be charged until the first day of the following month.

C. Notification of Change. It is the employee's responsibility to notify the program of any change in classification of coverage that affects the employee's contribution amount. If failure to notify is later determined, it will be corrected on the first day of the following month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1829 (October 1999), amended LR 32:1888 (October 2006).

Chapter 2. Termination of Coverage

§201. Active Employee and Retired Employee Coverage

A. ...

1. the date the program terminates;
2. the date the group or agency employing the covered employee terminates or withdraws from the program;
3. the date contribution is due if the group or agency fails to pay the required contribution for the covered employee;
4. the date contribution is due if the covered person fails to make any contribution which is required for the continuation of coverage;
5. the last day of the month of the covered employee's death;
6. the last day of the month in which the covered employee ceases to be eligible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1830 (October 1999), amended LR 32:1888 (October 2006).

§203. Dependent Coverage

A. ...

1. the last day of the month the employee ceases to be covered;
2. the last day of the month in which the dependent, as defined in this plan, ceases to be an eligible dependent of the covered employee;
3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1830 (October 1999), amended LR 32:1888 (October 2006).

Chapter 3. Medical Benefits

§301. Eligible Expenses

A. Eligible Expenses are the charges incurred for the following services, drugs, supplies, and devices, when performed, prescribed, or ordered by a physician and medically necessary for the treatment of a covered person. All charges are subject to applicable deductibles, copayments, and/or coinsurance amounts (unless otherwise specifically provided), fee schedule limitations, schedule of benefits, exclusions, and other provisions of the plan. A charge is incurred on the date that the service, drug, supply, or device is performed or furnished. Eligible expenses are:

1. - 3. ...

4. anesthesia and its administration when ordered by the operating physician and administered by an appropriately licensed nurse anesthetist or physician in conjunction with a covered surgical service;

5. - 6. ...

7. blood, blood derivatives, and blood processing, when not replaced;

8. - 8.c. ...

d. ostomy supplies, except supplies for nutritional and/or enteral feeding;

e. - l. ...

9. services of a licensed speech therapist when pre-approved through outpatient procedure certification (§309, below) for the purpose of restoring partial or complete loss of speech resulting from stroke, surgery, cancer, radiation laryngitis, cerebral palsy, accidental injury, or other similar structural or neurological disease, limited to 26 visits per Plan Year;

10. ...

11. services rendered by a Doctor of Dental Surgery (D.D.S.) or Doctor of Dental Medicine (D.M.D.) for the treatment of accidental injury to a Covered Person's natural teeth, under the following conditions:

- a. coverage was in effect with respect to the individual at the time of the accident;
- b. treatment commences within 90 days from the date of the accident and is completed within two years from the date of the accident;
- c. coverage remains continuously in effect with respect to the covered person during the course of the treatment;
- d. eligible expenses are limited to the cost of Treatment as estimated at the time of initial Treatment;
- e. eligible expenses may include dental braces and orthodontic appliances, upon review and approval by the program's dental consultant, and only under the following circumstances:

i. to return the alveolar alignment to its former state prior to a covered dental accident. The Program will allow benefits for orthopedic correction to establish reasonable occlusal function;

ii. a covered surgery that requires the use of braces for stabilization;

iii. severe skeletal deformity (i.e., cleft palate). The program will allow benefits for orthopedic correction to establish reasonable occlusal function;

f. as used herein accidental injury means a condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from an external force, and with respect to injuries to teeth, the act of chewing does not constitute an external force;

12. durable medical equipment subject to the lifetime maximum payment limitation as listed in the Schedule of benefits. The program will require written certification by the treating physician to substantiate the medical necessity for the equipment and the length of time that it will be used. The purchase of durable medical equipment will be considered an eligible expense only upon a showing that the rental cost would exceed the purchase price. Under no circumstances may the eligible expense for an item of durable medical equipment exceed the purchase price of such item;

13. - 17. ...

18. orthopedic shoes prescribed by a physician and completely custom built, limit one pair per plan year;

19. acupuncture when rendered by a medical doctor licensed in the state in which the services are rendered;

20. ...

21. services of a physical therapist or occupational therapist licensed in the state in which the services are rendered, under the following conditions:

a. services are prescribed by a licensed physician and rendered in an individual setting;

b. restorative potential exists;

c. services meet the generally accepted standards for medical practice;

d. services are reasonable and medically necessary for treatment of a disease, illness, accident, injury, or post-operative condition;

e. services are approved through case management when rendered in the home;

f. services are limited to 50 visits per plan year. Additional visits subject to approval by utilization management;

22. cardiac rehabilitation when:

a. rendered at a medical facility under the supervision of a licensed physician;

b. - c. ...

NOTE: Charges incurred for dietary instruction, educational services, behavior modification literature, biofeedback, health club membership, exercise equipment, preventive programs, and any other items excluded by the plan are not covered, unless provided for under Paragraph 30 of this Subsection.

23. preventive care consisting of routine physical examinations, lab work, and immunizations (including a yearly influenza vaccination) as follows:

a. well baby care expenses subject to the annual deductible and co-payments:

i. newborn facility and professional charges;

ii. birth to age 1—all office visits for scheduled immunizations and screening;

b. well child care expenses subject to the annual deductible and co-payments:

i. age 1 until age 3—three office visits per year for scheduled immunizations and screening;

ii. age 3 until age 15—one office visit per year for scheduled immunizations and screening;

c. well adult care expenses, not subject to the annual deductible, but limited to a maximum benefit of \$200:

i. age 16 until age 40—once during a 3-year period;

ii. age 40 until age 50—once during a 2-year period;

iii. age 50 and over—once during a 1-year period;

NOTE: Benefits for well baby care, well child care and routine physical examinations for well adult care, including immunizations, are based on the U.S. Preventive Services Task Force guidelines and recommendations of the National Immunization Program of the Centers for Disease Control and Prevention. All services must be rendered on an outpatient basis to monitor and maintain health and to prevent illness.

24. specialized, age-appropriate wellness care, not subject to the annual deductible, as follows:

a. one pap test for cervical cancer per plan year;

b. mammographic examinations performed according to the following schedule:

i. one mammogram during the five-year period a person is 35-39 years of age;

ii. one mammogram every two plan years for any person who is 40-49 years of age;

iii. one mammogram every 12 months for any person who is 50 years of age or older;

c. testing for detection of prostate cancer, including digital rectal examination and prostate-specific antigen testing, once every 12 months for men over the age of 50 years;

25. - 26. ...

27. services rendered by the following, when billed by the supervising physician:

a. perfusionists and registered nurse assistants assisting in the operating room;

b. physician assistants and registered nurse practitioners;

28. - 30. ...

31. testing of sleep disorders only when the tests are performed at either:

a. a facility accredited by the American Academy of Sleep Medicine or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or

b. a sleep study facility located within a healthcare facility accredited by JCAHO. No benefits are payable for surgical treatment of sleep disorders (including LAUP) except following demonstrated failure of non-surgical treatment and upon approval by the program;

32. - 33.c. ...

34. treatment provided in accordance with a clinical trial for cancer, including costs of investigational treatments and of associated protocol-related patient care if all of the following criteria are met:

a. treatment is being provided with a therapeutic or palliative intent for patients with cancer, or for the prevention or early detection of cancer;

b. treatment is being provided or the studies are being conducted in a Phase II, Phase III, or Phase IV clinical trial for cancer;

c. treatment is being provided in accordance with a clinical trial approved by one of the following entities:

- i. one of the United States National Institutes of Health;
 - ii. a cooperative group funded by one of the United States National Institutes of Health;
 - iii. the FDA in the form of an investigational new drug application;
 - iv. the United States Department of Veterans Affairs;
 - v. the United States Department of Defense;
 - vi. a federally funded general clinical research center;
 - vii. the Coalition of National Cancer Cooperative Groups;
- d. the proposed protocol has been reviewed and approved by a qualified institutional review board which operates in this state and which has a multiple project assurance contract approved by the office of protection from research risks;
- e. the facility and personnel providing the protocol provided the treatment within their scope of practice, experience, and training and are capable of doing so by virtue of their experience, training, and volume of patients treated to maintain expertise;
- f. there is no clearly superior, non-investigational approach;
- g. the available clinical or preclinical data provide a reasonable expectation that the treatment will be at least as efficacious as the non-investigational alternative; and
- h. the patient has signed an institutional review board-approved consent form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1830 (October 1999), amended LR 28:480 (March 2002), LR 29:339,343 (March 2003), LR 30:1192 (June 2004), LR 31:441 (February 2005), LR 32:1888 (October 2006).

§303. Fee Schedule

A. The fee schedule establishes the maximum allowable charges for eligible expenses. The fee schedule applies to both contracted (PPO) health care providers, who have entered into agreements with OGB regarding reimbursement under this plan, and to non-contracted (non-PPO) health care providers who have not entered into such agreements.

B. Plan members may be subject to greater financial responsibility for services, drugs, supplies, and devices provided by non-contracted health care providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1832 (October 1999), amended LR 32:1890 (October 2006).

§305. Automated Claims Adjusting

A. OGB utilizes commercially licensed software that applies all claims against its medical logic program to identify improperly billed charges and charges for which this plan provides no benefits. Any claim with diagnosis or procedure codes deemed inadequate or inappropriate will be automatically reduced or denied. Providers accepting assignment of benefits cannot bill the plan member for the differential on the denial amount, in whole or in part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1832 (October 1999), amended LR 32:1890 (October 2006).

§307. Utilization Review—Pre-Admission Certification, Continued Stay Review

A. - A.2. ...

B. For a routine vaginal delivery, PAC is not required for a stay of two days or less. If the mother's stay exceeds or is expected to exceed two days, PAC is required within 24 hours after delivery or on the date on which any complications arose, whichever is applicable. If the baby's stay exceeds the mother's stay, PAC is required within 72 hours of the mother's discharge, and a separate pre-certification number must be obtained for the baby. In the case of a caesarean section, PAC is required if the mother's stay exceeds or is expected to exceed four days.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1832 (October 1999), amended LR 32:1890 (October 2006).

§309. Outpatient Procedure Certification (OPC)

A. The purpose of OPC is for the plan to certify that particular outpatient procedures and therapies are medically necessary. If OPC is not obtained when required, no benefits are payable under this Plan.

A.1. - B. ...

1. Speech therapy, subject to the limitations set forth in §301.A.9 of this Part.

2. - 7.d. Repealed.

C - C.2. ...

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1832 (October 1999), amended LR 32:1890 (October 2006).

§311. Case Management

A - D.3.b.

E. - E.8. repealed.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1833 (October 1999), amended LR 32:1890 (October 2006).

§313. Dental Surgical Benefits

A. ...

B. If a covered person requires dental treatment in a hospital setting that is otherwise an eligible expense, the plan will provide benefits for anesthesia rendered in the hospital and associated hospital charges. Prior authorization for hospitalization for dental treatment is required in the same manner as prior authorization is required for other covered medical services.

C. Eligible Expenses incurred in connection with the removal of impacted teeth, including pre-operative and post-operative care, anesthesia, radiology, pathology services, and facility charges, are subject to a deductible, co-insurance, and the maximum benefit provisions of the Plan.

D. The provisions of this section shall not apply to treatment rendered for temporomandibular joint (TMJ) diseases or disorders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1833 (October 1999), amended LR 32:1890 (October 2006).

§315. Medicare Reduction

A. ...

B. Retiree 100-Medicare COB. Upon enrollment and payment of the additional monthly premium, a plan member and dependents who are covered under Medicare Parts A and B (both) may choose to have full coordination of benefits with Medicare. Enrollment must be made within 30 days of eligibility for Medicare, or within 30 days of retirement if already eligible for Medicare, and at the annual enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1833 (October 1999), amended LR 32:1891 (October 2006).

§317. Exceptions and Exclusions

A. No benefits are provided under this Plan for the following:

1. injury compensable under any worker's compensation program, regardless of whether the patient has filed a claim for benefits. This applies to compensation provided on an expense-incurred basis or blanket settlements for past and future losses;

2. maintenance therapy consisting of convalescent, skilled nursing, sanitarium, custodial care, assisted living facilities, or rest cures designed to assist in daily living activities, maintain present physical and/or mental condition, or provide a structured or safe environment;

3. expenses for elective, non-therapeutic voluntary abortions (abortions performed for reasons other than to save the life of the mother);

4. injuries sustained by a covered person while in an aggressor role;

5. expenses incurred as a result of a covered person's commission or attempted commission of an illegal act;

6. services, supplies, or treatment for cosmetic purposes, including cosmetic surgery and any cosmetic complications of cosmetic surgery, unless necessary for the immediate repair of a deformity caused by a disease and/or injury that occurs while coverage is in force. No payment will be made for expenses incurred in connection with the treatment of any body part not affected by the disease and/or injury;

7. shoes and related items, such as wedges, cookies, and arch supports;

8. dental and orthodontic services, appliances, supplies, and devices, including, but not limited to the following:

a. dental braces and orthodontic appliances, except as specifically provided in §301.A.11.e of this Part;

b. treatment of periodontal disease;

c. dentures, dental implants, and any surgery for their use, except if needed as the result of an accident that meets the program's requirements;

d. treatment for Temporomandibular Joint (TMJ) diseases or disorders, except as specifically provided in §301.A.28 of this Part;

e. expenses incurred for services rendered by a dentist or oral surgeon and any ancillary or related services, except for covered dental surgical procedures, as specifically set forth herein, dental procedures which fall under the guidelines of treatment of accidental injury, procedures necessitated as a result of or secondary to cancer, or oral and maxillofacial surgeries which are shown to the satisfaction of the program to be medically necessary, non-dental, non-cosmetic procedures;

9. medical services, supplies, treatments, and prescription drugs provided without charge to the Covered Person or for which the Covered Person is not legally obligated to pay;

10. maternity expenses incurred by any person other than the employee or the employee's legal spouse;

11. personal convenience items including, but not limited to, admit kits, bedside kits, telephone, television, guest meals, and beds, and charges for luxury accommodations in any hospital or allied health facility provided primarily for the patient's convenience which are not deemed medically necessary by the program;

12. charges for services, supplies, treatment, drugs, and devices which are in excess of the maximum allowable under the medical fee schedule, outpatient surgical facility fee schedule, or any other limitations of the Plan;

13. services, supplies, treatment, drugs, devices, and deluxe medical equipment which are not deemed medically necessary by the program;

14. services rendered for remedial reading and recreational, visual, and behavioral modification therapy, biofeedback, pain rehabilitation control and/or therapy, and dietary or educational instruction for all diseases and/or illnesses, except diabetes;

15. services and supplies for the treatment of and/or related to gender dysphoria or reverse sterilization;

16. artificial organ implants, penile implants, transplantation of non-human organs, and any surgery and other treatment, services, or supplies, related to such procedures, or to complications related to such procedures;

17. expenses subsequent to the initial diagnosis for infertility and complications, including but not limited to, services, drugs, procedures, or devices to achieve fertility, in-vitro fertilization, low tubal transfer, artificial insemination, intracytoplasmic sperm injection, embryo transfer, gamete transfer, zygote transfer, surrogate parenting, donor semen, donor eggs, and reversal of sterilization procedures;

18. non-medical supplies such as air conditioners and/or filters, dehumidifiers, air purifiers, wigs or toupees, heating pads, cold devices, home enema equipment, rubber gloves, swimming pools, saunas, whirlpool baths, home pregnancy tests, lift chairs, devices or kits to stimulate the penis, exercise equipment, any other items not normally considered medical supplies, and any items the Program determines are not medical supplies;

19. administrative fees, interest, penalties, or sales tax;

20. marriage counseling, family relations counseling, divorce counseling, parental counseling, job counseling, and career counseling;

21. charges for physician services rendered to a covered person over the telephone or in a non-face-to-face setting;

22. radial keratotomy, laser surgery, and any other procedures, services, or supplies for the correction of refractive errors of the eyes;

23. services, supplies, surgeries, and treatments for excess body fat, resection of excess skin and/or fat following weight loss or pregnancy, and/or obesity, and morbid obesity;

24. hearing aids and any examination to determine the fitting or necessity of hearing aids, except as specifically provided for in §301.A.33 of this Part;

25. hair plugs and/or transplants;

26. routine physical examinations and/or immunizations not provided for under eligible expenses;

27. eye examinations, glasses, and contact lenses, except as specifically provided for as an eligible expense in §301.A.15 of this Part;

28. diagnostic or treatment measures that are not recognized as generally accepted medical practice;

29. medical supplies not listed under eligible expenses;

30. treatment or services for mental health and substance abuse provided outside the treatment plan developed by the program's managed care contractor or by therapists with whom or at facilities with which the program's managed care contractor does not have a contract;

31. genetic testing, except when determined to be medically necessary during a covered pregnancy;

32. services rendered by a private-duty registered nurse (R.N.) or by a private-duty licensed practical nurse (L.P.N.);

33. services rendered by a physician or other health care provider related to the patient by blood, adoption, or marriage;

34. expenses for services rendered by a physician or other health care provider who is not licensed in the state where such services are rendered or in any facility not holding a valid license in the state and for the services rendered;

35. facility fees for services rendered in a physician's office or in any facility not approved by the federal Health Care Finance Administration for Medicare reimbursement;

36. glucometers;

37. augmentative communication devices;

38. charges to obtain medical records or any other information needed and/or required to adjudicate a claim;

39. charges greater than the global allowance for any laboratory, pathology, or radiological procedure;

40. speech therapy or the services of a speech therapist except as specifically provided in §301.A.9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1834 (October 1999), amended LR 26:488 (March 2000), LR 27:720 (May 2001), LR 28:2343 (November 2002), LR 31:441 (February 2005), LR 32:1891 (October 2006).

§321. Preferred Provider Program

A. The program may implement preferred provider organization (PPO) arrangements or other agreements to discount payable fees. The program reserves the right to negotiate the amount of discounts, incentives offered to plan members, and all other provisions which are a part of any

discount fee arrangement. To be eligible, the program must be the primary carrier at the time services are rendered.

1. - 2.a. ...

b. If a covered person receives services from a PPO provider, services are reimbursed at 90 percent of the eligible expenses, and payments made to the PPO provider. There is a contractual assignment to every PPO provider. If a non-PPO provider is used by a plan member who resides in Louisiana, the plan member is reimbursed 70 percent of the Eligible Expenses. If a non-PPO provider is used by a plan member who resides outside Louisiana, the Plan Member is reimbursed 90 percent of the eligible expenses. Eligible expenses of non-PPO Providers are based upon the OGB's fee schedule.

NOTE: Both PPO and non-PPO services are subject to the applicable deductibles, limitations, and exclusions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1835 (October 1999), amended LR 27:722 (May 2001), LR 29:339 (March 2003), LR 32:1892 (October 2006).

§323. Prescription Drug Benefits

A. This plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor that require a prescription and are dispensed by a licensed pharmacist or pharmaceutical company.

1. These include and shall not be limited to:

a. insulin;

b. Retin-A dispensed for covered persons under the age of 27;

c. vitamin B-12 injections;

d. prescription potassium chloride; and

e. over-the-counter diabetic supplies including, but not limited to, strips, lancets, and swabs.

2. In addition, this plan allows benefits limited to \$200 per month for expenses incurred for the purchase of low protein food products for the treatment of inherited metabolic diseases if the low protein food products are medically necessary and are obtained from a source approved by the OGB. Such expenses shall be subject to coinsurance and co-payments relating to prescription drug benefits. In connection with this benefit, the following words shall have the following meanings:

a. *Inherited metabolic disease* shall mean a disease caused by an inherited abnormality of body chemistry and shall be limited to:

i. Phenylketonuria (PKU);

ii. Maple Syrup Urine Disease (MSUD);

iii. Methylmalonic Acidemia (MMA);

iv. Isovaleric Acidemia (IVA);

v. Propionic Acidemia;

vi. Glutaric Acidemia;

vii. Urea Cycle Defects; or

viii. Tyrosinemia.

b. *Low protein food products* mean food products that are especially formulated to have less than 1 gram of protein per serving and are intended to be used under the direction of a physician for the dietary treatment of an inherited metabolic disease. Low protein food products shall not include natural foods that are naturally low in protein.

B. The following drugs, medicines, and related services and supplies are not covered:

1. appetite suppressant drugs;
2. dietary supplements;
3. topical forms of Minoxidil;
4. Retin-A dispensed for a covered person over age 26;
5. amphetamines dispensed for diagnoses other than Attention Deficit Disorder or Narcolepsy;
6. nicotine, gum, patches, or other products, services, or programs intended to assist an individual to reduce or cease smoking, or other use of tobacco products;
7. nutritional or parenteral therapy;
8. vitamins and minerals;
9. drugs available over the counter;
10. Serostim dispensed for any diagnoses or therapeutic purposes other than AIDS wasting;
11. drugs prescribed for the treatment of impotence, except following the surgical removal of the prostate gland; and
12. glucometers.

C. - C.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1835 (October 1999), amended LR 27:720, 721 (May 2001), LR 27:1887 (November 2001), LR 28:2344 (November 2002), LR 29:342 (March 2003), LR 32:1892 (October 2006).

Chapter 4. Uniform Provisions

§401. Statement of Contractual Agreement

A. This plan, as amended, including the schedule of benefits, together with the application for coverage and any related documents executed by or on behalf of the covered employee, constitute the entire agreement between the parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1836 (October 1999), amended LR 32:1893 (October 2006).

§403. Properly Submitted Claim

A. For plan reimbursement, a claim must include:

1. - 4. ...
5. type of services rendered, with diagnosis and/or procedure codes that are valid and current for the date of service;
6. date and place of service;
7. - 10. ...

B. The program may require additional documentation in order to determine the extent of coverage or the appropriate reimbursement. Failure to furnish information within 90 days of the request will constitute a reason for the denial of benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1836 (October 1999), amended LR 32:1893 (October 2006).

§405. When Claims Must Be Filed

A. - B. ...

C. Requests for review of payment or corrected bills must be submitted within 18 months of receipt date of the original claim. Requests for review of payment or corrected bills received after that time will not be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1836 (October 1999), amended LR 28:479 (March 2002), LR 32:1893 (October 2006).

§407. Right to Receive and Release Information

A. Without notice or consent the program may release to or obtain from any company, organization, or person, any information regarding any person which the program deems necessary to carry out the provisions of this plan, or to determine how, or if, they apply. Any claimant under the plan must furnish the program with any information necessary to implement this provision. OGB retains information for the minimum period of time required by law. After such time, information may no longer be available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1836 (October 1999), amended LR 32:1893 (October 2006).

§409. Legal Limitations

A. ...

B. Information provided by the program or any of its employees or agents to plan members does not modify or override the terms and provisions of the plan. In the event of any conflict between the written provisions of this plan and any information provided, the written provisions of this plan shall supercede and control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1836 (October 1999), amended LR 28:479 (March 2002), LR 32:1893 (October 2006).

§413. Recovery of Overpayments

A. If an overpayment occurs, the program retains the right to recover the overpayment. The covered person, institution, or provider receiving the overpayment must return the overpayment. At the plan's discretion, the overpayment may be deducted from future claims. Should legal action be required as a result of fraudulent statements or deliberate omissions on the application for coverage or a claim for benefits, the defendant will be responsible for attorney fees of 25 percent of the overpayment or \$1,000, whichever is greater. The defendant will also be responsible for court costs and legal interest from the date of judicial demand until paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1837 (October 1999), amended LR 32:1893 (October 2006).

§415. Subrogation and Reimbursement

A. Upon payment of any eligible benefits covered under this plan, the Office of Group Benefits shall succeed and be subrogated to all rights of recovery of the covered Employee, his dependents or other covered persons, or their heirs or assigns, for whose benefit payment is made, and they shall execute and deliver instruments and papers and do whatever is necessary to secure such rights, and shall do nothing after loss to prejudice such rights.

B. The Office of Group Benefits shall be entitled, to the extent of any payment made to a covered employee, his

dependents or other covered persons, to the proceeds of any settlement or judgment that may result from the exercise of any rights of recovery of a covered employee, his dependents or other covered persons, against any person or entity legally responsible for the disease, illness, accident or injury for which said payment was made. To this end, covered employees, their dependents, or other covered persons agree to immediately notify the Office of Group Benefits of any action taken to attempt to collect any sums against any person or entity responsible for the disease, illness, accident or injury.

C. These subrogation and reimbursement rights also apply when a covered person recovers under, but not limited to, an uninsured or underinsured motorist plan, homeowner's plan, renter's plan, medical malpractice plan, worker's compensation plan or any general liability plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1837 (October 1999), amended LR 32:1893 (October 2006).

§417. Employer Responsibility

A. It is the responsibility of the participant employer to submit enrollment and change forms and all other necessary documentation to the program on behalf of its employees. Employees of a participant employer will not, by virtue of furnishing any documentation to the program, be considered agents of the program, and no representation made by any such person at any time will change the provisions of this plan.

B. A participant employer shall immediately inform OGB when a retiree with OGB coverage returns to full-time employment. The employee shall be placed in the re-employed retiree category for premium calculation. The re-employed retiree premium classification applies to retirees with and without Medicare. The premium rates applicable to the re-employed retiree premium classification shall be identical to the premium rates applicable to the classification for retirees without Medicare.

C. A participant employer that receives a medicare secondary payer (MSP) collection notice or demand letter shall deliver the MSP notice to the OGB MSP Adjuster within 15 days of receipt. If timely forwarded, OGB will assume responsibility for medical benefits, interest, fines and penalties due to Medicare for a covered employee. If not timely forwarded, OGB will assume responsibility only for covered plan benefits due to Medicare for a covered employee. The participant employer will be responsible for interest, fines, and penalties due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1837 (October 1999), amended LR 29:1819 (September 2003), LR 32:1894 (October 2006).

§419. Program Responsibility

A. OGB will administer the Plan in accordance with its terms, state and federal law, the OGB's established policies, interpretations, practices, and procedures. OGB will have maximum legal discretionary authority to construe and interpret the terms and provisions of the plan, to make determinations regarding eligibility for benefits and to

decide disputes which may arise relative to a covered person's rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1837 (October 1999), amended LR 32:1894 (October 2006).

§423. Amendments to or Termination of the Plan and/or Contract

A. OGB has the statutory responsibility of providing health and accident and death benefits to covered persons to the extent that funds are available. OGB reserves the right to terminate or amend the eligibility and benefit provisions of the plan from time to time as necessary to prudently discharge its duties. Such modifications will be promulgated subject to the applicable provisions of law, and nothing contained herein shall be construed to guarantee or vest benefits for any employee, whether active or retired.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1837 (October 1999), amended LR 32:1894 (October 2006).

Chapter 6. Definitions

§601. Definitions

Accidental Injury—a condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from an external force. With respect to injuries to teeth, the act of chewing does not constitute an external force.

Appeal—a request by a plan member for and a formal review of a medical claim for benefits or an eligibility determination.

Benefit Payment—payment of eligible expenses due or owing by a covered person, after applicable deductibles, co-payments, and coinsurance, and subject to all limitations and exclusions, at the rate shown under percentage payable in the schedule of benefits.

Board of Trustees—repealed.

Brand Drug—the trademark name of a drug approved by the U. S. Food and Drug Administration.

Calendar Year—repealed.

* * *

Child or Children includes—

1. a legitimate, duly acknowledged, and/or legally adopted child of the employee and/or the employee's legal spouse's who is dependent upon the employee for support;

2. a child in the process of being adopted by the employee through an agency adoption, who is living in the household of the employee, and is or will be included as a dependent on the employee's federal income tax return for the current or following tax year (if filing is required);

3. a child in the legal custody of the employee, who lives in the household of the employee and is or will be included as a dependent on the employee's federal income tax return for the current or following tax year (if filing is required);

4. a grandchild of the employee that is not in the legal custody of the employee, who is dependent upon the employee for support and whose parent is a covered dependent. If the employee seeking to cover a grandchild is a paternal grandparent, the program will require that the

biological father, i.e. the covered son of the employee, execute an acknowledgement of paternity.

NOTE: If the Employee Dependent parent becomes ineligible for coverage under the Program, the Employee's Grandchild will also be ineligible for coverage, unless the Employee has legal custody of his/her Grandchild.

COBRA—the federal continuation of coverage laws originally enacted in the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended from time to time.

Committee—repealed.

Convalescent, Maintenance Care, or Rest Cures—treatment or services, regardless of by whom recommended or where provided, in which the service could be rendered safely and reasonably by oneself, family, or other caregivers who are not eligible providers. The services are primarily designed to help the patient with daily living activities, maintain the patient's present physical and mental condition, and/or provide a structured or safe environment.

Covered Person—an active or retired employee, his/her eligible dependent, or any other individual eligible for coverage for whom the necessary application forms have been completed and for whom the required contribution is made.

Covered Services—to those health care services for which a plan member is entitled to receive benefit payments in accordance with the terms of this plan.

Custodial Care—

1. care designed to assist an individual in the performance of daily living activities (i.e., services which constitute personal care such as walking, getting in and out of bed, bathing, dressing, eating, and using the toilet) that does not require admission to a hospital or other institution for the treatment of a disease, illness, accident, or injury, or for the performance of surgery;

2. care primarily intended to provide room and board to an individual with or without routine nursing care, training in personal hygiene, or other forms of self-care;

3. supervisory care provided by a physician whose patient who is mentally or physically incapacitated and is not under specific medical, surgical, or psychiatric treatment, when such care is intended to reduce the patient's incapacity to the extent necessary to enable the patient to live outside of an institution providing medical care, or when, despite treatment, there is not reasonable a likelihood that the incapacity will be reduced.

Date Acquired—the date a dependent of a covered employee is acquired in the following instances and on the following dates only:

1. legal spouse—the date of marriage;

2. child or children:

a. natural child—the date of birth;

b. child in the process of being adopted;

c. agency adoption—the date the adoption contract was executed between the employee and the adoption agency;

d. private adoption—the date the Act of Voluntary Surrender is executed in favor of the employee. The program must be furnished with certification by the appropriate clerk of court setting forth the date of execution of the Act and the date it Act became irrevocable, or the date of the first court order granting legal custody, whichever occurs first;

e. child who lives in the household of the covered employee and is currently or will be included as a dependent on the employee's federal income tax return—the date of the court order granting legal custody;

f. grandchild of the employee that is not in the legal custody of the employee, but who is dependent upon the employee for support and whose parent is a covered dependent:

i. the date of birth of the grandchild, if all of the above requirements are met at the time of birth; or

ii. the date on which the coverage becomes effective for the covered dependent, if all of the above requirements are not met at the time of birth.

Deductible—the dollar amount that a covered person must pay as shown in the schedule of benefits before benefits will be paid in a plan year.

Dependent—any of the following persons who are enrolled for coverage as dependents, if they are not also covered as an employee:

1. the covered employee's legal Spouse;

2. a never married child from date of birth up to 21 years of age and dependent upon the Employee for support ;

3. a never married child who is a fulltime student under 24 years of age and financially dependent upon the employee for support;

4. a never married child of any age who meets the criteria set forth in §103.D, above;

Durable Medical Equipment (DME)—equipment which can withstand repeated use, is primarily and customarily used to serve a medical purpose, is not generally useful to a person in the absence of a illness or injury, and is appropriate for use in the home. DME includes, but is not limited to, items such as wheelchairs, hospital beds, respirators, braces (non-dental), custom orthotics which must be specially made and not available at retail stores.

Emergency Medical Condition—a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part, or with respect to a pregnant woman who is having contractions that there is inadequate time to effect a safe transfer to another hospital before delivery, or the transfer may pose a threat to the health or safety of the woman or unborn child.

Emergency Room Services—medical services eligible for reimbursement that are necessary to screen, evaluate, and stabilize an emergency medical condition and are provided at a hospital Emergency Room and billed by a hospital.

Employee—a full-time employee as defined by a participant employer and in accordance with state law.

Family Unit Limit—that each of three covered members of a family unit have met the dollar amount shown in the schedule of benefits as plan year deductible for an individual. Once the family unit limit is met, the deductibles

of all other covered members of the family unit will be considered satisfied for that plan year.

Fee Schedule—the maximum allowable charges for professional or hospital services adopted by the OGB that may be considered as an eligible expense.

Future Medical Recovery—repealed.

Generic Drug—a chemically equivalent copy of a "brand name" drug.

Group Health Plan—a plan (including a self-insured plan) offered or contributed to, by an employer (including a self-employed person) or employee organization to provide health care to employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, and/or their families.

Health Insurance Coverage—benefits consisting of medical care offered by a health insurance issuer under any hospital or medical service policy or certificate, hospital or medical service plan contract, or HMO contract.

* * *

HIPAA—the Health Insurance Portability and Accountability Act of 1996 (U.S. Public Law 104-191) and Federal Regulations promulgated pursuant thereto.

Hospital—an institution that is currently licensed as a hospital by the state in which services are rendered and is not primarily an institution for rest, the aged, the treatment of pulmonary tuberculosis, a nursing home, extended care facility, remedial training institution, or a facility primarily for the treatment of conduct and behavior disorders.

Incurred Date—the date when a particular service or supply is rendered or obtained. When a single charge is made for a series of services, each service will bear a prorated share of the charge.

* * *

Lifetime Maximum Benefit—the maximum amount of benefits that will be paid under the plan for all eligible expenses incurred by a covered person.

Medically Necessary—a service, treatment, procedure, equipment, drug, device, item, or supply, which, in the judgment of the program:

1. is appropriate and consistent with a covered person's diagnosis and treatment as well as with nationally accepted medical standards; and

2. is not primarily for personal comfort or convenience or custodial care.

Medicare—the health insurance available through Medicare laws enacted by the congress of the United States.

* * *

Occupational Therapy—the application of any activity one engages in for the purposes of evaluation, interpretation, treatment planning, and treatment of problems interfering with functional performance in persons impaired by physical illness or injury in order to significantly improve functioning.

* * *

Participating Provider—a PPO, as defined herein.

Physical Therapy—the evaluation of physical status as related to functional abilities and treatment procedures as indicated by that evaluation. And licensed for the state where services are rendered.

Physician—

1. *Physician* means the following persons, appropriately licensed to practice their respective professional skills at the time and place the service is rendered:

- a. a Doctor of Medicine (M.D.);
- b. a Doctor of Dental Surgery (D.D.S.);
- c. a Doctor of Dental Medicine (D.M.D.);
- d. a Doctor of Osteopathy (D.O.);
- e. a Doctor of Podiatric Medicine (D.P.M.);
- f. a Doctor of Chiropractic (D.C.);
- g. a Doctor of Optometry (O.D.);
- h. a Psychologist meeting the requirements of the National Register of Health Service Providers in Psychology;
- i. a mental health counselor;
- j. a substance abuse counselor;
- k. an Audiologist.

2. The term *physician* does not include a medical doctor in the capacity of supervising interns, residents, senior residents, or fellows enrolled in a training program who does not personally provide medical treatment or perform a surgical procedure for the covered person.

Plan—coverage offered by the Office of Group Benefits under this contract including PPO benefits, prescription drug benefits, mental health and substance abuse benefits, and comprehensive medical benefits. The term plan as defined herein is used interchangeably with the term program as defined below.

* * *

Plan Year—the period from July 1, or the date the covered person first becomes covered under the plan, through the next following June 30. Each successive plan year will be the twelve month period from July 1 through the next following June 30.

* * *

Program—the Office of Group Benefits and/or the plan.

Provider—one or more entities which offer health care services and shall include but not be limited to individuals, or groups of physicians, individuals or groups of psychologists, nurse midwives, ambulance service companies, hospitals, and other health care entities that provide covered services to covered individuals.

Recovery—with respect to Subrogation and Reimbursement (§ 413) recovery means any and all monies paid to the covered person by way of judgment, settlement, or otherwise to compensate for losses allegedly caused by injury or sickness, whether or not the losses reflect medical or dental charges covered by the program.

Referee—Repealed.

Rehabilitation and Rehabilitation Therapy—care concerned with the management and functional ability of patients disabled by disease, illness, accident, or injury.

Reimbursement—repayment to the program for benefits payments made by the program.

Retiree—

1. Retiree means an individual who was a covered Employee immediately prior to the date of retirement and

who, upon retirement, satisfied one of the following categories:

- a. immediately received retirement benefits from an approved state or governmental agency defined benefit plan;
- b. was not eligible for participation in such plan or legally opted not to participate in such plan; and either:
 - i. began employment prior to September 15, 1979, has 10 years of continuous state service, and has reached the age of 65; or
 - ii. began employment after September 16, 1979, has 10 years of continuous state service, and has reached the age of 70; or
 - iii. was employed after July 8, 1992, has 10 years of continuous state service, has a credit for a minimum of 40 quarters in the Social Security system at the time of employment, and has reached the age of 65; or
 - iv. maintained continuous coverage with the program as an eligible dependent until he/she became eligible as a former state employee to receive a retirement benefit from an approved state governmental agency defined benefit plan;
- c. immediately received retirement benefits from a state-approved or state governmental agency-approved defined contribution plan and has accumulated the total number of years of creditable service which would have entitled him/her to receive a retirement allowance from the defined benefit plan of the retirement system for which the employee would have otherwise been eligible. The appropriate state governmental agency or retirement system responsible for administration of the defined contribution plan is responsible for certification of eligibility to the Office of Group Benefits.

2. *Retiree* also means an individual who was a covered employee and continued the coverage through the provisions of COBRA immediately prior to the date of retirement and who, upon retirement, qualified for any of Subparagraphs i, ii, or iii above.

Room and Board—all expenses necessary to maintain and sustain a covered person upon admittance to a hospital and during a hospital confinement. This can include, but is not limited to, facility charges for the maintenance of the covered person's hospital room, dietary and food services, nursing services performed by nurses employed by or under contract with the hospital, and housekeeping services.

* * *

Utilization Management—the process of evaluating the necessity, appropriateness, and efficiency of health care services against established guidelines and criteria.

Utilization Review Organization (URO)—an entity that has established one or more utilization review programs which evaluates the medical necessity, appropriateness, and efficiency of the uses of health care services, procedures, and facilities.

Well Adult Care—covered persons age 16 and older and means a routine physical examination by a physician that may include an influenza vaccination, lab work, and X-rays performed as part of the exam in that physician's office, when such services are billed by that physician with wellness procedure and diagnosis codes. Other health care services billed with wellness procedures and diagnosis

codes, as well as treatment and/or diagnosis of a specific illness, will not be considered as *well adult care*.

Well Baby Care—covered persons from birth until age 1 and means routine care to a well, newborn infant that may include physical examinations and active immunizations provided by a physician when such services are billed by that physician with wellness procedure and diagnosis codes. Other health care services billed with wellness procedures and diagnosis codes, as well as treatment and/or diagnosis of a specific illness, will not be considered as *well baby care*.

Well Child Care—covered persons from age 1 through age 15 and means routine physical examinations and active immunizations provided by a physician, when such services are billed by that physician with wellness procedure and diagnosis codes. Other health care services billed with wellness procedure and diagnosis codes, as well as treatment and/or diagnosis of a specific illness, will not be considered as *well child care*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1840 (October 1999), amended LR 29:339 (March 2003), LR 32:1894 (October 2006).

Chapter 7. Schedule of Benefits—PPO
§701. Comprehensive Medical Benefits

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

Lifetime maximum for all benefits, except outpatient prescription drug benefits, per person	\$1,000,000
Lifetime maximum for outpatient prescription drug benefits, per person	\$250,000

A. - C.3. ...

²Participating providers are reimbursed at 100 percent of Eligible Expenses up to the maximum benefit; Non-Participating providers are reimbursed at 70 percent of Eligible Expenses up to the maximum benefit

Services include screenings to detect illness or health risks during a Physician office visit. The covered services are based on prevailing medical standards and may vary according to age and family history.

Specialized age appropriate wellness (not subject to deductible) – For a complete list of benefits, see §301.A.24 of this Part.

D. ...

E. repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1843 (October 1999), amended LR 26: 488 (March 2000), LR 27:719, 720, 722 (May 2001), LR 27:1887 (November 2001), LR 28:2345 (November 2002), LR 29:340, 342, 343 (March 2003), repromulgated LR 29:578 (April 2003), amended LR 30:1192 (June 2004), LR 32:1897 (October 2006).

Tommy D. Teague
 Chief Executive Officer

0610#070

RULE

Office of the Governor Division of Administration Office of Group Benefits

PPO, EPO, and MCO Plans of Benefits—Colorectal Screening (LAC 32:III.301; V.301; IX.301)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO, EPO, and MCO plan documents to authorize benefits for routine colorectal screening. This action is necessary to comply with the provisions of R.S. 22:215.12.

Accordingly, OGB hereby adopts the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider Organization (PPO)—Plan of Benefits

Chapter 3. Medical Benefits

§301. Medical Benefits Apply When Eligible Expenses Are Incurred by a Covered Person

A. - A.33.c. ...

34. treatment provided in accordance with a clinical trial for cancer, including costs of investigational treatments and of associated protocol-related patient care if all of the following criteria are met:

a. treatment is being provided with a therapeutic or palliative intent for patients with cancer, or for the prevention or early detection of cancer;

b. treatment is being provided or the studies are being conducted in a Phase II, Phase III, or Phase IV clinical trial for cancer;

c. treatment is being provided in accordance with a clinical trial approved by one of the following entities:

i. one of the United States National Institutes of Health;

ii. a cooperative group funded by one of the United States National Institutes of Health;

iii. the FDA in the form of an investigational new drug application;

iv. the United States Department of Veterans Affairs;

v. the United States Department of Defense;

vi. a federally funded general clinical research center;

vii. the Coalition of National Cancer Cooperative Groups;

d. the proposed protocol has been reviewed and approved by a qualified institutional review board which operates in this state and which has a multiple project assurance contract approved by the office of protection from research risks;

e. the facility and personnel providing the protocol provided the treatment within their scope of practice, experience, and training and are capable of doing so by virtue of their experience, training, and volume of patients treated to maintain expertise;

f. there is no clearly superior, non-investigational approach;

g. the available clinical or preclinical data provide a reasonable expectation that the treatment will be at least as efficacious as the non-investigational alternative; and

h. the patient has signed an institutional review board-approved consent form;

35. routine colorectal cancer screening provided in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations, including:

a. fecal occult blood test;

b. flexible sigmoidoscopy; or

c. colonoscopy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1830 (October 1999), amended LR 28:480 (March 2002), LR 29:339, 343 (March 2003), LR 30:1192 (June 2004), LR 31:441 (February 2005), LR 32:1898 (October 2006).

Part V. Exclusive Provider Organization (EPO)—Plan of Benefits

Chapter 3. Medical Benefits

§301. Medical Benefits Apply When Eligible Expenses Are Incurred by a Covered Person

A. - A.33.c. ...

34. treatment provided in accordance with a clinical trial for cancer, including costs of investigational treatments and of associated protocol-related patient care if all of the following criteria are met:

a. treatment is being provided with a therapeutic or palliative intent for patients with cancer, or for the prevention or early detection of cancer;

b. treatment is being provided or the studies are being conducted in a Phase II, Phase III, or Phase IV clinical trial for cancer;

c. treatment is being provided in accordance with a clinical trial approved by one of the following entities:

i. one of the United States National Institutes of Health;

ii. a cooperative group funded by one of the United States National Institutes of Health;

iii. the FDA in the form of an investigational new drug application;

iv. the United States Department of Veterans Affairs;

v. the United States Department of Defense;

vi. a federally funded general clinical research center;

vii. the Coalition of National Cancer Cooperative Groups;

d. the proposed protocol has been reviewed and approved by a qualified institutional review board which operates in this state and which has a multiple project

assurance contract approved by the office of protection from research risks;

e. the facility and personnel providing the protocol provided the treatment within their scope of practice, experience, and training and are capable of doing so by virtue of their experience, training, and volume of patients treated to maintain expertise;

f. there is no clearly superior, non-investigational approach;

g. the available clinical or preclinical data provide a reasonable expectation that the treatment will be at least as efficacious as the non-investigational alternative; and

h. the patient has signed an institutional review board-approved consent form;

35. routine colorectal cancer screening provided in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations, including:

- a. fecal occult blood test;
- b. flexible sigmoidoscopy; or
- c. colonoscopy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1810 (October 1999), amended LR 28:478 (March 2002), LR 29:334, 338 (March 2003), LR 30:1190 (June 2004), LR 31:440 (February 2005), LR 32:1898 (October 2006).

Part IX. Managed Care Option (MCO)—Plan of Benefits

Chapter 3. Medical Benefits

§301. Medical Benefits Apply When Eligible Expenses Are Incurred by a Covered Person

A. - A.33.c. ...

34. treatment provided in accordance with a clinical trial for cancer, including costs of investigational treatments and of associated protocol-related patient care if all of the following criteria are met:

a. treatment is being provided with a therapeutic or palliative intent for patients with cancer, or for the prevention or early detection of cancer;

b. treatment is being provided or the studies are being conducted in a Phase II, Phase III, or Phase IV clinical trial for cancer;

c. treatment is being provided in accordance with a clinical trial approved by one of the following entities:

i. one of the United States National Institutes of Health;

ii. a cooperative group funded by one of the United States National Institutes of Health;

iii. the FDA in the form of an investigational new drug application;

iv. the United States Department of Veterans Affairs;

v. the United States Department of Defense;

vi. a federally funded general clinical research center;

vii. the Coalition of National Cancer Cooperative Groups;

d. the proposed protocol has been reviewed and approved by a qualified institutional review board which

operates in this state and which has a multiple project assurance contract approved by the office of protection from research risks;

e. the facility and personnel providing the protocol provided the treatment within their scope of practice, experience, and training and are capable of doing so by virtue of their experience, training, and volume of patients treated to maintain expertise;

f. there is no clearly superior, non-investigational approach;

g. the available clinical or preclinical data provide a reasonable expectation that the treatment will be at least as efficacious as the non-investigational alternative; and

h. the patient has signed an institutional review board-approved consent form;

35. routine colorectal cancer screening provided in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations, including:

- a. fecal occult blood test;
- b. flexible sigmoidoscopy; or
- c. colonoscopy.

B. Emergency Services. Subject to all applicable terms of the plan, emergency services will be considered eligible expenses whether rendered by a participating provider or non-participating provider, as follows.

1. Emergency services provided to a covered person who is later determined not to have required emergency services will be considered eligible expenses except:

a. when the covered person's medical condition would not have led a prudent lay person, acting reasonably and possessing an average knowledge of health and medicine, to believe that the absence of immediate medical attention could reasonably be expected to result in serious jeopardy to health, serious impairment to bodily functions, or serious dysfunction of any bodily organ, unless the covered person was referred for emergency services by a participating provider or by an agent of OGB; or

b. when there was material misrepresentation, fraud, omission, or clerical error.

2. If a covered person requires hospitalization at a non-participating provider medically necessary inpatient services rendered by the non-participating provider will be considered eligible expenses until the covered person can be transferred to a participating provider.

3. OGB must be notified of the emergency services within 48 hours following commencement of treatment or admission, or as soon as medical circumstances permit. See also §307.C regarding the requirement for pre-admission certification (PAC) for emergency admissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:888 (June 2003), amended LR 30:1191 (June 2004), LR 31:440 (February 2005), LR 32:1899 (October 2006).

Tommy D. Teague
Chief Executive Officer

0610#073

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Temporary Registration during Declared Public Health Emergency (LAC 46:LXXXV.309)

The Louisiana Board of Veterinary Medicine adopts LAC 46:LXXXV.309 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1569. 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 and effective on the governor's signature on June 2, 2006, the board has developed and adopted this 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 Rule amendment has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

This Rule is currently in effect as an Emergency Rule, adopted on June 9, 2006 and readopted on October 4, 2006, for the next 120 days from this date or until adoption of the final Rule, whichever occurs first.

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 32:1900 (October 2006).

Wendy D. Parrish
Administrative Director

0610#056

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

CommunityCARE Program (LAC 50:I.2903)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:I.2903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Medicaid Managed Care

Chapter 29. CommunityCARE

§2903. Recipient Participation

A. - B.11. ...

12. recipients in foster care, other out-of-home placement or receiving adoption assistance;

13. clients of the Office of Youth Development (in state custody); and

14. children under age 19 who are:

a. eligible for SSI under Title XVI;

b. eligible under Section 1902(e)(3) of the Social Security Act (New Opportunities Waiver and Children's Choice recipients); or

c. receiving services through a family-centered, community-based, coordinated care system that receives grant funds under Section 501(a)(1)(D) of Title V, and is defined by the state in terms of either program participation or special health care needs.

C. Requests for medical exemptions shall be reviewed for approval on a case-by-case basis for certain medically high risk recipients that may warrant the direct care and supervision of a non-primary care specialist.

D. 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 29:908 (June 2003), amended LR 32:404 (March 2006), LR 32:1901 (October 2006).

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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0610#085

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Federally Qualified Health Centers
(LAC 50:XI.Chapters 101-107)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XI.Chapters 101 and 107, and to amend Chapters 103-105 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 13. Federally Qualified Health Centers

Chapter 101. General Provisions

§10101. Purpose

A. Section 330 of the Public Health Service (PHS) Act of 1991 authorized the development of federally qualified health centers (FQHCs) through a grant funding program to provide care and improve the health status of medically underserved populations.

B. The U.S. Department of Health and Human Services, Health Resources and Services Administration (HRSA), certifies the FQHC status of organizations that receive grant funding under Section 330 of the PHS Act.

AUTHORITY NOTE: Promulgated in 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 32:1901 (October 2006).

Chapter 103. Provider Participation

§10301. Provider Enrollment

A. In order to enroll and participate in the Medicaid Program, an FQHC must submit a completed provider enrollment packet that includes a copy of the HRSA grant approving its FQHC status.

B. The effective date of an FQHC's enrollment to participate in the Medicaid Program shall not be prior to the date of receipt of the completed enrollment packet.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2328 (October 2004), repromulgated LR 30:2487 (November 2004), amended LR 32:1901 (October 2006).

§10303. Standards for Participation

A. Federally qualified health centers must comply with the applicable licensure, accreditation and program participation standards for all services rendered. If an FQHC wishes to initiate participation, it shall be responsible for

meeting all of the enrollment criteria of the program. The FQHC provider shall:

1. maintain an acceptable fiscal record keeping system that readily distinguishes one type of service from another type of service that may be provided;

2. retain all records necessary to fully disclose the extent of services provided to recipients for five years from the date of service and furnish such records, and any payments claimed for providing such services, to the Medicaid Program upon request; and

3. abide by and adhere to all federal and state regulations and policy manuals.

B. If an FQHC receives approval for a satellite site, the satellite site must enter into a separate provider agreement and obtain its own Medicaid provider number.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2328 (October 2004), repromulgated LR 30:2488 (November 2004), amended LR 32:1901 (October 2006).

Chapter 105. Services

§10501. Scope of Services

A. Medicaid reimbursement is limited to medically necessary services that are covered by the Medicaid State Plan and would be covered if furnished by a physician. The following services shall be covered:

1. services furnished by a physician within the scope of practice of his profession under Louisiana law;

2. services furnished by a:

- a. physician assistant;
- b. nurse practitioner;
- c. nurse midwife;
- d. clinical social worker;
- e. clinical psychologist; or
- f. dentist;

3. services and supplies that are furnished as an incident to professional services furnished by all eligible professionals; and

4. other ambulatory 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 30:2328 (October 2004), repromulgated LR 30:2488 (November 2004), amended LR 32:1902 (October 2006).

§10503. Service Limits

A. Federally qualified health center visits (encounters) are limited to 15 visits per year for medically necessary services rendered to Medicaid recipients who are 21 years of age or older. Visits for Medicaid recipients who are under 21 years of age and for prenatal and postpartum care are excluded from the service 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 32:1902 (October 2006).

Chapter 107. Reimbursement Methodology

§10701. Prospective Payment System

A. Payments for Medicaid covered services will be made under a prospective payment system (PPS) and paid on a per visit basis.

B. A visit is defined as a face-to-face encounter between a facility health professional and a Medicaid eligible patient for the purpose of providing medically necessary outpatient services.

1. Encounters with more than one facility health professional that take place on the same day and at a single location constitute a single encounter.

2. Services shall not be arbitrarily delayed or split in order to bill additional encounters.

NOTE: Refer to the FQHC and Physician's Current Procedural Terminology (CPT) Manuals for the definition of an encounter.

C. If an FQHC receives approval for a satellite site, the PPS per visit rate paid for the services performed at the satellite site would be the weighted average cost payment rate per encounter for all FQHCs.

D. The PPS per visit rate for a facility which enrolls and receives approval to operate shall be the weighted average cost payment rate per encounter for all FQHCs.

E. The PPS per visit rate for each facility will be increased on July 1 of each year by the percentage increase in the published *Medicare Economic Index* (MEI) for primary care services.

F. Federally qualified health center services furnished to dual eligibles will be reimbursed reasonable cost which is equivalent to the provider specific prospective payment rate.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1902 (October 2006).

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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0610#086

RULE

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 Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

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 32:1903 (October 2006).

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 32:1903 (October 2006).

§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 32:1903 (October 2006).

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 center 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 32:1903 (October 2006).

§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 32:1903 (October 2006).

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 32:1903 (October 2006).

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 32:1903 (October 2006).

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 32:1904 (October 2006).

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 32:1904 (October 2006).

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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0610#088

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Rural Health Clinics (LAC 50:XI.Chapters 161-167)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XI.Chapters 161-167 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 15. Rural Health Clinics

Chapter 161. General Provisions

§16101. Purpose

A. The Rural Health Clinic Act of 1977 authorized the development of rural health clinics to encourage and stabilize the provision of outpatient primary care in rural areas through cost-based reimbursement.

B. Rural health clinics improve the health status of Louisiana residents in rural and underserved areas by working proactively to build community health systems' capacity to provide integrated, efficient and effective health care services.

C. Rural health clinic (RHC) regulations distinguish between two types of rural health clinics.

1. The independent RHC is a free-standing practice that is not part of a hospital, skilled nursing facility, or home health agency.

2. The provider-based RHC is an integral and subordinate part of a hospital, skilled nursing facility, or home health agency.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1904 (October 2006).

Chapter 163. Provider Participation

§16301. Provider Enrollment

A. In order to enroll and participate in the Medicaid Program, a RHC must submit a completed provider enrollment packet.

B. The effective date of enrollment to participate in the Medicaid Program shall not be prior to the date of receipt of the completed enrollment packet.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1904 (October 2006).

§16303. Standards for Participation

A. Rural Health Clinics must comply with the applicable licensure, accreditation and program participation standards for all services rendered. If a RHC wishes to initiate participation, it shall be responsible for meeting all of the enrollment criteria of the program. The RHC provider shall:

1. maintain an acceptable fiscal record keeping system that readily distinguishes one type of service from another type of service that may be provided;

2. retain all records necessary to fully disclose the extent of services provided to recipients for five years from the date of service and furnish such records, and any payments claimed for providing such services, to the Medicaid Program upon request; and

3. abide by and adhere to all federal and state regulations and policy manuals.

B. Medicaid enrollment can be no sooner than Medicaid's receipt of the complete enrollment packet. A complete enrollment packet for RHCs must include a copy of the CMS provider certification letter approving rural health clinic status.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1905 (October 2006).

Chapter 165. Services

§16501. Scope of Services

A. Medicaid reimbursement is limited to medically necessary services that are covered by the Medicaid State Plan and would be covered if furnished by a physician. The following services shall be covered:

1. services furnished by a physician, within the scope of practice of his profession under Louisiana law;

2. services furnished by a:

- a. physician assistant;
- b. nurse practitioner;
- c. nurse midwife;
- d. clinical social worker;
- e. clinical psychologist; or
- f. dentist;

3. services and supplies that are furnished as an incident to professional services furnished by all eligible professionals; and

4. other ambulatory 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 32:1905 (October 2006).

§16503. Service Limits

A. Rural health clinic visits (encounters) are limited to 12 visits per year for medically necessary services rendered to Medicaid recipients who are 21 years of age or older. Visits for Medicaid recipients who are under 21 years of age and for prenatal and postpartum care are excluded from the service 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 32:1905 (October 2006).

Chapter 167. Reimbursement Methodology

§16701. Prospective Payment System

A. Payments for Medicaid covered services will be made under a Prospective Payment System (PPS) and paid on a per visit basis.

B. A visit is defined as a face-to-face encounter between a facility health professional and a Medicaid eligible patient for the purpose of providing medically needed outpatient services.

1. Encounters with more than one facility health professional that take place on the same day and at a single location constitute a single encounter.

2. Services shall not be arbitrarily delayed or split in order to bill additional encounters.

NOTE: Refer to the RHC and Physician's Current Procedural Terminology (CPT) Manuals for the definition of an encounter.

C. For facilities that enroll to participate in the Medicaid Program on or after the effective date of this rule, the PPS per visit rate will be the statewide weighted average payment rate per encounter for all RHCs.

1. A change in the scope of services will not be considered for an increase in the rate. An increase in the encounters due to the change should compensate the increased administrative costs.

D. The PPS per visit rate for each facility will be increased on July 1 of each year by the percentage increase in the published *Medicare Economic Index (MEI)* for primary services.

E. No interim or alternate payment methodologies will be developed by the department without prior notification to each Medicaid licensed RHC.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1905 (October 2006).

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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0610#087

RULE

**Department of Public Safety and Corrections
Office of State Police**

Breath and Blood Alcohol Analysis
Methods and Techniques
(LAC 55:I.503)

In accordance with the provisions of R.S.32:663 relative to the authority of the Office of State Police to promulgate and enforce rules, the Office of State Police hereby amends the following Rule regarding the qualifications of operators of the Intoxilyzer 5000.

**Title 55
PUBLIC SAFETY
Part I. State Police**

**Chapter 5. Breath and Blood Alcohol Analysis
Methods and Techniques**

Subchapter A. Analysis of Breath

§503. Operator Qualification

A. - A.2. ...

3. receipt of a high school diploma or satisfactory passing of the General Education Development (GED) test or an equivalent or higher educational background;

4. - 4.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 4:390 (October 1978), amended LR 6:663 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR 11:256 (March 1985), LR 14:362 (June 1988), repromulgated LR 14:442 (July 1988), amended LR 17:672 (July 1991), repromulgated LR 17:796 (August 1991), amended LR 27:1929 (November 2001), LR 32:1906 (October 2006).

Stephen J. Hymel
Undersecretary

0610#020

RULE

**Department of Public Safety and Corrections
Office of State Fire Marshal**

Equal Access for Disabled Individuals
(LAC 55:V.1501)

In accordance with the provisions of R.S.40:1563(B)(6)(F) relative to the authority of the Office of State Fire Marshal to prepare, adopt and promulgate rules and regulations in accordance with the Administrative Procedure Act, the Office of State Fire Marshal hereby amends LAC 55:V:1501 Equal Access for Disabled Individuals to provide for enforcement of the HUD Fair Housing Accessibility Guidelines as amended in 1988 and published in the *Federal Register* on June 15, 1990.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 15. Public Places in General

§1501. Equal Access for Disabled Individuals

A. Buildings, structures, public facilities, governmental facilities and improved areas built between January 1, 1978 and August 14, 1995 shall be covered by the standards put forward in ANSI 117.1. Such entities built on or after August 14, 1995, shall be covered by the ADAAG guidelines to the Americans with Disabilities Act in effect on September 1, 1994.

B. Multi-family dwelling units of 15 or more dwelling units must have at least 5 percent or one dwelling unit which meets the regulations specified by ANSI A117.1 1992 edition.

C. Multi-family dwelling units, which are required to be accessible by Subsection B, shall comply with the requirements for dwelling units set forth in ANSI A117.1-1992 of the American National Standards Institute entitled *American National Standard Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People*. Purchasing information can be obtained from the Office of State Fire Marshal.

D. Any dwelling unit in a facility which incorporates more than four dwelling units shall be made accessible in accordance with the HUD Fair Housing Accessibility Guidelines published on March 6, 1991, 56 Federal Register 9472, 24 CFR Chapter 1, Subchapter A, Appendix II and III (1991) and the Supplemental Notice to Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines, published on June 28, 1994, and the HUD Fair Housing Act Design Manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B) and R.S. 40:1734(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 4:465 (November 1978), repromulgated LR 6:74 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1698 (December 1997), LR 32:1906 (October 2006).

Stephen J. Hymel
Undersecretary

0610#021

RULE

**Department of Public Safety and Corrections
Youth Services
Office of Youth Development**

Reporting and Documenting Escapes, Apprehensions,
Runaways, and AWOLs (LAC 22:I.771)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 36:405, the

Department of Public Safety and Corrections, Division of Youth Services, Office of Youth Development promulgates §771, Reporting and Documenting Escapes, Apprehensions, Runaways, and AWOLs. The purpose of the promulgation of this Rule is to establish the deputy secretary's policy and procedures regarding reporting and documenting escapes, apprehensions, runaways, and AWOLs.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 7. Youth Services

Subchapter C. Field Operations

§771. Reporting and Documenting Escapes, Apprehensions, Runaways, and AWOLs

A. Purpose. This rule establishes the policy and procedures for reporting and documenting, escapes, apprehensions, runaways, and AWOLs (absent without leave).

B. Applicability. Assistant secretary, facility directors, Probation and Parole Program Director, and Youth Services (YS) Regional Managers.

C. Policy. It is the deputy secretary's policy that all escapes, apprehensions, runaways, and AWOLs, whether from a secure or non-secure facility, shall be reported and documented. Appropriate law enforcement agencies shall be notified as outlined herein and each unit shall maintain appropriate vigilance in apprehending youth.

D. Procedures

1. All escapes, apprehensions, runaways, and AWOLs shall be reported to YS Central Office in accordance with YS rules.

2. When an escape from a secure facility occurs, appropriate law enforcement agencies shall be notified in accordance with R.S. 15:909, as well as the control center at the Jetson Center for Youth (JCY). The prosecuting district attorney shall be notified immediately if required by YS rules. Appropriate law enforcement agencies shall also be notified of runaways and AWOLs.

3. The JCY Control Center is responsible for notifying NCIC and appropriate local law enforcement agencies of all escapes, runaways, and AWOLs.

4. The YS Central Office Duty Officer shall confirm that all notifications of escapes, apprehensions, runaways, and AWOLs have been made or cleared as appropriate.

5. For escapes from secure care facilities, the Office of Youth Development (OYD) will obtain a fugitive warrant from an East Baton Rouge Parish judge for the unserved portion of the disposition.

6. Notification of all apprehensions shall be in accordance with YS rules. The prosecuting district attorney shall be notified of apprehensions if required by YS rules.

7. Notification to registered crime victims shall be made in accordance with YS rules.

8. Directors of secure care facilities shall maintain a record and description of every escape from their facility pursuant to R.S. 15:909.

9. The report shall be available for public inspection and shall list any prior escapes within the last five years from that facility.

10. YS Central Office Duty Officer

a. All escapes and apprehensions shall be reported by telephone immediately to the YS Central Office Duty Officer and followed up with return receipt e-mail notification.

b. YS Central Office shall monitor facility progress of apprehension efforts and shall actively participate in apprehension efforts for youth who escape from any facilities. Searches shall be coordinated with the facility from which the youth escaped and the appropriate law enforcement agencies.

c. Information regarding escapes and apprehensions shall be reported pursuant to YS rules.

11. Investigative Report. After any escape from a secure care facility, an investigative report shall be prepared and submitted to the deputy secretary outlining any operational failures or weaknesses that contributed to the escape, as well as a plan of action implemented to minimize a recurrence. A critical incident review shall be conducted with the facility and central office staff within 14 days of the incident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:549, R.S. 15:909, R.S. 46:1844, and Ch.C. Art. 811.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Youth Services, Office of Youth Development, LR 32:1907 (October 2006).

Simon G. Gonsoulin
Deputy Secretary

0610#028

RULE

Department of Revenue Policy Services Division

Presidential Disaster Relief (LAC 61:I.601)

Under the authority of R.S. 47:287.85(C) (2), R.S. 47:287.785, R.S. 47:293(3) 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, amends LAC 61:I.601 to add the Low Income Housing Tax Credit and the New Markets Tax Credit as disaster relief credits.

Neither the low income housing tax credit nor the new markets tax credit was included in the original version of LAC 61:I.601 because the Gulf Opportunity Zone Act of 2005, Pub. L. No. 109-135, 119 Stat. 2577 (H.R. 4440), which extended both of these credits, was passed after the original drafting of LAC 61:I.601. The purpose of the Rule is to declare these additional two credits as disaster relief credits and provide guidance regarding their applicability.

Title 61

REVENUE AND TAXATION

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

Chapter 6. Presidential Disaster Relief

§601. Presidential Disaster Relief Credits

A. Definitions

Gulf Opportunity Zone (GO Zone)—that portion of the Hurricane Katrina disaster area determined by the President to warrant individual or individual and public assistance

from the federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Hurricane Katrina Disaster Area—any area with respect to which a major disaster has been declared by the President before September 14, 2005, under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

Hurricane Katrina Employee—an individual who on August 28, 2005, has a principal place of abode in the GO Zone and is hired during the two year period beginning on such date for a position with the principal place of employment in the GO Zone or an individual who on August 28, 2005, had a principal place of abode in the GO Zone but was displaced from such abode due to Hurricane Katrina and is hired during the period beginning on such date and ending on December 31, 2005, without regard to whether the new principal place of employment is in the GO Zone.

Hurricane Katrina Employer—any employer that conducted an active trade or business on August 28, 2005, in the GO Zone and the employer's active trade or business must have been inoperable on any day after August 28, 2005, and before January 1, 2006, as a result of damage sustained due to Hurricane Katrina.

Rita Gulf Opportunity Zone (Rita GO Zone)—that portion of the Hurricane Rita disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Rita.

Hurricane Rita Disaster Area—any area with respect to which a major disaster has been declared by the President before October 6, 2005, under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Rita.

Hurricane Rita Employee—an individual who on September 23, 2005, has a principal place of abode in the Rita GO Zone but was displaced from such abode due to Hurricane Katrina and is hired during the period beginning on such date and ending on December 31, 2005, without regard to whether the new principal place of employment is in the Rita GO Zone.

Hurricane Rita Employer—any employer that conducted an active trade or business on September 23, 2005, in the Rita GO Zone and the employer's active trade or business must have been inoperable on any day after September 23, and before January 1, 2006, as a result of damage sustained due Hurricane Rita.

B. The Katrina Emergency Tax Relief Act of 2005, Pub. L. No. 109-73, 119 Stat. 2016 (H.R. 3768) ("KETRA") and the Gulf Opportunity Zone Act of 2005, Pub. L. No. 109-135, 119 Stat. 2577 (H.R. 4440) provide for the following federal income tax credits, which the secretary hereby declares as presidential disaster area disaster relief credits.

1. Employee Retention Credit

a. This is a new credit. It provides a credit of 40 percent of the qualified wages paid by an eligible employer to an eligible employee in the GO Zone or the Rita GO Zone. The wages are capped at \$6,000. Thus, the maximum amount of the credit is \$2,400 or 40 percent of \$6,000.

b. GO Zone Qualified wages as defined in IRC 51(c)(1) are the wages paid or incurred by an eligible employer with respect to an eligible employee on any day

after August 28, 2005, and before January 1, 2006, during the period when the trade or business first became inoperable and ending on the date on which the business resumed significant operations. Qualified wages include wages paid to an employee whether the employee performed the service, whether the service was performed elsewhere other than the principal place of employment or whether paid before significant operations have resumed.

c. Rita GO Zone qualified wages as defined in IRC 51(c)(1) are the wages paid or incurred by an eligible employer with respect to an eligible employee on any day after September 23, 2005, and before January 1, 2006, during the period when the trade or business first became inoperable and ending on the date on which the business resumed significant operations. Qualified wages include wages paid to an employee whether the employee performed the service, whether the service was performed elsewhere other than the principal place of employment or whether paid before significant operations have resumed.

d. The secretary has determined that the Employee Retention Credit is a federal disaster relief credit granted for Hurricanes Katrina and Rita presidential disaster areas.

2. Work Opportunity Credit

a. Pre Hurricane Katrina

i. The Work Opportunity Credit is available on an elective basis to employers who employ individuals from one or more of eight target groups. The eight target groups are:

- (a) families that receive benefits from the Temporary Assistance for Needy Families Program;
- (b) high-risk youth;
- (c) qualified ex-felons;
- (d) vocational rehabilitation referrals;
- (e) qualified summer youth employees;
- (f) qualified veterans;
- (g) families receiving food stamps; and
- (h) persons receiving Supplemental Security Income benefits.

ii. Certification is required for an individual to be treated as a member of a targeted group.

iii. The credit equals 40 percent of qualified first-year wages, which are capped at \$6,000. The percentage decreases to 25 percent if the employee works less than 400 hours.

iv. This credit does not apply to rehires or wages paid to individuals who had previously been employed by the employer.

v. This credit expires December 31, 2005.

b. Post Hurricane Katrina

i. The KETRA Act provides that Hurricane Katrina employees are members of a targeted group for the purpose of the Work Opportunity Credit.

ii. The certification requirement for Hurricane Katrina employees is waived.

iii. Wages paid to individuals who had previously been employed, which would normally not be included in qualified first year wages, are now included for Hurricane Katrina employee unless they were employed by the employer on August 28, 2005.

iv. The expiration date is waived for Hurricane Katrina employees.

v. The secretary has determined that the Work Opportunity Credit, with respect to wages paid to Hurricane Katrina employees, is a federal disaster relief credit granted for the Hurricane Katrina presidential disaster areas.

3. Employer-Provided Housing Credit for Individuals Affected by Hurricane Katrina

a. Definitions

Qualified Employee—with respect to a month, an individual who:

(1). on August 28, 2005, had a principal residence in the Gulf Opportunity ("GO") Zone; and

(2). performs substantially all of his or her employment services in the GO Zone for the qualified employer furnishing the lodging.

Qualified Employer—any employer with a trade or business located in the GO Zone.

b. Pre-Hurricane Katrina—Employer-Provided Housing is includable in income as compensation pursuant to IRC §61.

c. Post-Hurricane Katrina

i. The Gulf Opportunity Zone Act of 2005 provides temporary income exclusion for the value of in kind lodging for a month to a qualified employee by or on behalf of a qualified employer.

ii. The amount of the exclusion for any month can not exceed \$600.

iii. The provision also permits a temporary credit to a qualified employer of 30 percent of the value of the lodging excluded from the income of a qualified employee. The amount taken as a credit is not deductible by the employer.

iv. The secretary has determined that the Employer-Provided Housing Credit, with respect to wages paid to Hurricane Katrina employees, is a federal disaster relief credit granted for the Hurricane Katrina presidential disaster areas.

4. Rehabilitation Tax Credit

a. Definitions

Certified Historic Structure—any building that is listed in the National Register, or that is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary of the Treasury as being of historic significance to the district.

Qualified Rehabilitated Building—a building that meets the following requirements: retention of existing external walls and internal structural framework of the building and a substantial rehabilitation requirement credit only if the rehabilitation expenditures during the 24-month period selected by the taxpayer and ending within the taxable year exceed the greater of:

(1). the adjusted basis of the building (and its structural components); or

(2). \$5,000.

b. Pre-Hurricane Katrina—A 20 percent credit is provided for qualified rehabilitation expenditures with respect to certified historic structures. A 10 percent credit is also provided for qualified rehabilitation expenditure with respect with a qualified rehabilitation building placed in service before 1936.

c. Post-Hurricane Katrina

i. The Gulf Opportunity Zone Act of 2005 increases the 20 percent credit to 26 percent with respect to

certified historic structures. The Act also increases the 10 percent credit to 13 percent for qualified rehabilitation buildings.

ii. The qualifying certified historic structures and qualified rehabilitation buildings must be located in the GO Zone.

iii. These expenditures must have been incurred with respect to such buildings on or after August 28, 2005, and before January 1, 2009.

iv. The secretary has determined that the increase in the Rehabilitation Tax Credit, with respect to the rehabilitation of buildings is a federal disaster relief credit granted for the Hurricane Katrina presidential disaster areas.

5. Hope Scholarship and Lifetime Learning Credits

a. Pre-Hurricane Katrina

i. The Hope Scholarship credit is a nonrefundable credit of up to \$1,500 per student per year for qualified tuition and related expenses paid for the first two years of the student's post-secondary education in a degree or certificate program.

ii. The Lifetime Learning Credit is equal to 20 percent of qualified tuition and related expenses incurred during the taxable year on behalf of the taxpayer, the taxpayer's spouse, or any dependents. Up to \$10,000 of qualified tuition and related expenses per taxpayer return are eligible for the Lifetime Learning Credit. A taxpayer may claim the Lifetime Learning Credit for an unlimited number of taxable years.

iii. Both the Hope Scholarship and the Lifetime Learning Credits are available for "qualified tuition and related expenses," which include tuition and fees (excluding nonacademic fees) required to be paid to an eligible educational institution as a condition of enrollment or attendance of a student at the institution. Charges and fees associated with meals, lodging, insurance, transportation, and similar personal, living or family expenses are not eligible for the credit. The expenses of education involving sports, games, or hobbies are not qualified tuition expenses unless this education is part of the student's degree program, or the education is undertaken to acquire or improve the job skills of the student.

b. Post-Hurricane Katrina

i. The provision temporarily expands the Hope Scholarship and Lifetime Learning credits for students attending an eligible education institution located in the Gulf Opportunity Zone.

ii. The Hope Scholarship credit is increased to 100 percent of the first \$2,000 in qualified tuition and related expenses and 50 percent of the next \$2,000 of qualified tuition and related expenses for a maximum credit of \$3,000 per student.

iii. The Lifetime Learning credit rate is increased from 20 percent to 40 percent. Thus, the maximum amount of the credit is \$4000 or 40 percent of \$10,000.

iv. The provision expands the definition of qualified expenses to mean qualified higher education expenses as defined under the rules relating to qualified tuition programs, including certain room and board expenses for at least half-time students.

v. The secretary has determined that the increase in the Hope Scholarship and the Lifetime Learning Credits, with respect to qualified tuition and related expenses of

students in the Gulf Opportunity Zone, are federal disaster relief credits granted for the Hurricane Katrina presidential disaster areas.

6. Low Income Housing Credit

a. Pre Hurricane Katrina

i. The low-income housing credit may be claimed over a 10-year period for the cost of rental housing occupied by tenants having incomes below specified levels. The amount of the credit for any taxable year in the credit period is the applicable percentage of the qualified basis of each qualified low-income building. The qualified basis of any qualified low-income building for any taxable year equals the applicable fraction of the eligible basis of the building.

ii. In order to be eligible for the low-income housing credit, a qualified low-income building must be part of a qualified low-income housing project. In general, a qualified low-income housing project is defined as a project which satisfies one of two tests at the election of the taxpayer. The first test is met if 20 percent or more of the residential units in the project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income (the "20-50 test"). The second test is met if 40 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income (the "40-60 test").

iii. Generally, the aggregate credit authority provided annually to each state for calendar year 2006 is \$1.90 per resident with a minimum annual cap of \$2,180,000 for certain small population states. These amounts are indexed for inflation. These limits do not apply in the case of projects that also receive financing with proceeds of tax-exempt bonds issued subject to the private activity bond volume limit.

b. Post Hurricane Katrina

i. The otherwise applicable housing credit ceiling amount is increased for each of the states within the Gulf Opportunity Zone. This increase applies to calendar years 2006, 2007, and 2008. The additional credit cap for each of the affected states equals \$18 times the number of such state's residents within the Gulf Opportunity Zone. This amount is not adjusted for inflation. For purposes of this additional credit cap amount, the determination of population for any calendar year is made on the basis of the most recent census estimate of the resident population of the state in the Gulf Opportunity Zone released by the Bureau of the Census before August 28, 2005.

ii. Under the provision, the Gulf Opportunity Zone, the Rita Go Zone, and the Wilma Go Zone are treated as high-cost areas for purposes of the low income housing credit for property placed-in-service in calendar years 2006, 2007, and 2008. Therefore, buildings located in the Gulf Opportunity Zone, the Rita Go Zone, and the Wilma Go Zone are eligible for the enhanced credit. The 20-percent of population restriction is waived for this purpose. This enhanced credit applies regardless of whether the building receives its credit allocation under the otherwise applicable low-income housing credit cap or the additional credit cap.

iii. The additional credit cap available for states within the Gulf Opportunity Zone for calendar years 2006, 2007 and 2008 may not be carried forward from any year to

any other year. The present-law rules apply for purposes of the Rita Go Zone and the Wilma Go Zone.

iv. The secretary has determined that all amounts of the low income housing credit allocated throughout the state during calendar years 2006, 2007, and 2008 are federal disaster relief credits granted for the Gulf Opportunity Zone.

7. New Markets Tax Credit

a. Pre Hurricane Katrina

i. IRC Section 45D provides a new markets tax credit for qualified equity investments made to acquire stock in a corporation, or a capital interest in a partnership, that is a qualified community development entity ("CDE"). The amount of the credit allowable to the investor (either the original purchaser or a subsequent holder) is a 5 percent credit for the year in which the equity interest is purchased from the CDE and for each of the following two years, and a 6 percent credit for each of the following four years. The credit is determined by applying the applicable percentage (5 or 6 percent) to the amount paid to the CDE for the investment at its original issue, and is available for a taxable year to the taxpayer who holds the qualified equity investment on the date of the initial investment or on the respective anniversary date that occurs during the taxable year. The credit is recaptured if at any time during the seven-year period that begins on the date of the original issue of the investment the entity ceases to be a qualified CDE, the proceeds of the investment cease to be used as required, or the equity investment is redeemed.

ii. A qualified CDE is any domestic corporation or partnership: (1) whose primary mission is serving or providing investment capital for low-income communities or low-income persons; (2) that maintains accountability to residents of low-income communities by their representation on any governing board of or any advisory board to the CDE; and (3) that is certified by the Secretary of Treasury as being a qualified CDE. A qualified equity investment means stock (other than nonqualified preferred stock) in a corporation or a capital interest in a partnership that is acquired directly from a CDE for cash, and includes an investment of a subsequent purchaser if such investment was a qualified equity investment in the hands of the prior holder. Substantially all of the investment proceeds must be used by the CDE to make qualified low-income community investments. For this purpose, qualified low-income community investments include: (1) capital or equity investments in, or loans to, qualified active low-income community businesses; (2) certain financial counseling and other services to businesses and residents in low-income communities; (3) the purchase from another CDE of any loan made by such entity that is a qualified low-income community investment; or (4) an equity investment in, or loan to, another CDE.

iii. A "low-income community" is a population census tract with either (1) a poverty rate of at least 20 percent or (2) median family income which does not exceed 80 percent of the greater of metropolitan area median family income or statewide median family income (for a nonmetropolitan census tract, does not exceed 80 percent of statewide median family income). In the case of a population census tract located within a high migration rural county, low-income is defined by reference to 85 percent (rather than 80 percent) of statewide median family income. For this

purpose, a high migration rural county is any county that, during the 20-year period ending with the year in which the most recent census was conducted, has a net out-migration of inhabitants from the county of at least 10 percent of the population of the county at the beginning of such period.

iv. The maximum annual amount of qualified equity investments is capped at \$2.0 billion per year for calendar years 2004 and 2005, and at \$3.5 billion per year for calendar years 2006 and 2007.

b. Post Hurricane Katrina

i. The provision allows an additional allocation of the new markets tax credit in an amount equal to \$300,000,000 for 2005 and 2006, and \$400,000,000 for 2007, to be allocated among qualified CDEs to make qualified low-income community investments within the Gulf Opportunity Zone. To qualify for any such allocation, a qualified CDE must have as a significant mission the recovery and redevelopment of the Gulf Opportunity Zone. The carryover of any unused additional allocation is applied separately from the carryover with respect to allocations made under present law.

ii. The secretary has determined that the additional allocation of the new markets tax credit totaling \$300,000,000 for 2005 and 2006 and \$400,000,000 for 2007 are federal disaster relief credits granted for the Gulf Opportunity Zone.

8. The Employee Retention Credit, the Katrina disaster relief portion of the Work Opportunity Credit, the Low Income Housing Credit for years 2006, 2007, and 2008 and the Gulf Opportunity Zone portion of the New Markets Tax Credit are part of the general business credit under IRC §38. If the general business credit is limited, the lesser of the amount equal to total disaster relief credits that are components of the general business credit or the general business credit will be allowed as disaster relief credits granted for the Hurricane Katrina presidential disaster areas or Hurricane Rita Disaster presidential disaster areas.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:1511, R.S. 47:287.85(C) (2), R.S. 47:293(3) and R.S. 47:287.785

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 32:1907 (October 2006).

Cynthia Bridges
Secretary

0610#017

RULE

**Department of Social Services
Office of Family Support**

KCSP-FTAP-STEP—Parent Skills—IFG
(LAC 67:III.1209,1223, 1225, 1229, 1245,
1291, 4501, 4701, 4702, 4703, 4704, 5307,
5321, 5323, 5329, 5339, 5341, 5391,5711)

The Department of Social Services, Office of Family Support, amended LAC 67:III, Subpart 2, Subpart 10, Subpart 13, and Subpart 16.

The agency amended §§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. These amendments were effected by a Declaration of Emergency signed May 1, 2006, and published in the May issue of the *Louisiana Register*.

Additionally, the agency is repealing Subpart 10, Individual and Family Grant (IFG) Program because effective October 15, 2002, IFG was replaced by the Individual and Households Program (IHP) which is administered by the Federal Emergency Management Agency.

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 28:2565 (December 2002), LR 30:493 (March 2004), LR 32:1911 (October 2006).

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 32:1911 (October 2006).

§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 32:1911 (October 2006).

§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 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 32:1912 (October 2006).

§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 32:1912 (October 2006).

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 32:1912 (October 2006).

Subpart 10. Individual and Family Grant Program

Chapter 45. Administration

§4501. Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with applicable sections of 44 CFR.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:1226 (December 1991), repealed LR 32:1912 (October 2006).

Chapter 47. Application, Eligibility, and Furnishing Assistance

Subchapter A. Need and Amount of Assistance

§4701. Maximum Grant Amount

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131, P.L. 93-288 and F.R. 54:58378.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:744 (September 1989), amended by the Department of Social Services, Office of Family Support, LR 17:889 (September 1991), LR 19:213 (February 1993), LR 19:784 (June 1993), LR 20:449 (April 1994), LR 21:403 (April 1995), repealed LR 32:1912 (October 2006).

§4702. Flood Insurance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131 and 44 CFR Part 61 and P.L. 93-288.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:744 (September 1989), amended by the Department of Social Services, Office of Family Support, LR 17:889 (September 1991), LR 19:213 (February 1993), LR 19:784 (June 1993), LR 20:449 (April 1994), LR 21:403 (April 1995), LR 21:837 (August 1995), LR 22:1232 (December 1996), repromulgated LR 23:591 (May 1997), repealed LR 32:1912 (October 2006).

§4703. Minimum Damage Threshold

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:1232 (December 1996), repealed LR 32:1912 (October 2006).

§4704. Special Condition of Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 104-208; 44 CFR Parts 61 and 206.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1953 (October 1998), repealed LR 32:1912 (October 2006).

**Subpart 13. Kinship Care Subsidy Program (KCSP)
Chapter 53. Application, Eligibility, and Furnishing Assistance**

Subchapter A. Application, 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 28:2565 (December 2002), LR 32:1913 (October 2006).

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 32:1913 (October 2006).

§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 32:1913 (October 2006).

§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. Effective July 1, 2006, payment amount is \$280 per 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 32:1913 (October 2006).

§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.

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 32:1913 (October 2006).

§5341. Drug Screening, Testing, Education, and Rehabilitation

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 32:1913 (October 2006).

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.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:1493 (June 2002), repealed LR 32:1913 (October 2006).

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, Act 58, 2003 Reg. Session, and 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 32:1913 (October 2006).

Ann Silverberg Williamson
Secretary

0610#063

RULE

Department of Social Services Office of Family Support

TANF Initiatives—Third Party In-Kind Contributions—Microenterprise (LAC 67:III.5511 and 5583)

The Department of Social Services, Office of Family Support, adopted LAC 67:III, Subpart 15, Chapter 55, §5511 Micro-Enterprise Development Program and §5583, Third Party In-Kind Contributions as TANF MOE.

As a result of Act 1 of the 2004 Regular Legislative Session, the agency repealed several TANF Initiatives including Micro-Enterprise Development effective September 2004, as funding was no longer available. Pursuant to Act 16 of the 2005 Regular Session of the Louisiana Legislature, the agency is re-establishing this program as funds have once again been appropriated for this initiative.

As a consequence of two hurricanes striking Louisiana in 2005, the Red Cross provided certain mass care in Louisiana to persons affected by the storms. The value of certain goods, services, and expenditures provided to eligible families by the Red Cross may count toward the state's Maintenance of Effort (MOE) requirement.

The Department of Social Services (DSS) has requested that the Red Cross advise the department of the total value of expenses paid by the organization between September 1 and December 31, 2005, for mass care so that DSS may count a portion of the total value towards the state's MOE requirement. This new TANF Initiative, Third Party In-Kind Contributions as MOE, provides a mechanism to capture the information on third party in-kind contributions for use as TANF MOE.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5511. Micro-Enterprise Development Program

A. Effective May 1, 2006, the Office of Family Support shall enter into a Memorandum of Understanding with the Department of Economic Development to provide assistance to low-income families who wish to start their own businesses.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage. This goal will be accomplished by providing assistance to low-income

families through the development of comprehensive micro-enterprise development opportunities as a strategy for moving parents into self-sufficiency.

C. Eligibility for services is limited to needy families, that 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), Supplemental Security Income (SSI), Free or Reduced School Lunch, or who has earned income at or below 200 percent of the federal poverty level. Only the parent or caretaker relative within the needy family is eligible to participate.

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 32:1914 (October 2006).

§5583. Third Party In-Kind Contributions as TANF MOE

A. The Office of Family Support (OFS) may enter into a Memorandum of Understanding with the American Red Cross and other third-party organizations to collect information on expenditures for services provided to families following a federally-declared disaster for the purpose of claiming eligible expenditures as TANF Maintenance of Effort (MOE). Eligible expenditures include activities and services provided on a congregate basis to the community as a whole, such as sheltering, feeding, bulk distribution of items, but not including any expenses for which the federal government is obligated to reimburse the third party.

B. The third party organization shall determine the total value of the expenses and advise OFS of this value on a periodic basis.

C. OFS shall establish a methodology to estimate the percentage of total expenses that were made on behalf of TANF-eligible families following a federally-declared disaster.

D. These services meet the TANF goal to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.

E. Financial eligibility for these services is limited to eligible families. A family consists of a minor child living with a custodial parent or an adult caretaker relative. An eligible family is one with income at or below 200 percent of the federal poverty level.

F. OFS will count eligible third party in kind contributions as TANF Maintenance of Effort (MOE) funds starting September 2005.

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 32:1914 (October 2006).

Ann Silverberg Williamson
Secretary

0610#064

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Forestry

Fire Danger Ratings (LAC 7:XXXIX.1111 and 1113)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 (B), and under the authority of R.S. 3:3; 30:2057(B)(5)(c) and 33:1236(31)(b)(iii), the Commissioner of Agriculture and Forestry intends to adopt the attached rules and regulations for the purpose of identifying the presence of high fire danger, which will permit certain parishes to declare bans on outdoor burning as authorized in Act Number 376 of the 2006 Regular Session of the Louisiana Legislature.

The above referenced Act grants authority for prohibition of certain outdoor burning for parishes with populations below 90,000. That authority is limited to areas where fire danger rating is high, as defined by the Louisiana Department of Agriculture and Forestry. To allow for parishes to exercise the authority granted by Act 376, it is necessary for the Louisiana Department of Agriculture and Forestry to adopt this Rule which provides the fire danger rating upon which the parishes must rely for their authority.

This Rule complies with and is enabled by R.S. 3:3, 30:2057(B)(5)(c) and 33:1236(31)(b)(iii).

This proposed Rule may be viewed in its entirety in the Emergency Rule section of this edition of the Louisiana Register.

Family Impact Statement

The proposed amendment to LAC 7:XXXIX.Chapter 11 for the purpose of identifying the presence of high fire danger, which will permit certain parishes to declare bans on outdoor burning as authorized in Act Number 376 of the 2006 Regular Session of the Louisiana Legislature should not have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rule to Paul Frey through the close of business on November 27, 2006 at P.O. Box 1628, Baton Rouge, LA 70821 (5825 Florida Blvd, Baton Rouge).

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Fire Danger Ratings

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units.

The Commissioner of Agriculture and Forestry intends to amend and adopt these rules and regulations for the process of identifying the presence of high fire danger, which will permit certain parishes to declare bans on outdoor burning as authorized in Act 376 of the 2006 Regular Session of the Louisiana Legislature.

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 action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no economic benefits to any person or group, as a result of these rules. There is the possibility that some costs could arise for affected persons or non-governmental groups from debris removal during a period of time in which a parish has declared a ban on outdoor burning.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0610#051

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of the Secretary

Regional Awards and Matching Grant Program
(LAC 13:III.Chapter 17)

The Department of Economic Development, Office of the Secretary and Office of Business Development, 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. 36:104 and 36:108 hereby give notice of their intent to adopt the following Rule of the Regional Awards and Matching Grant Program, and to create LAC 13:III.Chapter 17.

The Department of Economic Development, Office of the Secretary and Office of Business Development, have found a need, since no such rules exist at this time, to provide rules for the creation and regulation of the Regional Awards and Matching Grant Program in order to provide assistance to eligible non-profit economic development organizations (EDOs) in their comprehensive and strategic marketing and/or recruitment plans for towns, cities, parishes and

regions as a site for new Regional Awards and Matching Grant Awards, which will help to successfully secure the location, expansion, creation or retention of businesses for Louisiana and jobs for Louisiana citizens. This Rule will help to enhance the growth and stability of Louisiana's entrepreneurial business and/or industrial environment by making available regions to support this environment, and without this Rule the state may suffer the loss of business investment and economic development projects which would create or retain jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

Chapter 17. Regional Awards and Matching Grant Program

§1701. General

A. Act 17 of the 2006 Louisiana Legislature, providing for the general appropriations for the state of Louisiana for fiscal year 2006-07, appropriated \$5,625,000 to the Louisiana Department of Economic Development ("LED" or "department") for the Regional Awards and Matching Grant Program ("program"). The following rules are for the purposes of implementation of the program and to provide funding for projects in accordance with the goals of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:

§1703. Program Description

A. The program is designed to provide assistance to eligible economic development organizations in their comprehensive and strategic marketing and/or recruitment plans for towns, cities, parishes and regions as a site for new and/or expanded business development. The program has two objectives:

1. Regional Awards; and
2. Matching Grant Awards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:

§1705. Eligible Participants

A. Eligible applicants for the benefits of this program shall be nonprofit economic development organizations ("EDO") established in accordance with Louisiana law and in good standing in the state of Louisiana. The EDO must have as one of its primary objectives promoting Louisiana to national and world markets for business and industrial location and expansion. Applicants must have federal and state tax identification numbers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:

§1707. Qualifications

A. Eligible applicants may qualify for grants in the manner hereinafter provided under this program through either:

1. Regional awards that are to be administered through an association of the EDOs acting in concert to promote regional economic development strategies for the region; or through

2. Matching grants to an EDO or a combination of EDOs from LED for a specific project marketing industrial location and expansion.

B. Under either regional awards or matching grants, funding the awards must be for implementation of new programs through the fulfillment of deliverables in accordance with the goals and objectives as shall be hereinafter provided.

C. Eligible funding shall be consistent with the examples of eligible funding as provided by LED as an exhibit to the Cooperative Endeavor Agreements ("CEA") for either the Regional Awards or the Matching Grant Program. Generally, the exhibits to the CEA will provide for funding of core production costs of marketing and promotional activities and may distinguish the availability of allowable recovery for administrative costs between Regional Awards and Matching Grant Program awards as hereinafter provided.

D. Award agreements shall be executed and performed in accordance with statutes, rules and Executive Orders as administered by the Louisiana State Division of Administration, Office of Contract Review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:

§1709. Regional Awards ("Tier 1")

A. Regional Awards shall total 33 percent of the total appropriation of the Louisiana Legislature to this program and shall be allocated to the eight regions of this state in accordance with the map to be provided by LED. The regions will closely approximate the regions of the state presently served by LED regional representatives. Subject to Paragraph C.7 below, each region shall receive such portion of the available amount in accordance with its percentage of population of the state as established by the most recent census of the state. The Secretary of LED shall determine the association of the EDOs for each region with which the department will enter into a CEA through which deliverables reflective of the goals and objectives of this program shall be established. The EDO identified by the Regional Association and approved by LED as the fiduciary agent for the region shall be responsible for coordination within the region to provide for the delivery of certain administrative documents. The costs related to the production of these documents are to be paid for using funds provided by Louisiana Economic Development (LED).

B. Each region shall produce the following core deliverables as a minimum: A labor survey, (regional funds may also be used to pay for synchronist use fees), an inventory of industrial/commercial buildings, an inventory of industrial/commercial building sites, an inventory of industrial parks with available building sites, a comprehensive existing business and industry report (regional overview, major employers, etc.), a comprehensive feature attraction report, a comprehensive new infrastructure report, and all available annual reports from major institutions within the region (colleges, hospitals, etc.). LED, at its sole discretion, may also require additional deliverables

from any region. The balance of regional funds available shall be spent based on a written plan submitted to and approved by LED. This plan will be approved by the issuance and execution of a Cooperative Endeavor Agreement which will be drafted by LED after submission of a Regional Award application.

C. At a minimum, each regional association shall demonstrate the following to the Secretary of LED:

1. that its core responsibility is to market and promote the recruitment of new and diversified businesses in accordance with a regional marketing plan;
2. that it will act in a fiduciary manner for the EDOs of the region;
3. that it has the capacity to administer the cooperative endeavor agreements (CEAs) for the region;
4. that it has the capacity to act as a fiscal agent for the funds made available to the region in accordance with the CEA;
5. that it is constituted by EDOs representing a majority of the parishes and a majority of the population in the region;
6. that the terms of agreement through which the regional association operates provide for participation by the EDO of each parish of the region through rotation of duties and responsibilities in the administration of the deliverables, goals, objectives and funding of the CEA between the association and LED;
7. that it is acting to market and promote regional development in accordance with a Regional Marketing Plan that is either established by the association or is adoptive of the strategic marketing plans developed by the EDOs comprising the association; and
8. notwithstanding population percentages for each region, the minimum funding for any region is \$150,000 and the maximum amount of funding for any region is \$500,000.

D. LED and each regional association shall enter into agreements that shall include deliverables, goals and objectives for projects to be funded by the regional association for eligible EDOs in the region. In addition to deliverables, goals and objectives and such other necessary terms and conditions as may be provided by the CEA between LED and the regional association, projects shall be funded only upon providing the following:

1. a detailed budget and complete description of fund use;
2. demonstration that regional marketing initiatives are being addressed through the funding;
3. use of no more than 20 percent of the funding for eligible administrative costs;
4. data base, labor surveys, real estate information, industrial site and building surveys and selection and other empirical data obtained or used in connection with the award shall be provided to the LED for its research and data collection use;
5. the Secretary of LED may vary the terms and conditions of the CEA with regional associations including deliverables, goals and objectives and exhibits in order to accomplish necessary and appropriate marketing and promotion of business and industrial development and redevelopment in those regions including parishes of the state most affected by the hurricanes of 2005; and

6. the agreement shall provide for submission of projects meeting the goals and objectives of the agreement by the regional association for advance approval by LED and for funding of the project by LED upon completion of the project and the submission by the regional association of the deliverables in accordance with the goals and objectives of the agreement.

E. Tier 1—LED Regional Funds—Eligible Uses

Tier 1—LED Regional Funds—Eligible Uses
Examples of eligible projects to be included by exhibit to the cooperative endeavor agreements between LED and the regional economic development associations:
<ul style="list-style-type: none"> • Specific, time-limited research studies. • Up to 20 percent of funds may be used for administrative costs (e.g., salaries, benefits etc.) • Promotion through inclusion in computer databases to targeted audiences such as relocation consultants. • Direct mail pieces to targeted audiences such as relocation consultants (does not include postage). • Trade show exhibit fees and/or registration fees for out-of-state events that support national or international strategic marketing events. Costs may include booth design, giveaway items or other show specific costs. No individual participant registration, travel or per diem costs. • Production of printed materials, such as brochures and inserts. • Production of slide presentations, videotapes, DVDs and CD ROMs intended for dissemination to relocation consultants, corporate executives, or other industry or business representatives involved in expansion or relocations activities. • Advertising through mass media, including newspaper, magazines, radio, television, Internet and billboards. • Public relations expenses related to the production of an event, such as production of media kits, media training, ongoing media contact, on-site coordination of media, set-up of interview area and media room, and costs associated with special broadcast media set-up requirements. • Design of an Internet web site, not for ongoing Internet access or website hosting costs. • Familiarization tours for site location consultants. To be used for consultant related expenses only, and may include consultant travel, meals, and lodging.

F. Tier 1—LED Regional Funds—Ineligible Uses

Tier 1—LED Regional Funds—Ineligible Uses
Examples of ineligible projects to be included by exhibit to the cooperative endeavor agreements between LED and the regional economic development associations. Examples of ineligible projects or expenses:
<ul style="list-style-type: none"> • Salaries, benefits or administrative fees exceeding 20 percent of funds provided. • Entertainment. • Overhead expenses (office space, furniture, fixtures, equipment, etc.). • Travel, food, beverages, and/or lodging for any persons. This includes volunteers and paid staff of economic development organizations. • Equipment purchases/rentals. • Beauty pageants, parades, school advertising, local promotions, sponsorships and things of a similar nature. • Promotional items, unless part of an out-of-state marketing activity. • Stationery, toll-free numbers, membership solicitation literature. • Unreasonable and excessive agency costs that exceed 25 percent of the total cost for printed material (Agency costs are costs not billed directly from prepress, printing, illustrations or photography by vendors.). • Unreasonable or excessive technical costs. • Construction costs. • Activities or materials that violate the law. • Internet access or web site hosting costs.

Tier 1—LED Regional Funds—Ineligible Uses
• Organization membership directories.
• Trade show/expo hosting or sponsorships.
• Alcoholic beverages.
• Infrastructure such as land, roads, utilities or buildings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:

§1711. Matching Grant Awards ("Tier 2")

A. The remainder of funds available shall be for matching grant awards. Any eligible EDO or a combination of eligible EDOs may apply to LED for a matching grant award which shall include deliverables, goals and objectives for the marketing and promotion of business and industrial development consistent with regional and statewide strategic marketing for such development. Matching Grant applications demonstrating the use or development of new or innovative programs for the marketing and promotion of business and industrial development shall be given a preference in determining suitability for the matching grant.

B. The award agreement may provide such terms and conditions as are necessary to the fulfillment of the purposes of the award and shall include the following terms and conditions:

1. the award may not exceed \$100,000;
2. the award must be matched dollar for dollar or its equivalents by the EDO or combination of EDOs making application for the award;
3. a detailed budget and complete description of fund use;
4. data, surveys and/or other empirical information obtained or used in connection with the award shall be provided to the LED for its research and data collection use; and
5. the secretary of LED may vary the terms and conditions of the award including deliverables, goals and objectives and exhibits in the parishes of the state most affected by the hurricanes of 2005 so as to use such grants or awards to achieve a stabilization of resources for the EDOs in the affected areas.

C. Tier 2—LED Matching Grant Funds—Eligible Uses

Tier 2—LED Matching Grant Funds—Eligible Uses
Examples of eligible projects to be included by exhibit to the cooperative endeavor agreements between LED and the direct grant recipients:
• Specific, time-limited research studies.
• Promotion through inclusion in computer databases to targeted audiences such as relocation consultants.
• Direct mail pieces to targeted audiences such as relocation consultants (does not include postage).
• Trade show exhibit fees and/or registration fees for out-of-state events that support national or international strategic marketing events. Costs may include booth design, giveaway items or other show specific costs. No individual participant registration, travel or per diem costs.
• Production of printed materials, such as brochures and inserts.
• Production of slide presentations, videotapes, DVDs and CD ROMs intended for dissemination to relocation consultants, corporate executives, or other industry or business representatives involved in expansion or relocations activities.

Tier 2—LED Matching Grant Funds—Eligible Uses
• Advertising through mass media, including newspaper, magazines, radio, television, Internet and billboards.
• Public relations expenses related to the production of an event, such as production of media kits, media training, ongoing media contact, on-site coordination of media, set-up of interview area and media room, and costs associated with special broadcast media set-up requirements.
• Design of an Internet web site, not for ongoing Internet access or website hosting costs.
• Familiarization tours for site location consultants. To be used for consultant related expenses only, and may include consultant travel, meals, and lodging.

D. Tier 2—LED Matching Grant Funds—Ineligible Uses

Tier 2—LED Matching Grant Funds—Ineligible Uses
Examples of ineligible projects to be included by exhibit to the cooperative endeavor agreements between LED and the direct grant recipients. Examples of ineligible projects or expenses:
• Salaries, benefits or administrative fees.
• Entertainment.
• Overhead expenses (office space, furniture, fixtures, equipment, etc.).
• Travel, food, beverages, and/or lodging for any persons. This includes volunteers and paid staff of economic development organizations.
• Equipment purchases/rentals.
• Beauty pageants, parades, school advertising, local promotions, sponsorships and things of a similar nature.
• Promotional items, unless part of an out-of-state marketing activity.
• Stationery, toll-free numbers, membership solicitation literature.
• Unreasonable and excessive agency costs that exceed 25 percent of the total cost for printed material (Agency costs are costs not billed directly from prepress, printing, illustrations or photography by vendors.).
• Unreasonable or excessive technical costs.
• Construction costs.
• Activities or materials that violate the law.
• Internet access or web site hosting costs.
• Organization membership directories.
• Trade show/expo hosting or sponsorships.
• Alcoholic beverages.
• Infrastructure such as land, roads, utilities or buildings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:

Family Impact Statement

This proposed Rule 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) not later than 5 p.m., on Friday, November 24, 2006.

Michael J. Olivier
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Regional Awards and
Matching Grant Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Legislature appropriated \$75,000 and one position to administer this new program. Other than this, there will be no incremental costs or savings to state or local governmental units due to the implementation of these Rules and this Program. Current staff of the Department will be sufficient to process and monitor these Rules within this Program. Other than the appropriated amount and position shown above, there will be no increase to costs or savings. Any other needed funding for this Program will come from the regular authorized appropriations received by the Department of Economic Development.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no expected impact or effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There are no anticipated additional costs to directly affected persons or non-governmental groups. The economic benefits of these Rules will assist eligible non-profit economic development organizations (EDOs) in their comprehensive and strategic marketing and/or marketing and/or recruitment plans for towns, cities, parishes and regions as a site for new Regional Awards and Matching Grant Awards, which will help to successfully secure the location, expansion, creation or retention of businesses for Louisiana and jobs for Louisiana citizens. Such awards will also cause new or expanding Louisiana-based businesses to make new investments or increase their existing investment in Louisiana-based economic development projects, and will create and/or retain jobs for Louisiana citizens. These Rules will help to enhance the growth and stability of Louisiana's entrepreneurial business and/or industrial environment by making available regions to support this environment; and they are also intended to take advantage of opportunities for business development in Louisiana, provide assistance in the formation and expansion of businesses in Louisiana, encourage the creation of jobs, including Quality Jobs, for the citizens of Louisiana, increase the State's production capabilities, and increase the diversification of the State's economy; all of which will enhance and expand economic development throughout Louisiana and improve the standard of living and the quality of life of Louisiana citizens.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

Investments in eligible non-profit economic development organizations (EDOs) and in their comprehensive and strategic marketing and/or recruitment plans for towns, cities, parishes and regions as a site for new and expanding Louisiana-based businesses 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 EDOs and their comprehensive and strategic marketing and/or recruitment plans, 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.

Richard House
Executive Counsel
0610#075

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of the Secretary
Office of Business Development
Louisiana Economic Development Corporation**

**Workforce Development and Training Program
(LAC 13:III.303 and 311)**

The Department of Economic Development, the Office of the Secretary, the Office of Business Development, and the Louisiana Economic Development Corporation, 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. 51:2331 et seq., 36:104, 36:108 and 51:2312, hereby give notice of their intent to amend and supplement portions of LAC 13:Part III, Chapter 3, being the Rules of the Workforce Development and Training Program.

The Department of Economic Development, the Office of the Secretary, the Office of Business Development, and the Louisiana Economic Development Corporation, have found a need to amend and supplement the Rules for the regulation of the Workforce Development and Training Program in order to provide in Section 303 thereof a definition of the term "Quality Jobs"; and to amend and provide in Section 311, Subsection B.1, that the creation of jobs meeting Louisiana standards for quality jobs or the training of employees holding jobs meeting Louisiana standards for quality jobs satisfies the criteria for awards under this program. These revisions to these Rules will help to enhance the growth and stability of Louisiana's entrepreneurial business and/or industrial environment by making available awards under this program to businesses creating such quality jobs and/or training employees holding such quality jobs; and without these revisions the state may suffer the loss of business investment and economic development projects which would create or retain jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

**Chapter 3. Workforce Development and Training
Program**

§303. Definitions

* * *

Quality Jobs—employed positions which are not temporary positions meeting the Louisiana standards for *quality jobs* as provided by the "Louisiana Quality Jobs Program Act", R. S. 51:2451 through 2462, as codified in the

Louisiana Administrative Code, Title 13, Part I, Chapter 11, Sections 1101 through 1131, as amended.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq., 36:104, 36:108 and 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:44 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:242 (February 1999), LR 25:1665 (September 1999), LR 26:241 (February 2000), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:1065 (July 2003), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development, and Louisiana Economic Development Corporation, LR 33:

§311. Criteria

A. - A.4. ...

B. Pre-Employment, Upgrade and On-the-Job Training

1. Applicants must create in this state at least 10 net new full-time permanent jobs or at least 10 net new jobs meeting Louisiana standards for quality jobs, unless upgrade training is involved. Upgrade training must be provided to a minimum of 10 full-time permanent employees or to a minimum of 10 employees holding jobs meeting Louisiana standards for quality jobs.

B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq., 36:104, 36:108 and 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:45 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1642 (December 1997), LR 25:243 (February 1999), LR 25:1666 (September 1999), LR 26:242 (February 2000), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:1066 (July 2003), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development, and Louisiana Economic Development Corporation, LR 33:

Family Impact Statement

This proposed Rule 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) not later than 5 p.m., on Friday, November 24, 2006.

Michael J. Olivier
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Workforce Development
and Training Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs or savings to state or local governments from these proposed rule changes. The proposed rule is a technical change to make rules consistent with current statutes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected impact or effect on revenue collections of state or local governmental units from the proposed rule changes.

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 from the proposed rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated costs effects on competition or employment from the proposed rule changes.

Richard House
Executive Counsel
0610#074

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State
Accountability System
(LAC 28:LXXXIII.307, 409, 515,
703-707, 3905, 4001, and 4527)

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 111—The Louisiana School, District, and State Accountability System* (LAC 28, Part Number 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.

These changes take advantage of new and existing flexibility outlined in guidance for No Child Left Behind and address situations, including changes necessitated in response to the hurricanes of 2005, which were not considered when the accountability policy was initially written.

**Title 28
EDUCATION**

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

§307. Incentive Points

A. Students repeating the 4th or 8th grade must retake all parts of the LEAP exam.

B. If, during spring testing, a repeating 4th grade student or Option I 8th grade student scores at a higher achievement level on a LEAP test of mathematics, English language arts, science or social studies than any previous attempt (of the same test), the retaining school shall receive 50 incentive points per improved subject in its accountability index. A student may earn a maximum of 200 incentive points for his/her school.

C. Beginning with summer school results in 2005, if a 4th or 8th grade student scores at a higher achievement level on a LEAP test of mathematics or English language arts than any previous attempt (of the same test), the school where the student tested in the previous spring earns 50 incentive points per improved subject. The incentive points will be included in School Performance Score calculations the following academic year.

D. - E. ...

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

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), LR 33:

F. Example of 9-12 Assessment Index Calculation

1. Non-dropout rates in this example are; 9th-95.0 percent, 10th-98.0 percent, and 11th-99.0 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), amended LR 33:

§515. State Assessments and Accountability

A. - E. ...

F. Scores shall not be included in school performance score calculations for LEP students who have not been enrolled in a school in the United States for one full school year.

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

§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 4.0 percent (100.0% - 9th grade DO rate + 4.0%).

2. The 10th grade dropout adjustment factor is the product of the previous year's 9th grade non-dropout rate plus 4.0 percent and the 10th grade non-dropout rate plus 4.0 percent [(100.0% - 9th grade DO rate + 4.0%) x (100.0% - 10th grade DO rate + 4.0%)].

3. The 11th grade dropout adjustment factor is the product of the previous year's 9th grade non-dropout rate plus 4.0 percent and the 10th grade non-dropout rate plus 4.0 percent and the 11th grade non-dropout rate plus 4.0 percent [(100.0% - 9th grade DO rate + 4.0%) x (100.0% - 10th grade DO rate + 4.0%) x (100.0% - 11th grade DO rate + 4.0%)].

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 C, above.

E. Divide the sum from step D, above, by the sum of all weights applied to subject-test index scores from the table above (in C). This quotient is the 9-12 Assessment Index.

2003), amended LR 31:2422 (October 2005), LR 32:1022 (June 2006), LR 33:

§703. Inclusion of Students in the Subgroup Component

A. - A.2. ...

3. Not exempted from testing due to medical illness, death of the student's family member(s), or the student being identified as LEP and in a-school in the United States for less than one full academic year.

B. - C.2. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2256 (October 2004),

LR 30:2445 (November 2004), LR 31:912 (April 2005), LR 31:2762 (November 2005), LR 33:

§705. AMO

A. The Annual Measurable Objective (AMO) is the percent of students required to reach the proficient level in a given year on the standards-based assessments, which through 2005 will include English language arts and mathematics tests for 4th, 8th, and 10th grades.

1. Proficient = a score of basic, mastery or advanced.
2. Beginning in 2006, English language arts and mathematics test results from grades 3-8 and 10 LEAP, GEE, iLEAP, LAA 1, and LAA 2 will be used to calculate the percent proficient for the Subgroup Component (for schools and Districts).

B. - E. ...

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 33:

§707. Safe Harbor

A. - D. ...

E. For 2005-06 only, Safe Harbor calculations (for schools and Districts) shall not use iLEAP or LAA 2 results.

F. Beginning in 2006-07 for schools and Districts, English language arts and mathematics test results from grades 3-8 and 10 LEAP, GEE, iLEAP, LAA 1, and LAA 2 will be used to calculate the reduction of non-proficient students in Safe Harbor.

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 33:

§3905. Inclusion of Alternate Assessment Results

A. Beginning with the 2005-2006 Baseline SPS and Subgroup AYP calculations, LEAP Alternate Assessment Level 1 and Level 2 shall be included in all SPS and Subgroup AYP calculations.

B. LAA 1 scores shall be converted according to the following scale.

LAA 1 Score	Level	Assessment Points
0.00-0.49	Unsatisfactory	0
0.50-2.49	Approaching Basic	50
2.50-3.49	Basic	100
3.50-4.49	Mastery	150
4.50-5.00	Advanced	200

1. Students taking LAA 1 or LAA 2 exams shall be included in accountability calculations at the grade level in which they are enrolled in the Student Information System (SIS).

C. LAA 2 shall first be administered in Spring 2006 to students in grades 4, 8, 10, and 11. In Spring 2007, LAA 2 shall be given in grades 4-11.

1. Each LAA 2 exam will be assigned 1 of 4 performance levels (Basic, Approaching Basic, Foundational, and Pre-Foundational) and each performance level will be assigned points for use in assessment index calculations as follows.

LAA 2 Performance Level	Assessment Points
Basic	100
Approaching Basic	75
Foundational	50
Pre-Foundational	0

2. Students scoring Basic on a LAA 2 exam will be considered Proficient in Subgroup Component calculations.

D. Students participating in either LEAP Alternate Assessment Level 1 (LAA 1) or Level 2 (LAA 2) will be assigned scores of zero in SPS component calculations and scores of non-proficient in subgroup component calculations if they do not meet the specific participation criteria as stated in *Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities*.

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 30:767 (April 2004), LR 31:2763 (November 2005), LR 33:

§4001. Proficient in English

A. To be considered English proficient a student who is limited English proficient must score for:

1. Two Years
 - a. at Basic or above on all subjects of the LEAP, GEE, iLEAP, LAA 1, and/or LAA 2 assessments, and/or
 - b. at or above the 40th percentile composite score on IOWA (through Spring testing 2005), and
2. One Year
 - a. at the Full English Proficiency Level V on the English Language Development Assessment (ELDA) in listening, speaking, reading, and writing;
3. if, after scoring Level V on all four domains of ELDA, a limited English proficient student:
 - a. for three consecutive years does not score Basic or above at least twice on all subjects of the LEAP, GEE, iLEAP, LAA 1, and/or LAA 2; and
 - b. after evaluation, it is determined the academic difficulties are not a result of a lack of proficiency in English;
 - c. the student shall no longer be classified as limited English proficient.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004), amended LR 33:

§4527. Disaster Considerations for the School and District Subgroup Component

A.1. Schools and districts shall receive a one year exclusion from the Subgroup Component in accountability if they:

- a. reside within the boundaries of parishes declared natural disaster areas by the President of the United States; and
- b. were closed due to the declared disaster for 18 consecutive school days.

2. Any school eligible for this exclusion that does pass the Subgroup Component shall be considered as passing the Subgroup Component.

B. For the Subgroup Component in 2006 and for all schools not excluded in Subsection A (above), displaced students shall comprise a separate subgroup and be excluded from all other subgroups.

1. The Displaced Students subgroup shall be evaluated for participation, and any school or district that did not test at least 95.0 percent of these students in ELA and math will fail the Subgroup Component.

2. The Displaced Students subgroup test results shall be reported on all appropriate Subgroup Component reports; but:

a. schools will not be classified as failing the Subgroup Component as a result of the academic performance of the Displaced Students subgroup.

3. Due to the one year lag in attendance and dropout/graduation data, and as required by the U.S. Department of Education, the Displaced Students subgroup attendance and dropout/graduation data shall be used in 2006-2007 in the appropriate subgroups, not as displaced students. District should make extra effort during the clean-up period to verify that any exit and attendance data is accurate.

4. All students in the Displaced Students subgroup that did not score proficient in ELA and/or math at the 2006 spring test administration must receive remediation in academic year 2006-2007.

5. The displaced students shall not be considered a separate subgroup the following academic year.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1414 (August 2006), amended LR 33:

Family Impact Statement

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 comments until 4:30 p.m., December 9, 2006, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: The Louisiana School, District, and State Accountability System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs (savings) to state governmental units.

These changes are in response to new and existing flexibility outlined in No Child Left Behind and address situations not considered when policy was initially written, including changes necessitated in response to the hurricanes in 2005.

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 estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
0610#077

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment
Standards and Practices
(LAC 28:XCI.105, 107, 109, 111, 305, 307, 309, 311,
312, 313, 315, 501, 511, 1801, 2301, 2303, 2305,
2307, 2309, 2311, 2313, 2315, 2317, 2319, 2321,
2323, 2701, 3305, 3306, 3307, 3501, and 3509)

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 118—Statewide Assessment Standards and Practices*. Bulletin 118 contains the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration.

Title 28

EDUCATION

Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 1. General Provisions

§105. Testing and Accountability

A. - B. ...

C. All LEAs must administer all assessments according to the testing schedule dates approved by SBESE.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1526 (July 2005), amended LR 33:

§107. Assessment Programs

A - G. ...

H. End-of-Course Tests (EOCT). The EOCT will be administered to high school students enrolled in and/or receiving credit for an EOCT course online beginning fall 2007. The tests, criterion-referenced and standards-based will be phased in over a period of six years to assess student mastery of eight high school courses.

I. The Iowa Tests. The Iowa Tests of Basic Skills (ITBS), used in grades 3, 5, 6, and 7, and the Iowa Tests of Educational Development (ITED), used in grade 9, are norm-referenced tests that provide comparative data to evaluate student, school, and district performance. The last administration of The Iowa Tests will occur in the academic year 2004-2005.

J. Graduation Exit Examination ("old" GEE). The "old" GEE measures curricula-based proficiencies in English Language Arts, Mathematics, Written Composition, Science, and Social Studies. The administration of the "old" GEE became a district responsibility beginning with the 2003-2004 academic year.

K. LEAP Alternate Assessment-B (LAA-B). The LAA-B, which was administered from 2000 through 2003, assessed special education students who met specific criteria at their functioning levels in language/reading and/or mathematics, rather than at their enrolled grade levels.

L. National Assessment of Educational Progress (NAEP). Also known as the Nation's Report Card, NAEP is administered nationally to a random stratified sample population of students to gather data about subject-matter achievement, instructional experiences, and school environment.

M. Field Tests. Representative student populations from school districts throughout Louisiana are chosen to field test new items to be used in future statewide assessments, including LEAP, GEE, ELDA, and iLEAP. The items are tested, scored, ranked statistically, and identified as effective or ineffective.

N. Placement Tests. Students from out-of-district or in-state educational settings, such as approved home study programs or nonpublic schools, who wish to enroll in public schools at grades 5 and 9 must take a placement test if they have not taken and met the requirements for LEAP. Students taking the placement test must score basic or above in English Language Arts or Mathematics and approaching basic or above in the other to enroll in grade 5 and score approaching basic or above in English Language Arts and Mathematics to enroll in grade 9.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1526 (July 2005), amended LR 32:233 (February 2006), LR 33:

§109. Assessment Populations

A. - A.3.c. ...

d. limited English proficient students. These are students who are aged 3 through 21; who were not born in the United States or whose native language is a language other than English; who are Native Americans or Alaska Natives or native residents of the outlying areas and come from an environment where a language other than English has had significant impact on their level of English language proficiency; or who are migratory, whose native language is a language other than English, and who come from an environment where a language other than English is dominant; and whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny them:

A.3.d.i. - B.5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1527 (July 2005), amended LR 33:

§111. Limitations on Public Release of Assessment Data

A. When the total N-count in any reporting category or group on an assessment report is nine or less, do not release the assessment data publicly.

B. When the total N-count in any reporting category or group on an assessment report is ten or greater and all students are reported at one achievement level, do not release the assessment data publicly.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Chapter 3. Test Security

§305. Test Security Policy

A. - A.1.b. ...

2. For purposes of this policy, school districts shall include:

a. local education agencies (LEAs) as well as the Recovery School District (RSD);

2.b. - 3.h. ...

i. conduct testing in environments that differ from the usual classroom environment without prior written permission from the LDE, Division of Standards, Assessments, and Accountability;

j. fail to report any testing irregularities to the district test coordinator (a testing irregularity is any incident in test handling or administration that leads to a question regarding the security of the test or the accuracy of the test data), who must report such incidents to the LDE, Division of Standards, Assessments, and Accountability;

k. ...

4. Each school district as described in this policy shall develop and adopt a district test security policy that is in compliance with the state's test security policy. A Statement of Assurance regarding the LEA's test security policy must be submitted annually to the LDE, Division of Standards, Assessments, and Accountability. This statement must include the name of the individual designated by the district superintendent or institution to procure test material. The policy shall provide:

4.a. - 9.b. ...

c. Any discrepancies noted in the security numbers of test booklets, answer documents, and any supplementary secure materials (e.g., writing prompts, science tasks), or the quantity received from contractors must be reported to the LDE, Division of Standards, Assessments, and Accountability, by the designated institutional or school district personnel prior to the administration of the test.

d. In the event that test booklets, answer documents, or supplementary secure materials (e.g., writing prompts, science tasks) are determined to be missing while in the possession of the institution or school district or in the event of any other testing irregularities or breaches of security, the designated institutional or school district personnel must immediately notify by telephone the LDE, Division of Standards, Assessments, and Accountability, and follow the detailed procedures for investigating and reporting specified in this policy.

e. ...

f. Each district superintendent or institution must annually designate one individual in the district or institution as district test coordinator, who is authorized to procure test materials that are utilized in testing programs administered by or through the SBESE of the LDE. The name of the individual designated must be provided in writing to the LDE, Division of Standards, Assessments, and Accountability, and included on the Statement of Assurance.

g. Testing shall be conducted in class-sized groups. Bulletin 741 (913A) states that K-3 classroom enrollment should be no more than 26 students, and in grades 4-12, no more than 33, except in certain activity types of classes in which the teaching approach and the material and equipment are appropriate for large groups. For grades K-8, the maximum class size for Health and Physical Education classes may be no more than 40. Class size for exceptional students is generally smaller Bulletin 741, (915). Permission for testing in environments that differ from the usual classroom environment must be obtained in writing from the LDE, Division of Standards, Assessments, and Accountability, at least 30 days prior to testing. If testing outside the usual classroom environment is approved by the Division of Standards, Assessments, and Accountability, the school district must provide at least one proctor for every 30 students.

9.h. - 13. ...

14. School districts must ensure that individual student test data are protected from unauthorized access and disclosure.

a. The Louisiana Department of Education's LEAPdata Query and LEAPweb Reporting Systems contain students' private information, including state test scores and state identification numbers. The systems are password protected and require a user ID and an assigned password for access. The systems are not for public use, and any student information from the systems must not be disclosed to anyone other than a state, district, or school official as defined by the Family Educational Rights and Privacy Act of 1974 (FERPA). A state, district, or school official is a person employed by the state, district, or school as an administrator, supervisor, district test coordinator, school test coordinator, principal, teacher, or support staff member. This person has a legitimate educational interest if he/she needs to review an education record in order to fulfill his or her professional responsibility. Curiosity does not qualify as a right to know. State, district and school officials who are granted a password to this system must abide by FERPA law. Disclosure of passwords to anyone other than the state, district, or school official(s) is prohibited. Disclosure of a student's data to their parent or guardian must be in accordance with FERPA. For more information on FERPA, see the U.S. Department of Education Web page at <http://www.ed.gov/offices/OM/fpc/ferpa/>.

i. LEAPweb Reporting System. At the school level, only principals (not teachers) and their designated school personnel (test coordinators or those with whom the principal shares his/her PIN) must sign a security agreement and send to the DTC to keep on file at the district for three years.

ii. LEAPdata Query System. All school users (e.g., teachers, counselors, test coordinators) must sign the security agreement and return it to the principal to keep on

file at the school for three years. A new security agreement should be signed by all users each year after the new password letters for schools are automatically generated in August. If a breach in security occurs, principals should immediately contact the DTC or the backup DTC for a replacement password.

iii. Security agreements must also be signed by DTCs for the LEAPweb Reporting and LEAPdata Query Systems and returned to the LDE.

b. Users who have access to these systems and leave their positions at a district or school site must not use or share the password.

15. District test coordinators are responsible for providing training regarding the security and confidentiality of individual student test data (in paper and electronic formats) and of aggregated data of fewer than 10 students.

16. LDE staff will conduct site visits during testing to observe test administration procedures and to ensure that appropriate test security procedures are being followed. Schools with prior violations of test security or other testing irregularities will be identified for visits. Other schools will be randomly selected.

17. Any teachers or other school personnel who breach test security or allow breaches in test security shall be disciplined in accordance with the provisions of R.S. 17:416 et seq., R.S. 17:441 et seq., R.S. 17:81 et seq., policy and regulations adopted by the SBESE, and any and all laws that may be enacted by the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.7 (C) (G).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 32:233 (February 2006), LR 33:

§307. Change of District Test Coordinator Notification

A. If during the academic year the person appointed as district test coordinator changes, the district superintendent must notify the LDE, Division of Standards, Assessments, and Accountability. The notification must be in writing and must be submitted within 15 days of the change in appointment.

1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:234 (February 2006), LR 33:

§309. Erasure Analysis

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

4. Once districts, schools, and individual students have been identified, the state superintendent of education sends letters to district superintendents stating that students in those districts have been identified as having excessive wrong-to-right erasures. Based on the number of erasures found, scores for students exceeding the four-standard-deviation criterion will be voided. Individual student reports from the testing program will reflect the voided scores. In the aggregation of scores at the school, district, and state levels, each voided score will have the effect of a zero score. Copies of the District/School and Student Erasure Analysis reports are enclosed with the letters. Copies of the correspondence are provided to the deputy superintendent of education, the assistant superintendent of the Office of Student and School Performance, the director of the Division

of Standards, Assessments, and Accountability, and the district test coordinator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:234 (February 2006), LR 33:

§311. Addressing Suspected Violations of Test Security and Troubling Content in Written Responses (Constructed Responses, Short Answers, and Essays)

A. - A.1.c. ...

d. The district test coordinator must then fax a completed void form to the LDE, Division of Standards, Assessments, and Accountability, as directed in the *District and School Test Coordinators Manual*. The original Void Verification form, along with a copy of the school test coordinator's request for the void, must also be mailed to the LDE, Division of Standards, Assessments, and Accountability, as directed in the manual.

2. Reported Violations by School Personnel or Other Persons. All suspected instances of cheating should be reported directly to the school's district test coordinator for further investigation, and a report of the incident must be sent to LDE, Division of Standards, Assessments, and Accountability. If it is deemed necessary to void tests, the DTC must fax a completed void form to the LDE, Division of Standards, Assessments, and Accountability. The original Void Verification form along with a written report of the investigation carried out must be mailed the LDE, Division of Standards, Assessments, and Accountability.

3. - 3.a.iii. ...

b. If possible incidents of violations are discovered in the scoring process, the scoring contractor notifies the LDE, Division of Standards, Assessments, and Accountability, of suspect documents with a summary of its findings.

c. Professional assessment and related-content personnel from the Division of Standards, Assessments, and Accountability review the suspect documents and determine whether the evidence supports voiding the responses.

d. If voiding is recommended, LDE mails the district superintendent a letter of what was observed during the scoring process that caused the alert and identifies the particular document that was voided. Copies of the correspondence are provided to the deputy superintendent of education, the assistant superintendent of the Office of Student and School Performance, the director of the Division of Standards, Assessments, and Accountability, and the local district test coordinator.

i. Within 30 calendar days of the receipt of such a letter, the district must investigate the incident and provide a written plan of action to the state superintendent of education. If the district and/or parent/guardian(s) wish to discuss the situation further or to examine the student responses, a meeting may be scheduled at the LDE offices between staff members from the Division of Standards, Assessments, and Accountability, district representatives, and parent/guardian(s).

4. Disturbing Content. If student responses with disturbing content are discovered during the scoring process, the scoring contractor will notify the appropriate staff

member at the LDE, Division of Standards, Assessments, and Accountability.

a. - b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1531 (July 2005), amended LR 33:

§312. Administrative Error

A. Administrative errors by school personnel that results in a question regarding the security of the test or the accuracy of the test data are considered testing irregularities. If it is deemed necessary to void the test, the district test coordinator must fax a completed void form to the LDE, Division of Standards, Assessments, and Accountability, as directed in the District and School Test Coordinators Manual. The original Void Verification form, along with a copy of the account of the incident, must also be mailed to the LDE, Division of Standards, Assessments, and Accountability, as directed in the manual.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 32:390 (March 2006), amended LR 33:

§313. Viewing Answer Documents

A. ...

B. The district test coordinator must send a written request to view the answer document to the LDE, Division of Standards, Assessments, and Accountability. The request must include:

B.1. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1532 (July 2005), amended LR 32:234 (February 2006), LR 33:

§315. Emergencies during Testing

A. - A.6. ...

7. If test security has been compromised, the district test coordinator must notify the LDE, Division of Standards, Assessments, and Accountability, as soon as possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1532 (July 2005), amended LR 32:234 (February 2006), LR 33:

Chapter 5. Test Coordinator Responsibilities

Subchapter A. District Test Coordinator

§501. District Test Coordinator Role

A.1. - A.2.m. ...

n. reporting immediately to the LDE, Division of Standards, Assessments, and Accountability, any missing test booklets or answer documents and returning them to test contractors if they are found;

o. investigating any testing irregularities and reporting them to the LDE, Division of Standards, Assessments, and Accountability;

p. reporting to the LDE, Division of Standards, Assessments, and Accountability, instances of students marking in a wrong section of the answer document;

q. ...

r. returning any secure materials used for test accommodations, such as transparencies or computer disks, to the LDE, Division of Standards, Assessments, and Accountability;

s. maintaining the district password and all school passwords within the district that are used with LEAPweb Reporting System and the LEAPdata Query System;

t. training district and school users within a district to effectively use the systems; ensure they are familiar with the Family Educational Rights and Privacy Act (FERPA) law governing confidentiality of student records, and ensure they have signed a security agreement before receiving a password for access to the LEAPdata Query System;

u. ensuring:

i. that all district/school users maintain the security of and access to all student information obtained via the LEAPweb Reporting and LEAPdata Query systems;

ii. that all school users are aware that student test data shall not be disclosed to anyone other than another school official and only for a legitimate educational purpose.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1533 (July 2005), amended LR 33:

Subchapter B. School Test Coordinator

§511. School Test Coordinator Role

A. - A.7. ...

8. noting any discrepancies in the count or numbering of test booklets or answer documents from that recorded on the security check off lists from the testing contractor.

9. - 20. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1533 (July 2005), amended LR 33:

Chapter 18. End-of-Course Tests

§1801. Description

A. The EOCT tests, which are criterion-referenced and standards-based, will be available online to high school students beginning in fall 2007. The tests will be phased in over a period of six years, beginning with Algebra I. In the first years of administration, district participation will be voluntary. Policies regarding the use of EOCT results shall be determined by the district's local pupil progression plan. The tests measure the knowledge and skills a student should have mastered by the end of the course. The results of the EOCT will help ensure that all Louisiana students have access to a rigorous curriculum that meets high academic standards. The tests will assess student learning in eight high school courses:

1. Algebra I;
2. Geometry;
3. English I;
4. English II;
5. Biology;
6. American History;
7. Civics; and
8. Free Enterprise.

B. For those districts opting to participate in EOCT assessment, any student enrolled in and/or receiving credit for an EOCT course, regardless of grade and inclusive of middle school students taking high school courses for high school credit, is required to take the EOCT upon completion of that course.

C. EOCT will be offered at the end of the fall and spring semesters.

1. Students completing the course at the end of the fall semester participate in the fall test.

2. Students completing the course at the end of the spring semester participate in the spring test.

D. Retests will not be offered for EOCT.

E. Since these tests are being developed for use in Louisiana schools, any school selected for field tests shall participate in the field tests.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Chapter 23. English Language Development Assessment (ELDA)

Subchapter A. Background

§2301. Overview

A. The NCLB of 2002 Title III (20 USCS §6301 et seq.) requires standards-based assessment of the progress of all LEP students enrolled in grades kindergarten through 12 in attaining English proficiency, including a student's level of comprehension, speaking, listening, reading, and writing skills in English. ELDA grade cluster 3-12 was field-tested in spring 2004 and implemented during spring 2005. Grade cluster K-2 was field tested in spring 2005. Full implementation of ELDA in kindergarten through 12 occurred in spring 2006.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1557 (July 2005), amended LR 33:

Subchapter B. General Provisions

§2303. Introduction

A. ELDA is composed of tests in four grade clusters (Kindergarten-2, 3-5, 6-8, 9-12) in the four language domains (reading, writing, listening, and speaking). It assesses both the academic and school/social environment language of students. ELDA is vertically linked across grade clusters and has five levels of proficiency descriptors ranging from level 1, which has a realistic definition of English proficiency for beginners, to level 5, which has a rigorous definition of full English proficiency.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter C. ELDA Test Design

§2305. Format

A. ELDA test design consists of:

1. Inventory. Observation in grade levels K-2;
2. Multiple choice items (MC). Grade levels 3-12;
3. Short Constructed Responses (SCR). Grade levels 3-12;

4. Extended Constructed Responses (ECR). Grade levels 3-12.

	Listening	Speaking	Reading	Writing
K	Inventory with specified tasks	Inventory with specified tasks	Inventory with specified tasks	Inventory with performance activities
1-2	Inventory with specified tasks	Inventory with specified tasks	Inventory with specified tasks	Inventory with performance activities
3-5	50 MC	16 SCR	50 MC	3 SCR 1 ECR 15 MC
6-8	50 MC	16 SCR	50 MC	3 SCR 1 ECR 15 MC
9-12	50 MC	16 SCR	50 Multiple Choice	4 SCR 1 ECR 15 MC

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter D. Target Population

§2307. Participation Criteria

A. Limited English Proficient students. A student who is aged 3 through 21; who is enrolled in an English-speaking elementary school or secondary school for less than a year; who was not born in the United States or whose native language is a language other than English; who is a Native American or Alaska Native or a native resident of the outlying areas and comes from an environment where a language other than English has had significant impact on his level of English language proficiency; or who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny them:

1. the ability to meet the state's proficient level of achievement on state assessments;
2. the ability to successfully achieve in classrooms where the language of instruction is English; or
3. the opportunity to participate fully in society.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter E. Proficiency Levels and Proficiency Standards

§2309. Proficiency Levels

A.1. The English Language Development Standards (ELDS) levels are:

- a. Level 1, Beginning Proficiency;
 - b. Level 2, Lower Intermediate Proficiency;
 - c. Level 3, Upper Intermediate Proficiency;
 - d. Level 4, Advanced Proficiency; and
 - e. Level 5, Full English Proficiency.
2. The name of the proficiency levels align with ELDS. The definition of each level is also consistent with the definitions of ELDS.

B. Proficiency Level Definitions

1. Listening Proficiency Levels

Level I, Beginning Proficiency—a student at this level is beginning to understand short utterances.

Level II, Lower Intermediate Proficiency—a student at this level understands simple statements, directions, and questions.

Level III, Upper Intermediate Proficiency—a student at this level understands standard speech delivered in most settings.

Level IV, Advanced Proficiency—a student at this level can identify main ideas and relevant details of discussions or presentations on a wide range of topics.

Level V, Full English Proficiency—a student at this level can understand and identify main idea(s) and relevant details of extended discussions or presentations on a wide range of familiar and unfamiliar topics.

2. Speaking Proficiency Levels

Level I, Beginning Proficiency—a student at this level is beginning to use gestures and simple words to communicate.

Level II, Lower Intermediate Proficiency—a student at this level can use appropriate strategies to initiate and respond to simple conversation.

Level III, Upper Intermediate Proficiency—a student at this level can communicate orally with some hesitation.

Level IV, Advanced Proficiency—a student at this level can actively engage in most communicative situations familiar and unfamiliar.

Level V, Full English Proficiency—a student at this level is fluent and accurate in language production.

3. Reading Proficiency Levels

Level I, Beginning Proficiency—a student at this level is beginning to understand simple printed material.

Level II, Lower Intermediate Proficiency—a student at this level can understand the general message of basic reading passages.

Level III, Upper Intermediate Proficiency—a student at this level can understand descriptive materials within familiar contexts and some complex narratives.

Level IV, Advanced Proficiency—a student at this level can understand the context of most text in the academic areas with support.

Level V, Full English Proficiency—a student at this level can use reading strategies the same as their native English-speaking peers to derive meaning from a wide range of both social and academic texts.

4. Writing Proficiency Levels

Level I, Beginning Proficiency—a student at this level is beginning to develop communicative writing skills.

Level II, Lower Intermediate Proficiency—a student at this level can compose short informative passages on very familiar topics.

Level III, Upper Intermediate Proficiency—a student at this level can write simple texts and short reports.

Level IV, Advanced Proficiency—a student at this level can write multi-paragraph essays, journal entries, personal/business letters, and creative texts in an organized fashion with some errors.

Level V, Full English Proficiency—a student at this level can write fluently using language structures, technical vocabulary, and appropriate writing conventions with some circumlocutions (wordy or indirect language).

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2311. Proficiency Standards

A. Proficiency standards for ELDA listening, speaking, reading, and writing tests are finalized in scaled-score form. The scaled-score ranges vary per grade cluster.

1. ELDA Proficiency Level Raw-Score Ranges

Domain	Proficiency Level 1	Proficiency Level 2	Proficiency Level 3	Proficiency Level 4	Proficiency Level 5
Kindergarten					
Listening	0–3	4–8	9–15	16–18	19–21
Speaking	0–5	6–11	12–17	18–21	22–24
Reading	0–7	8–19	20–35	36–39	40–42
Writing	0–6	7–15	16–20	21–25	26–27

Domain	Proficiency Level 1	Proficiency Level 2	Proficiency Level 3	Proficiency Level 4	Proficiency Level 5
Grade Cluster 1 - 2					
Listening	0–5	6–10	11–15	16–18	19–21
Speaking	0–7	8–12	13–17	18–21	22–24
Reading	0–9	10–21	22–30	31–38	39–42
Writing	0–7	8–16	17–20	21–24	25–27

2. ELDA Proficiency Level Scaled-Score Ranges

Domain	Proficiency Level 1	Proficiency Level 2	Proficiency Level 3	Proficiency Level 4	Proficiency Level 5
Grade Cluster 3 - 5					
Listening	100–449	450–543	547–644	645–724	725–930
Speaking	117–449	450–546	547–667	668–808	809–937
Reading	100–449	450–579	580–647	648–769	770–931
Writing	127–449	450–576	577–668	669–932	934–950

Domain	Proficiency Level 1	Proficiency Level 2	Proficiency Level 3	Proficiency Level 4	Proficiency Level 5
Grade Cluster 6 - 8					
Listening	115–553	554–625	626–717	718–805	806–941
Speaking	133–457	458–610	611–718	719–824	825–936
Reading	103–459	460–611	612–690	691–828	829–940
Writing	149–552	553–652	653–721	722–896	897–928

Domain	Proficiency Level 1	Proficiency Level 2	Proficiency Level 3	Proficiency Level 4	Proficiency Level 5
Grade Cluster 9 - 12					
Listening	118–555	556–631	632–728	729–849	850–950
Speaking	192–569	570–649	650–764	765–849	850–950
Reading	122–544	545–629	630–717	718–849	850–933
Writing	122–508	509–630	631–718	719–849	850–932

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter F. ELDA Proficiency Level Descriptors

§2313. Introduction

A. Proficiency level descriptors for ELDA assessments were developed by English Language Learners (ELL) teachers from across the Limited English Proficient State Collaborative on Assessment and Student Standards (LEP SCASS) states. The descriptors define what a student should know and be able to do at each proficiency level for each domain assessed at a given grade level.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2315. Proficiency Level Descriptors

A. Listening Proficiency Level Descriptors

Listening	
5	Students at this stage can understand a wide range of both social and academic texts available to native English speakers.
4	Students at this stage can understand the content of most texts of interest to them and, with support, most academic content areas.

Listening	
3	Students at this stage can understand short conversations on topics in everyday situations, with peers, and selected adults, either in face-to-face situations or on the telephone.
2	Students at this stage can understand simple statements, directions, and questions. Frequently request repetition and/or circumlocutions (wordy or indirect language).
1	Students at this stage have problems understanding even short utterances. May occasionally understand isolated words, such as cognates, borrowed words, or high-frequency social conventions.

B. Speaking Proficiency Level Descriptors

Speaking	
5	Students at this stage can engage in most social communication situations with confidence and mastery of complex language structures. Communication in academic areas is characterized by fluent and accurate language production with some circumlocution regarding technical vocabulary.
4	Students at this stage can handle most communicative situations with confidence but may need help with any difficulty that may arise in language production, especially in academic areas.
3	Students at this stage can initiate and sustain a conversation in face-to-face situations or on the telephone, with fluent speakers, often with hesitation and circumlocution regarding low-frequency vocabulary.
2	Students at this stage can use appropriate strategies to initiate and respond to simple statements and engage in simple face-to-face conversations with more fluent speakers of the same age group.
1	Students at this stage have no functional communicative speaking skills. May communicate with high-frequency learned words or phrases.

C. Reading Proficiency Level Descriptors

Reading	
5	Students at this stage can understand a wide range of both social and academic texts available to native English speakers.
4	Students at this stage can understand the content of most texts of interest to them and, with support, most academic content areas.
3	Students at this stage can understand more complex narrative and descriptive materials within a familiar context.
2	Students at this stage can understand simple material for informative or social purposes.
1	Students at this stage have problems understanding even the simplest of material. May occasionally be able to identify isolated words and/or phrases when strongly supported by context.

D. Writing Proficiency Level Descriptors

Writing	
5	Students at this stage are mostly able to produce fluent academic writing using language structures, technical vocabulary, and appropriate writing conventions with some circumlocutions.
4	Students at this stage can write multi-paragraph essays, journal entries, personal and business letters, and creative texts in an organized fashion but with some errors.
3	Students at this stage can write simple texts, personal and business letters, and short reports using high-frequency language.
2	Students at this stage can describe basic personal needs and compose short information passages and texts on very familiar topics.
1	Students at this stage have no practical communicative writing skills. May be able to form some individual letters or transcribe familiar words or phrases.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter G. ELDA Assessment Structure

§2317. Listening Domain Structure

A. Kindergarten–Grade 2

1. Inventory with specified tasks to be performed by the student.

B. Grades 3-12

1. The listening assessment has several steps:

a. Scripted Administration Directions. Students will be read a scripted set of directions by the test administrator.

b. Recorded Prompting. Students will complete the test using a prerecorded audiocassette or CD.

i. A narrator reads stimulus materials, questions, and possible responses to the student.

ii. Stimulus material is read two times during the narration.

iii. Questions are read one time only.

iv. Students have 10 seconds to respond, in their answer document, to each question after the narrator has read the last option.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2319. Speaking Domain Structure

A. Kindergarten-2

1. Inventory with activities to be completed by the student.

B. Grades 3-12

1. The speaking assessment has seven sections that require a student to exhibit comprehension skills responding to prerecorded prompts.

a. Practice Task 1

b. Practice Task 2

c. School—Social Interaction Tasks

d. English—Language Arts Task

e. Mathematics, Science, and Technology Tasks

f. Social Studies Tasks

g. Closing

2. The teacher scores individual student's responses to each prompt using the scoring rubrics.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2321. Reading Domain Structure

A. Kindergarten-2

1. Inventory with specified tasks to be performed by each student.

B. Grades 3-12

1. The reading tests are divided into three parts.

a. Short Passages. This section tests the student's ability to understand information in short reading passages. One or more multiple-choice questions are asked about each passage.

b. Instructions. This section tests the student's ability to understand directions. There is a different set of instructions for each question. The student will need to identify which person followed the directions correctly.

c. Longer Passages. This section tests the student's ability to understand information in longer reading passages. The student will answer several questions about each passage.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2323. Writing Domain Structure

A. Kindergarten-2

1. Inventory with specified tasks to be performed by the student.

B. Grades 3-12

1. The writing assessment is divided into three parts.

a. Open Ended. Students will write responses to prompts.

b. Revise and Edit. Students will choose the best answer to multiple choice questions, correct grammar and usage errors in passages.

c. Graphic Organizers. Students will answer multiple-choice questions about graphic organizers.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Chapter 27. Placement Tests

§2701. Administration and Scoring

A. - C. ...

D. District test coordinators score the placement tests for students taking the tests in the public school districts. The LDE, Division of Standards, Assessments, and Accountability, scores all placement tests administered by charter schools and laboratory schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1558 (July 2005), amended LR 32:239 (February 2006), LR 33:

Chapter 33. Assessment of Special Populations

§3305. Students with One or More Disabilities

According to Section 504

A. - B.1....

2. The student must undergo an annual review by the Section 504 Committee and an Individual Accommodation Plan (IAP) must be completed for each newly identified student or for each student whose accommodations have changed since his or her last test administration.

a. The IAP identifies students with disabilities as defined by the Rehabilitation Act of 1973 and the ADA. The form also must be used to document accommodations for qualified Section 504 students. School districts are responsible for completing the form once a student's eligibility has been determined.

b. Signatures. Duplicate signatures are not acceptable on the IAP. Signature lines with an asterisk must be original signatures. The parent and student signatures are optional, but it is considered best practice to obtain these. The district Section 504 coordinator's signature is required only if the student will require accommodations on statewide assessment.

B.2.c. - C.4.l. ...

D. Individualized Healthcare Plans. If a Section 504 student requires medical procedures that will prevent him or her from participating in a statewide assessment, individualized healthcare plans must be attached to the IAP.

E. Forms Management

1. Submission. A LEAP Data Validation form must be completed and submitted, along with a copy of the student's IAP, to the district Section 504 coordinator by the district-designated date. The district Section 504 coordinator should establish the deadline for collection of the forms early enough to ensure time for review before submitting them to the LDE. School districts should contact the district Section 504 coordinator regarding the deadline. The LEAP Data Validation forms should be submitted to the LDE annually.

2. Review. The IAPs will be reviewed by a committee of LDE employees and Section 504 Statewide Task Force members for any possible testing irregularities, including potential violations of test security; appropriateness; and required information that substantiates the accommodations provided during assessment. Reviews will be scheduled throughout the month of January, to be completed by January 30. District Section 504 coordinators will be notified concerning the place and time of review for their districts.

3. Extenuating Circumstances. The extenuating circumstances that will be considered for reviewing an IAP submitted after the deadline and/or after the established review period are:

a. - b. ...

F. Gifted or Talented Students with a Qualified Disability. For students who are classified as gifted or talented students and who have a qualified disability under Section 504, a Section 504 IAP must be attached to the student's IEP.

G. LEAP Summer Retest and GEE Summer, Fall, and February Seniors Only Retest. Students who were identified as Section 504 or who had accommodations added to their Section 504 IAP after the spring assessment must have a LEAP Data Validation form completed and submitted to LDE 30 days before the summer or fall retest. A copy of the IAP must be forwarded to the student's summer remediation and summer or fall testing site to ensure the student receives the appropriate accommodations for instruction and assessment.

H. GEE and "Old" GEE. Students who have completed their Carnegie units but are no longer enrolled in school should receive the accommodations documented on their last IAP.

I. Test Accommodations for both Section 504 and Special Education

1. - 3.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24 et seq., R.S. 17:391-400, R.S. 17:1941 et seq., R.S. 17:397, R.S. 17:1946, and R.S. 17:1947.1.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1560 (July 2005), amended LR 32:239 (February 2006), LR 33:

§3306. Approved Accommodations for Special Education and Section 504 Students

A. The following accommodations, if used in classroom instruction and assessment and specified on a student's IEP or IAP may be used for testing.

1. Braille

a. Braille editions of the test are provided for students who are proficient in this mode of access to written

material. The regular print edition may be modified in braille. Supplementary test administration instructions and manipulatives are provided as needed. All responses must be transferred to the scorable answer document.

2. Large Print

a. Large-print editions may be used by students who use large print as an accommodation in classroom instruction and assessment. Large-print editions contain all test items that are in the regular edition. Essentially the large-print edition is an enlarged version of the regular-print edition, though the layout may vary slightly so as not to make the document more difficult for a student to use. All responses must be transferred to the scorable answer document.

3. Answers Recorded

a. If a student is unable due to his/her disability to write, provisions the test administrator must record the student's answers on the scorable answer document. Scribes and others supporting a student's test taking must be neutral in responding to the student during test administration. Assistance in test administration must not give away the answers. The student's responses must accurately represent the student's own choices. If a scribe is used for a writing topic, the scribe must write exactly what the student dictates without punctuation or capitalization. The student then must edit what the scribe wrote and provide punctuation and capitalization or any other changes.

4. Assistive Technology

a. Assistive technology can include, but is not limited to a:

- i. computer;
- ii. tape recorder;
- iii. calculator;
- iv. abacus;
- v. grip for a pencil;
- vi. visual magnification device;
- vii. communication device;
- viii. mask or marker to maintain place;
- ix. speech synthesizer; and
- x. electronic reader.

5. Extended Time/Adjusted Time.

a. Every student must be given extended or sufficient time to respond to every test item. Time may be adjusted for certain students, such as those who have short attention spans or who may be unable to concentrate for long periods of time on a given task. The test administration time may have to be altered considerably to allow for intermittent short breaks during the testing period, or it may be determined appropriate to administer the test in a number of short sessions. Testing may also be stopped and continued at a later time if a student's behavior interferes with testing. The elapsed time must be documented and the test administrator must closely monitor that test security is maintained. The time of day the test is administered may also be adjusted to a time more beneficial to the student. All sessions, however, must be completed within the specified test administration dates, including makeup sessions.

6. Communication Assistance

a. A test administrator who is fluent in the cuing or signing modality routinely used by a student should be available to repeat or clarify directions and sign portions of

the test if warranted by the student's reading level as documented on the IEP or IAP.

b. No passages, questions, or distractors (multiple choices) of any English language arts test that measures reading comprehension may be signed or cued. Such tests include the Reading and Responding session of LEAP, GEE, and LAA 2, Reading and Language Session of iLEAP, Reading Comprehension of the ITBS and the "old" GEE, Reading session of ELDA, and any others developed to measure this skill. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

7. Transferred Answers

a. Student responses that are recorded in any format other than on the standard answer document must be transferred by the test administrator precisely as instructed in the appropriate test manual. Such formats include braille, large print, oral responses, typewritten responses, computer responses, and any other responses recorded with the assistance of mechanical or technological devices. Student responses not transferred will not be scored. If both a student's and a test administrator's handwriting appear on an answer document, only the student's writing will be scored.

8. Individual/Small Group Administration

a. Tests may be administered to a small group (maximum, eight students) or to an individual requiring more attention than can be provided in a larger classroom. If other selected accommodations affect the standard administration of the test (e.g., extended time on a timed test, tests read aloud), individual or small group administration must be used.

9. Tests Read Aloud

a. Students may be allowed to have portions of the tests read to them, with the exception of portions designed to measure reading comprehension, which are clearly designated in the *Test Administration Manuals*. No passages, questions, or distractors (multiple choices) of any English language arts assessment that measures reading comprehension may be read aloud. Such assessments include the Reading and Responding session of LEAP, GEE, and LAA 2, Reading and Language session of iLEAP, Reading Comprehension in the ITBS and the "old" GEE, the Reading session of ELDA, and any others developed to measure this skill. Directions only to these assessments may be read aloud. When reading aloud, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide cues that convey answers.

10. Other

a. Any necessary accommodations may be used, but they must be decided by the IEP team or Section 504 committee and listed on the student's IEP or IAP. The accommodation must not invalidate the meaning of the test score or the purpose of the test. Examples of other accommodations include highlighting the task or verbs in the directions on the test or assisting the student in tracking the test items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24 et seq., R.S. 17:391-400, R.S. 17:1941 et seq., R.S. 17:397, R.S. 17:1946, and R.S. 17:1947.1.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§3307. Limited English Proficient Students

A. - B.6.c. ...

C. Approved Accommodations for LEP Students

1. The following accommodations are to be provided for LEP students participating in the LEAP, GEE, *i*LEAP, and LAA 2 assessments.

a. Extended Time/Adjusted Time. Every student must be given extended or sufficient time to respond to every test item. Time may be adjusted for certain students, such as those who have short attention spans or those who may be unable to concentrate for long periods of time on a given task. The test administration time may have to be altered considerably to allow for intermittent short breaks during the testing period, or it may be determined appropriate to administer the test in a number of short sessions. Testing may also be stopped and continued at a later time if a student's behavior interferes with testing. The elapsed time must be documented and the test administrator must closely monitor that test security is maintained. All sessions, however, must be completed within the specified test administration dates, including makeup sessions.

b. Individual/Small Group Administration. Tests may be administered to a small group (maximum, eight students) or to an individual requiring more attention than can be provided in a larger classroom. If other selected accommodations affect the standard administration of the test (e.g., extended time on a timed test, tests read aloud), individual or small group administration must be used.

c. Provision of English/Native Language Word-to-Word Dictionary (No Definitions). LEP students may use either a standard or an electronic English/native language word-to-word dictionary, without definitions, on all sessions of the test. On the written composition sessions of the tests, all LEP students may use an English/native language word-to-word dictionary with definitions; this is not an accommodation.

d. Tests Read Aloud. Students may be allowed to have portions of the tests read to them, with the exception of portions designed to measure reading comprehension, which are clearly designated in the *Test Administration Manuals*. No passages, questions, or distractors (multiple choices) of any English language arts assessment that measures reading comprehension may be read aloud. Such assessments include the Reading and Responding session of LEAP, GEE and LAA 2, Reading and Language session of *i*LEAP, Reading Comprehension in the ITBS and the "old" GEE, the Reading session of ELDA, and any others developed to measure this skill. Directions only to these assessments may be read aloud. When reading aloud, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide cues that convey answers.

e. Test Administered by ESL Teacher or by Individual Providing Language Services. Familiarity with the speech patterns of the ESL teacher or individual providing language services may assist the student in understanding the test directions or the portions read aloud if the student receives the accommodation Tests Read Aloud.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq. and R.S. 17:24.4 (F)(3).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1562 (July 2005), amended LR 32:240 (February 2006), LR 33:

Chapter 35. Assessment of Students in Special Circumstances

§3501. Approved Home Study Program Students

A. - F. ...

G. A fee of up to \$35, which covers actual costs of administering, scoring, and reporting the results of statewide assessments, may be charged. For students testing to enter the public school system, this fee shall be refunded upon the student's enrollment in the public school system the semester immediately following testing. The DTC shall return test results to parents when results are returned to the public schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1-17.236.2, R.S. 17:6 (A) (10) (11) (15), R.S. 17:10, R.S. 17:22 (6), R.S. 17:391.1-17: 391.10, R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1563 (July 2005), amended LR 32:240 (February 2006), LR 33:

§3509. Expelled Students

A. If a student is expelled from school and is not enrolled in any type of alternative program or receiving any services from the school district, the parent/legal guardian may make a timely request that the student be tested and the school district shall make arrangements to test the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151.3 and R.S. 17:24.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

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., December 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 118—Statewide Assessment
Standards and Practices**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rule consolidates into *Bulletin 118* the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The proposed rule change will have no implementation cost to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections at the state or local governmental levels.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There should be no effect on costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be no impact on competition and employment.

Beth Scioneaux
Deputy Superintendent
0610#032

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices—*Integrated* LEAP and LEAP Alternate Assessment, Level 2 (LAC 28:CXI.Chapter 17 and 20)

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 118—Statewide Assessment Standards and Practices*. Bulletin 118 contains the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The revisions will provide information regarding:

- Addition of new language in Chapter 17 regarding statewide assessments.
- Chapter 17, *Integrated* Louisiana Educational Assessment Program (iLEAP), has been updated to provide educators with finalized information about this new statewide assessment. *Bulletin 118* provides details about test design, test format, achievement levels, achievement level descriptors, performance standards, and content standards.
- Addition of new language in Chapter 20 regarding statewide assessments.

- Chapter 20, Louisiana Alternate Assessment, Level 2 (LAA 2), has been updated to provide educators with finalized information about this new statewide assessment. *Bulletin 118* provide details about test design, test format, achievement levels, achievement level descriptors, performance standards, and content standards.

The document will consolidate statewide test information and provide easy access to that information.

Title 28

EDUCATION

**Part CXI. Bulletin 118—Statewide Assessment
Standards and Practices**

Chapter 17. *Integrated* LEAP

Subchapter A. General Provisions

§1701. Introduction

A. The NCLB Act requires the development of grade-level expectations (GLEs) or grade-level content standards at grades 3 through 8 for reading and mathematics. Louisiana has supplemented its existing content standards with grade-level expectations. To create a comprehensive system, Louisiana has developed GLEs in four content areas: English language arts, mathematics, science, and social studies, for grade levels prekindergarten through 12. NCLB further requires standards-based tests (or augmented norm-referenced tests) that measure the content standards. LEAP (grades 4 and 8) and GEE (grades 10 and 11) measure the content standards, and these tests will continue. To measure the standards and GLEs at grades 3, 5, 6, 7, and 9, however, the *Integrated* LEAP (iLEAP) tests were used, beginning in spring 2006. The iLEAP tests replaced The Iowa Tests, which were used to evaluate student performance in grades 3, 5, 6, 7, and 9 from spring 1998 to spring 2005. In accordance with NCLB timelines, the iLEAP tests were implemented spring 2006. Beginning in 2007–2008, NCLB also requires tests in science: once in grades 3 through 5, once in grades 6 through 9, and once in grades 10 through 12. The term *integrated* refers to the integration of standards-based tests (CRTs) and norm-referenced tests (NRTs) into one program.

1. Tests and Grade Levels for iLEAP

Grade	English Language Arts (ELA)	Math	Science	Social Studies
3	Augmented NRT	Augmented NRT	CRT	CRT
5	Augmented NRT	Augmented NRT	CRT	CRT
6	Augmented NRT	Augmented NRT	CRT	CRT
7	Augmented NRT	Augmented NRT	CRT	CRT
9	Augmented NRT	Augmented NRT	Not Assessed	Not Assessed

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1556 (July 2005), amended LR 32:238 (February 2006), LR 33:

Subchapter B. iLEAP Test Design

§1703. Format

A. All iLEAP tests are aligned to the GLEs, and student performance on the content standards is the primary reporting scheme. The iLEAP replaces the current NRTs with a survey battery (short form) of the ITBS in English language arts and mathematics at grades 3, 5, 6, and 7. At grade 9, the NRT component of iLEAP includes the core battery of the ITED, with the exception of Math Computation. The NRT is augmented with a CRT component that measures state standards not measured on the ITBS and the ITED. Most of the items on the NRT form for a given grade align with the GLEs for that grade. The iLEAP also includes Science and Social Studies tests at

grades 3, 5, 6, and 7. The iLEAP Science and Social Studies tests are entirely criterion-referenced, aligned with state content standards and GLEs. The LDE elected to use CRTs for science and social studies to have the best measure of what students are learning in classrooms in these content areas.

B. Overall Design of iLEAP

1. The NRT components for the Math and English Language Arts tests shall be administered as timed assessments using national standardized procedures. The CRT components for all four content areas are untimed; however, suggested times are provided. The abbreviations MC and CR in the chart refer to the types of items on the iLEAP; i.e., multiple-choice and constructed-response items.

	English Language Arts	Math	Science	Social Studies
Grades Assessed	3, 5, 6, 7, 9	3, 5, 6, 7, 9	3, 5, 6, 7	3, 5, 6, 7
Test Components and Item Types	<p>NRT: Survey Battery (MC) grades 3, 5, 6, 7 Core Battery (MC) grade 9</p> <p>CRT: Using Information Resources (MC) Writing Prompt (CR)</p>	<p>NRT: Survey Battery (MC) grades 3, 5, 6, 7 Core Battery (MC) grade 9</p> <p>CRT: (MC and CR)</p>	CRT: MC	CRT: MC
Number of Items	<p>NRT: varies by grade from approx. 70 to 140</p> <p>CRT: 8 MC and 1 CR</p>	<p>NRT: varies by grade from approx. 25 to 40</p> <p>CRT: varies by grade from approx. 20 to 30 MC and 2 CR</p>	Varies by grade from approx. 40 to 48 MC	Varies by grade from approx. 30 to 40 MC

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter C. Achievement Levels and Performance Standards

§1705. Introduction

A.1. Student performance on the CRT components of the iLEAP is reported in terms of achievement level: *Advanced*, *Mastery*, *Basic*, *Approaching Basic*, or *Unsatisfactory*. In addition, norm-referenced scores are reported for Math and English Language Arts. Grade-level committees of educators, mostly teachers, convened to review draft Achievement Level Descriptors (ALDs) that were developed for iLEAP. They used a group-consensus procedure to review the draft descriptors and GLEs to make recommendations for wording that would most appropriately describe expectations for each achievement level and grade.

B. On each test—English Language Arts, Math, Science, and Social Studies—student performance will be reported in terms of achievement level. The Louisiana achievement levels are:

1. Advanced;
 2. Mastery (Exceeding the Standard);
 3. Basic (Meeting the Standard);
 4. Approaching Basic (Approaching the Standard);
- and
5. Unsatisfactory.

C. Achievement Levels Definitions

Advanced—a student at this level has demonstrated superior performance beyond the mastery level.

Mastery (formerly Proficient)—a student at this level has demonstrated competency over challenging subject matter and is well prepared for the next level of schooling.

Basic—a student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Approaching Basic—a student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Unsatisfactory—a student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§1707. Performance Standards

A. Reporting of Scores

1. NRT score:
 - a. percentile rank;
 - b. national curve equivalent (nce);
 - c. standard score;
 - d. stanine;
 - e. includes all items on the NRT form.

2. CRT score:
 - a. achievement level;
 - b. includes CRT items and only those items on the NRT survey battery or on the NRT core battery that align with GLEs at or below the grade level assessed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

iLEAP Achievement Levels and Scaled Score Ranges

Achievement Level	English Language Arts Scaled Score Ranges				
	Grade 3	Grade 5	Grade 6	Grade 7	Grade 9
Advanced	383–500	386–500	387–500	383–500	436–500
Mastery	338–382	341–385	341–386	344–382	374–435
Basic	282–337	286–340	280–340	286–343	291–373
Approaching Basic	239–281	247–285	239–279	236–285	219–290
Unsatisfactory	100–238	100–246	100–238	100–235	100–218

Achievement Level	Mathematics Scaled Score Ranges				
	Grade 3	Grade 5	Grade 6	Grade 7	Grade 9
Advanced	386–500	405–500	394–500	421–500	393–500
Mastery	343–385	355–404	358–393	376–420	360–392
Basic	283–342	282–354	281–357	292–375	293–359
Approaching Basic	245–282	250–281	248–280	255–291	263–292
Unsatisfactory	100–244	100–249	100–247	100–254	100–262

Achievement Level	Science Scaled Score Ranges				
	Grade 3	Grade 5	Grade 6	Grade 7	Grade 9
Advanced	382–500	378–500	380–500	388–500	Not Assessed
Mastery	342–381	341–377	343–379	348–387	
Basic	292–341	292–340	295–342	302–347	
Approaching Basic	249–291	248–291	251–294	259–301	
Unsatisfactory	100–248	100–247	100–250	100–258	

Achievement Level	Social Studies Scaled Score Ranges				
	Grade 3	Grade 5	Grade 6	Grade 7	Grade 9
Advanced	396–500	365–500	364–500	372–500	Not Assessed
Mastery	341–395	339–364	338–363	339–371	
Basic	287–340	289–338	292–337	293–338	
Approaching Basic	255–286	257–288	261–291	262–292	
Unsatisfactory	100–254	100–256	100–260	100–261	

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter D. iLEAP Assessment Structure

§1709. Content Standards

A. The iLEAP tests are aligned to Louisiana content standards, benchmarks, and GLEs. They measure student's knowledge of standards by grade spans through norm-referenced tests (NRTs) and criterion-referenced tests (CRTs). The test's format consists of:

1. Survey/Core Battery:
 - a. obtains information that can support instructional decisions made by teachers in the classroom;
 - b. provides information to students and their parents for monitoring student growth from grade to grade;
 - c. examines the yearly progress of grade groups as they pass through the school's curriculum;
2. GLEs/Benchmarks:
 - a. define the knowledge and skills students are expected to master by the end of each grade or high school course;
3. Standards:
 - a. broad goals for what all students in Louisiana should know and be able to do at any grade level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§1711. English Language Arts Tests Structure

A. The English Language Arts test includes NRT items from the Survey Battery of the ITBS for grades 3, 5, 6, and 7 and a CRT component. The tests are administered over two days.

1. The (NRT) ITBS Survey Battery component and standards measured at grades 3, 5, 6, and 7 include the following.
 - a. Reading:
 - i. vocabulary; and
 - ii. reading comprehension.
 - b. Language:
 - i. spelling;
 - ii. capitalization;
 - iii. punctuation; and
 - iv. usage and expression.
 - c. Louisiana English language arts standards measured by the NRT components include the following.
 - i. Standard 1. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes.

ii. Standard 6. Students read, analyze, and respond to literature as a record of life experiences. This standard is not tested at grade 3.

iii. Standard 7. Students apply reasoning and problem-solving skills to their reading, writing, speaking, listening, viewing, and visually representing.

iv. Standard 2. Students write competently for a variety of purposes and audiences.

v. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting.

2. The (CRT) Components and standards measured at grades 3, 5, 6, and 7 include the following:

a. writing; and

b. using information resources;

c. Louisiana English language arts standards measured by the CRT components include the following:

i. Standard 2. Students write competently for a variety of purposes and audiences;

ii. Standard 5. Students locate, select, and synthesize information from a variety of texts, media, references, and technological sources to acquire and communicate knowledge.

B. At grade 9, the English language arts test includes a NRT component from the Core Battery of the ITED and a CRT component. The tests are administered over two days.

1. The (NRT) ITED Core Battery components and standards measured include the following:

a. vocabulary;

b. reading comprehension; and

c. language: revising written materials.

d. Louisiana English language arts standards measured include the following:

i. Standard 1. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes;

ii. Standard 2. Students write competently for a variety of purposes and audiences;

iii. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting;

iv. Standard 6. Students read, analyze, and respond to literature as a record of life experiences; and

v. Standard 7. Students apply reasoning and problem-solving skills to their reading, writing, speaking, listening, viewing, and visually representing.

2. The Criterion-Referenced (CRT) Components and standards measured include the following:

a. writing; and

b. using information resources;

c. Louisiana English language arts standards measured by the CRT components include the following:

i. Standard 2. Students write competently for a variety of purposes and audiences;

ii. Standard 5. Students locate, select, and synthesize information from a variety of texts, media, references, and technological sources to acquire and communicate knowledge;

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§1713. Math Tests Structure

A. At grades 3, 5, 6, and 7 the Math tests include NRT items from the Survey Battery of the ITBS. The tests are administered over one day.

1. The NRT Component includes the following:

a. multiple-choice items that assess Concepts and Estimation; and

b. multiple-choice items that assess Problem Solving and Data Interpretation.

2. The CRT Component includes the following.

a. Multiple-choice items that assess Louisiana's standards, benchmarks, and GLEs. The items include NRT items that align to the Louisiana content standards and GLEs.

b. Constructed-response items that assess one or more strands, benchmarks, and/or GLEs that require students to demonstrate the connection of the strand to the other strands and to real-life situations.

B. At grade 9, the Math test includes NRT items from the Core Battery of the ITED with the exception of computation. The test is administered over one day.

1. The NRT Component includes the following:

a. multiple-choice items that assess Math Concepts and Problem-Solving.

2. The CRT Component includes the following.

a. Multiple-choice items that assess Louisiana standards, benchmarks, and GLEs. This part includes NRT items that align to the Louisiana content standards and GLEs.

b. Constructed-response items that involve a number of separate steps and require application of multiple skills. The items are designed to assess one or more of the strands, benchmarks, and/or GLEs that require students to demonstrate the connection of the strand to the other strands and to real-life situations.

C. The NRT and CRT standards measured are:

1. Strand N: Number and Number Relations

a. Standard. In problem-solving investigations, students demonstrate an understanding of the real number system and communicate the relationships within that system using a variety of techniques and tools;

2. Strand A: Algebra

a. Standard. In problem-solving investigations, students demonstrate an understanding of concepts and processes that allow them to analyze, represent, and describe relationships among variable quantities and to apply algebraic methods to real-world situations;

3. Strand M: Measurement

a. Standard. In problem-solving investigations, students demonstrate an understanding of concepts, processes, and real-life applications of measurement;

4. Strand G: Geometry

a. Standard. In problem-solving investigations, students demonstrate an understanding of geometric concepts and applications involving one-, two-, and three-dimensional geometry, and justify their findings;

5. Strand D: Data Analysis, Probability, and Discrete Math

a. Standard. In problem-solving investigations, students discover trends, formulate conjectures regarding cause-and-effect relationships, and demonstrate critical-thinking skills in order to make informed decisions;

6. Strand P: Patterns, Relations, and Functions

a. Standard. In problem-solving investigations, students demonstrate an understanding of patterns, relations, and functions that represent and explain real-world situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§1715. Science Tests Structure

A. The Science test includes CRT items and has one session.

1. The Science tests use multiple-choice items to assess concepts and skills in all or part of the five strands of science.

2. The Science test is entirely criterion-referenced. All items are based on Louisiana's content standards and aligned with Louisiana's GLEs.

B. Science is assessed in grades 3, 5, 6, and 7.

1. Grades 3 and 5 tests assess all five science strands.

2. Grade 6 test assesses three of the five science strands. They are as follows:

- a. Science as Inquiry;
- b. Physical Science; and
- c. Science and the Environment.

3. Grade 7 test assesses three of the five science strands. They are as follows:

- a. Science as Inquiry;
- b. Life Science; and
- c. Science and the Environment.

C. Each of the five science strands is associated with a single standard.

1. Strand: Science as Inquiry

a. Standard. Students will do science by engaging in partial and full inquiries that are within their developmental capabilities.

2. Strand: Physical Science

a. Standard. Students will develop an understanding of the characteristics and interrelationships of matter and energy in the physical world.

3. Strand: Life Science

a. Standard. Students will become aware of the characteristics and life cycles of organisms and understand their relationships to each other and their environment.

4. Strand: Earth and Space Science

a. Standard. Students will develop an understanding of the properties of earth materials, the structure of Earth's system, Earth's history, and Earth's place in the universe.

5. Strand: Science and the Environment

a. Standard. In learning environmental science, students will develop an appreciation of the natural environment, learn the importance of environmental quality, and acquire a sense of stewardship. As consumers and citizens, they will be able to recognize how our personal, professional, and political actions affect the natural world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:

§1717. Social Studies Tests Structure

A. The Social Studies test includes CRT items and has one section.

1. The Social Studies tests use multiple-choice items to assess concepts and skills in all or part of the four content strands: Geography, Civics, Economics, and History.

2. The Social Studies tests is entirely criterion-referenced. All items are based on Louisiana's content standards and aligned with Louisiana's GLEs.

B. Social Studies is assessed in grades 3, 5, 6, and 7 are as follows:

1. Grade 3 assesses all four social studies strands;

2. Grades 5 and 6 assess two of the four social studies strands. They are as follows:

- a. Geography; and
- b. History.

3. Grade 7 assesses three of the four social studies strands. They are as follows:

- a. Geography;
- b. History; and
- c. Civics.

C. The Social Studies strands assessed are as follows.

1. Strand G—Geography: Physical and Cultural Systems

a. Standard. Students develop a spatial understanding of Earth's surface and the processes that shape it, the connections between people and places, and the relationship between man and the environment.

2. Strand C—Civics: Citizenship and Government

a. Standard. Students develop an understanding of the structure and purposes of government, the foundations of the American democratic system, and the role of the United States in the world while learning about the rights and responsibilities of citizenship.

3. Strand E—Economics: Interdependence and Decision Making

a. Standard. Students develop an understanding of fundamental economic concepts as they apply to the interdependence and decision making of individuals, households, businesses, and governments in the United States and the world.

4. Strand H—History: Time, Continuity, and Change

a. Standard. Students develop a sense of historical time and historical perspective as they study the history of their community, state, nation, and world.

AUTHORITY NOTE; Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Chapter 20. LEAP Alternate Assessment, Level 2

Subchapter A. General Provision

§2001. Introduction

A. LEAP Alternate Assessment, Level 2 (LAA 2) is a criterion-referenced assessment, which is based on modified academic achievement standards, that allows students with persistent academic disabilities who are served under the Individuals with Disabilities Education Improvement Act (IDEA) to participate in academic assessments that are sensitive to measuring progress in their learning. All content in LAA 2 was derived from the existing LEAP/GEE assessments, and all items selected were subjected to the complete process of reviews and checks to determine appropriateness and eligibility for potential use in LAA 2. The achievement levels are aligned with the *Approaching Basic* and *Basic* achievement levels of LEAP/GEE.

B. For spring 2006, LAA 2 is available only for eligible students in grades 4, 8, 10, and 11.

C. Beginning spring 2007, LAA 2 will be available for eligible students in grades 4 through 11.

D. Grade 3 students are not eligible for LAA 2; they will participate in iLEAP or LAA 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 32:239 (February 2006), amended LR 33:

Subchapter B. Target Population

§2003. Participation Criteria

(Refer to Bulletin 1530, LAC 28:XCVII, Louisiana's IEP Handbook for Students with Disabilities)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter C. Achievement Levels and Performance Standards

§2005. Achievement Levels

- A.1. The Louisiana achievement levels are:
 - a. Basic (Meeting the Standard);
 - b. Approaching Basic (Approaching the Standard);
- and
- c. Foundational;
- d. Pre-Foundational.

B. Achievement Level Definitions

Basic—a student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Approaching Basic—a student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Foundational—a student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Pre-Foundational—a student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(1) and (C).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2007. Performance Standards

A. Performance standards for LAA 2 English Language Arts, Mathematics, Science, and Social Studies tests are finalized in scaled-score form.

B. The scaled-score range of the *Approaching Basic* achievement level is exactly the same scale score range as with LEAP/GEE.

C. The beginning score for the *Basic* achievement level is also exactly the same as with LEAP/GEE.

D. The top end of the *Basic* achievement level was truncated at a scale score of 340 in all cases because the LAA 2 assessment was not designed to accurately assess students who may be emerging into the *Mastery* achievement level.

LAA 2 Achievement Levels and Scaled Score Ranges

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
Grade 4				
Basic	301–340	315–340		
Approaching Basic	263–300	282–314		
Foundational	227–262	248–281		
Pre-Foundational	100–226	100–247		

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
Grade 8				
Basic	315–340	321–340		
Approaching Basic	269–314	296–320		
Foundational	223–268	263–295		
Pre-Foundational	100–222	100–262		

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
Grade 10		Grade 11		
Basic	299–340	305–340	301–340	297–340
Approaching Basic	270–298	286–304	267–300	275–296
Foundational	221–269	241–285	214–266	241–274
Pre-Foundational	100–220	100–240	100–213	100–240

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter D. Achievement Level Descriptors

§2009. Introduction

A. Achievement level descriptors for Louisiana assessments were developed by committees composed of Louisiana educators who represented the subjects and grades assessed. The descriptors define what a student should know and be able to do at each achievement level for each subject assessed at a given grade level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(B).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2011. Grade 4 Achievement Level Descriptors

A. Grade 4 English Language Arts Achievement Level Descriptors

Pre-Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate minimal understanding of what they read; 2. make minimal connections between ideas in text and personal experiences; 3. locate some information in commonly used sources; 4. develop a response to a writing task with some evidence of a central idea, attempted organization, and some supporting details; and 5. show minimal audience awareness through use of simple vocabulary and simple sentences.

B. Grade 4 Mathematics Achievement Level Descriptors

Basic
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate overall understanding of what they read; 2. make obvious connections between information and personal experiences; 3. extend ideas in the text by making simple inferences; 4. research a topic by locating information in a variety of sources; 5. express some critical or creative thinking in response to a writing task; 6. develop a central idea with some observable organization and elaboration with a few supporting details; and 7. demonstrate audience awareness through use of general vocabulary, some sentence variety, and some evidence of personal style or voice.
Approaching Basic
<p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate partial understanding of what they read; 2. make limited connections between text and personal experiences; 3. identify obvious meanings in text and make limited or simple inferences; 4. research a topic by locating information in commonly used resources; 5. demonstrate a partial response to a writing task; 6. develop a response with a vague or weak central idea, weak organization, and few or inappropriate details; and 7. demonstrate limited audience awareness through use of simple or inappropriate vocabulary, simple sentences, and little to no evidence of personal style or voice.
Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate minimal understanding of what they read; 2. make minimal connections between the text and personal experiences; 3. research a topic by locating minimal information in commonly used sources; 4. demonstrate a minimal response to the writing task; 5. develop a response to a writing task using a weak or unfocused central idea, attempted organization, and little or irrelevant support; and 6. show minimal audience awareness through use of simple or inappropriate vocabulary, simple sentences, and weak personal style or voice.

Basic
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. estimate and use basic facts to perform simple computations with whole numbers; 2. show some understanding of fractions, decimals, and percents and their relationships; 3. solve some simple real-world problems in all the Louisiana mathematics content strands; 4. use—with some degree of accuracy—four-function calculators, rulers, and geometric shapes; and 5. provide written responses that are often minimal and presented without supporting information.
Approaching Basic
<p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use basic facts to perform simple computations with whole numbers; 2. recognize fractions, decimals, and percents; 3. have difficulty applying conceptual knowledge in solving real-world problems; 4. use—with some degree of accuracy—four-function calculators, rulers, and geometric shapes; and 5. provide, at best, only minimal written responses.
Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use a limited number of basic facts to perform simple computations with whole numbers; 2. demonstrate minimal recognition of fractions, decimals, and percents; 3. apply conceptual knowledge minimally or inappropriately in solving real-world problems; 4. use—with limited degree of accuracy or with inconsistency—four-function calculators, rulers, and geometric shapes; and 5. provide written responses that are difficult to understand or are irrelevant.

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to:

1. use a limited number of basic facts to perform simple computations with whole numbers;
2. demonstrate minimal recognition of fractions, decimals, and percents;
3. apply conceptual knowledge minimally in solving real-world problems;
4. use—with limited degree of accuracy—four-function calculators, rulers, and geometric shapes; and
5. provide written responses that may be partially complete.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2013. Grade 8 Achievement Level Descriptors

A. Grade 8 English Language Arts Achievement Level Descriptors

Basic

A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. demonstrate both literal and overall understanding of what they read;
2. identify some elements of text and an author's purpose;
3. extend the ideas in text by making simple inferences and drawing conclusions; recognize and relate connections among ideas in texts by drawing conclusions;
4. research a topic by selecting and using information in various sources;
5. express some critical and/or creative thinking in response to a writing task;
6. develop a central idea with a consistent focus, appropriate organization, and elaboration with some supporting details; and
7. demonstrate audience awareness through use of appropriate but general language, and some sentence variety, and a sense of personal style.

Approaching Basic

A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. demonstrate partial understanding of what they read;
2. make a few interpretations and extensions of ideas in texts;
3. make simple and broad connections between text and personal experiences;
4. research a topic by locating some information in commonly used sources;
5. demonstrate a partial response to a writing task;
6. develop a weak central idea with some evidence of organization and elaboration with few or inappropriate supporting details; and
7. demonstrate limited awareness of audience through use of simple or inappropriate vocabulary and simple sentences.

Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level generally exhibit the ability to:

1. demonstrate partial understanding of what they read;
2. make a few interpretations and extensions of ideas in the texts;
3. make simple and broad connections between the text and personal experiences;
4. research a topic by locating some information in commonly used sources;
5. demonstrate a partial response to a writing task;

6. develop a weak central idea with some evidence of organization and elaboration with a few or inappropriate supporting details; and
7. demonstrate limited awareness of audience through use of simple or inappropriate vocabulary and simple sentences.

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to:

1. understand what they read;
2. make minimal interpretations and extensions of ideas in the text;
3. locate some information within commonly used sources;
4. develop a response to a writing task with some evidence of a central idea, attempted organization, and some supporting details; and
5. show minimal audience awareness through use of simple vocabulary and simple sentences.

B. Grade 8 Mathematics Achievement Level Descriptors

Basic

A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. complete problems correctly with the help of prompts such as diagrams, charts, and graphs;
2. solve routine, real-world problems through the appropriate selection and use of strategies and technological tools—including calculators and geometric shapes;
3. use fundamental algebraic and informal geometric concepts in problem solving;
4. determine which available data are necessary and sufficient for correct solutions and use them in problem solving; and
5. show limited skill in communicating mathematically.

Approaching Basic

A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. complete problems correctly with the help of prompts such as diagrams, charts, and graphs;
2. solve one-step problems involving basic computation (+, -, x, ÷) and follow procedural steps with instructional assistance;
3. recognize basic geometric figures;
4. recognize simple, obvious patterns;
5. use tools of technology;
6. apply conceptual knowledge inconsistently; and
7. demonstrate difficulty in transferring knowledge and skills to problem-solving situations.

Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level generally exhibit the ability to:

1. complete a limited number of problems correctly with the help of prompts such as diagrams, charts, and graphs;
2. solve few one-step problems involving basic computation (+, -, x, ÷) and follow procedural steps with detailed instructional assistance;
3. recognize a limited number of basic geometric figures;
4. recognize a limited number of simple, obvious patterns;
5. minimally use the tools of technology;
6. show minimal or inconsistent application of conceptual knowledge; and
7. demonstrate minimal or inappropriate transfer of knowledge and skills to problem-solving situations.

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to:

1. complete a limited number of problems correctly with the help of prompts such as diagrams, charts, and graphs;
2. solve few one-step problems involving basic computations (+, -, x, ÷) and follow procedural steps with detailed instructional assistance;
3. recognize a limited number of basic geometric figures;
4. recognize a limited number of simple, obvious patterns;
5. minimally use the tools of technology;
6. show minimal application of conceptual knowledge; and
7. demonstrate minimal transfer of knowledge and skills to problem-solving situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2015. Grade 10 Achievement Level Descriptors

A. Grade 10 English Language Arts Achievement Level Descriptors

Basic

A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. demonstrate overall understanding of what they read and make some interpretations;
2. identify elements of text and an author's style;
3. extend ideas in text by making simple inferences and some connections to personal experiences;
4. research a topic by selecting and using information in various sources;
5. demonstrate some evidence of critical, analytical, and/or creative thinking in response to a writing task;
6. develop a response with a central idea, evidence of some observable organization, and elaboration with some supporting details; and
7. demonstrate audience awareness through a sense of personal style or voice and some variety in vocabulary and sentence structure.

Approaching Basic

A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. demonstrate partial understanding of what they read;
2. identify some elements of text and an author's purpose;
3. make simple or broad connections between text and personal experiences;
4. research a topic by locating information in commonly used sources;
5. demonstrate a partial response to a writing task;
6. develop a response with a weak central idea, some evidence of organization, and minimal elaboration or supporting details; and
7. demonstrate limited audience awareness through use of weak personal style or voice, simple or inappropriate vocabulary, and simple sentences.

Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level generally exhibit the ability to:

1. demonstrate a minimal understanding of what they read;
2. identify few elements of text and an author's purpose;
3. make minimal connections between text and personal experiences;
4. research a topic by locating minimal information in commonly

used sources;

5. demonstrate a minimal response to a writing task;
6. develop a response with a weak or unfocused idea, attempted organization, and little or irrelevant support; and
7. demonstrate minimal audience awareness through use of weak personal style or voice, simple or inappropriate vocabulary, and simple sentences.

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to:

1. understand what they read;
2. identify some elements of text;
3. make minimal connections between text and personal experiences;
4. locate information within commonly used sources;
5. develop a response to a writing task using a general focus, attempted organization, and minimal support; and
6. demonstrate minimal audience awareness through use of simple vocabulary and simple sentences.

B. Grade 10 Mathematics Achievement Level Descriptors

Basic

A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. use estimation to verify solutions and determine the reasonableness of results as applied to routine real-world problems;
2. use algebraic and geometric reasoning strategies to solve problems;
3. recognize relationships presented in verbal, algebraic, tabular, and graphical forms;
4. demonstrate knowledge of geometric relationships and corresponding measurement skills;
5. apply statistical reasoning in the organization and display of data and in reading tables and graphs;
6. generalize from patterns and examples in the areas of algebra, geometry, and statistics;
7. use correct mathematical language and symbols to communicate mathematical relationships and reasoning processes; and
8. use calculators appropriately to solve problems.

Approaching Basic

A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. use estimation and measurement to verify solutions and determine the reasonableness of results as applied to routine real-world problems;
2. show limited use of fundamental algebraic, geometric, and statistical reasoning in problem solving;
3. interpret data presented in various forms;
4. show limited skills in communicating mathematically; and
5. demonstrate limited application of conceptually knowledge.

Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level generally exhibit the ability to:

1. use some estimation and measurement to verify solutions and determine the reasonableness of results as applied to routine real-world problems;
2. show minimal knowledge of fundamental algebraic, geometric, and statistical reasoning in problem-solving;
3. interpret data presented in limited forms;
4. show minimal skills in communicating mathematically; and
5. demonstrate minimal or inappropriate application of conceptual knowledge.

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to:

1. use some estimation and measurement to verify solutions and determine the reasonableness of results as applied to routine real-world problems;
2. show minimal knowledge of fundamental algebraic, geometric, and statistical reasoning in problem-solving;
3. interpret data presented in limited forms;
4. show minimal skills in communicating mathematically; and
5. demonstrate minimal application of conceptual knowledge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2017. Grade 11 Achievement Level Descriptors

A. Grade 11 Science Achievement Level Descriptors

Basic

A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. formulate valid hypotheses;
2. design a simple experiment;
3. draw appropriate conclusions;
4. develop inferences from experimentation and apply that information to new situations;
5. distinguish scientific principles from pseudoscience; and
6. apply scientific principles to their everyday life.

With inquiry as the core, students at the Basic level begin to identify unifying concepts and processes among the science disciplines—physical, life, earth/space, and the environmental sciences.

Approaching Basic

A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. know and understand fundamental science facts and concepts concerning the world; and
2. make observations, form a reasonable hypothesis, identify variables, interpret data, and draw conclusions.

These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.

Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level generally exhibit the ability to:

1. demonstrate limited knowledge and understanding of fundamental science facts and concepts concerning the world; and
2. make simple observations, attempt to form a hypothesis, identify a limited number and type of variables, minimally interpret data, and draw conclusions that may be inappropriate or inaccurate.

These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to:

1. demonstrate knowledge and understanding of fundamental science facts and concepts concerning the world with minimal accuracy or consistency; and

2. make simple observations, attempt to form a hypothesis, identify a limited number and type of variables, minimally interpret data, and draw conclusions.

These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.

B. Grade 11 Social Studies Achievement Level Descriptors

Basic

A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to do the following:

1. Geography: interpret geographical data, describe the basic physical structure of the planet, and explain the spatial relationships between humans and their environment.
2. Civics: explain structure and purposes of government, describe the foundations of the American political system, explain international relationships, and describe the roles of citizen.
3. Economics: describe fundamental economic concepts, explain decisions made by consumers, businesses, and government; and explain U.S. fiscal policy.
4. History: describe continuity and change, describe the significance of people, places, events, ideas, and documents, and examine relevant experiences from the past to describe contemporary issues.

Approaching Basic

A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to do the following.

1. Geography: identify geographical data, recognize the physical structure of the planet, and state the spatial relationships between humans and their environment.
2. Civics: identify the structure and purposes of government, recognize the foundations of the American political system, identify international relationships, and identify the roles of citizen.
3. Economics: identify fundamental economic concepts, identify decisions made by consumers, businesses, and government; and identify U.S. fiscal and monetary policies.
4. History: recognize continuity and change, recognize the significance of people, places, events, ideas, and documents, and identify relevant experiences from the past to describe contemporary issues.

Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level generally exhibit the ability to do the following.

1. Geography: identify limited geographical data, recognize a limited number of physical structures of the planet, and state a limited number of spatial relationships between humans and their environment.
2. Civics: demonstrate limited knowledge about the structure and purposes of government, demonstrate a limited understanding or recognition of the foundations of the American political system, identify a few international relationships, and identify the role of citizens with only some consistency.
3. Economics: demonstrate limited knowledge or understanding of fundamental economic concepts, identify a limited number and type of decisions made by consumers, businesses, and government; and show minimal understanding of U.S. fiscal and monetary policies.
4. History: demonstrate limited recognition of continuity and change, recognize the significance of a limited number of people, places, events, ideas and documents, and identify a limited number of relevant experiences from the past to describe contemporary issues.

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to do the following.

1. Geography: identify geographical data, recognize physical structures of the planet, and state the spatial relationships between humans and their environment.
2. Civics: demonstrate knowledge about the structure and purposes of government, demonstrate an understanding or recognition of the foundations of the American political system, identify international relationships, and identify the role of citizens.
3. Economics: demonstrate knowledge or understanding of fundamental economic concepts, identify types of decisions made by consumers, businesses, and government, and show understanding of U.S. fiscal and monetary policies.
4. History: demonstrate recognition of continuity and change, recognize the significance of people, places, events, ideas, and documents, and identify relevant experiences from the past to describe contemporary issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

Subchapter E. LAA 2 Assessment Structure **§2019. Content Standards**

A. The LAA 2 tests measure knowledge and skills deemed necessary for students to become good scholars and productive citizens. This knowledge and these skills are reflected in the content standards that were approved in August 2005 by the SBESE.

B. The LAA 2 is based on academic content standards. Modifications in the test and item format allow students with persistent academic disabilities who are served under the Individuals with Disabilities Education Improvement Act (IDEA) to participate in academic assessments that are sensitive to measuring progress in their learning.

C. The LAA 2 assessments consist of fewer items than LEAP and GEE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F)(3) and R.S. 17:183.1-17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2021. English Language Arts Tests Structure

A. The English Language Arts tests have four sessions or subtests.

1. Writing. The Writing session requires students to produce a composition in response to a prompt. The writing session measures key aspects of English Language Arts standards 2 and 3.

a. Standard 2. Students write competently for a variety of purposes and audiences.

b. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting.

2. Reading and Responding. The Reading and Responding session includes two short reading passages (fiction, nonfiction, no poetry), four multiple-choice and one short-answer item for each passage. Questions in this session measure key aspects of English Language Arts standards 1, 6, and 7.

a. Standard 1. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes.

b. Standard 6. Students read, analyze, and respond to literature as a record of life experiences.

c. Standard 7. Students apply reasoning and problem-solving skills to their reading, writing, speaking, listening, viewing, and visually representing.

3. Using Information Resources. The Using Information Resources session requires students to complete a specified task designed to measure standard 5.

a. Standard 5. Students locate, select, and synthesize information from a variety of texts, media, references, and technological sources to acquire and communicate knowledge. Test items appear next to the resource needed to locate each answer. This session includes five multiple-choice items and 1 short answer item.

4. Proofreading. The Proofreading session requires students to identify mistakes in grammar, usage, and mechanics. The session consists of eight multiple-choice items formatted with a sentence as the stem followed by four answer choices. Questions in this session measure key aspects of English Language Arts standard 3.

a. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2023. Mathematics Test Structure

A. The Mathematics test consists of three sessions:

1. two multiple-choice sessions; and
2. one constructed-response session.

B. The Mathematics test assess the following strands:

1. Strand N: Number and Number Relations

a. Standard. In problem-solving investigations, students demonstrate an understanding of the real number system and communicate the relationships within that system using a variety of techniques and tools.

2. Strand A: Algebra

a. Standard. In problem-solving investigations, students demonstrate an understanding of concepts and processes that allows them to analyze, represent, and describe relationships among variable quantities and to apply algebraic methods to real-world situations.

3. Strand M: Measurement

a. Standard. In problem-solving investigations, students demonstrate an understanding of the concepts, processes, and real-life applications of measurement.

4. Strand G: Geometry

a. Standard. In problem-solving investigations, students demonstrate an understanding of geometric concepts and applications involving one-, two-, and three-dimensional geometry, and justify their findings.

5. Strand D: Data Analysis, Probability, and Discrete Math

a. Standard. In problem-solving investigations, students discover trends, formulate conjectures, regarding cause-and-effect relationships, and demonstrate critical-thinking skills in order to make informed decisions.

6. Strand P: Patterns, Relations, and Functions

a. Standard. In problem-solving investigations, students demonstrate an understanding of patterns, relations, and functions that represent and explain real-world situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2025. Science Tests Structure

A. The Science tests consist of two sessions.

1. Session 1 uses a multiple-choice test items for grade 11 to assess concepts and skills in all five strands of science.

2. Session 2 consists of two short-answer questions that assess two of the four science content strands: Physical Science, Life Science, Earth and Space Science, and Science and the Environment. These questions allow students to reflect on an idea, demonstrate their understanding of concepts and processes of science, make meaning of a given set of data, or critique the information. The wording of the questions is direct and specific, and the questions focus on the quality of the students' knowledge.

B. The Science tests assess the following science strands.

1. Strand: Science as Inquiry

a. Standard. Students will do science by engaging in partial and full inquiries that are within their developmental capabilities.

2. Strand: Physical Science

a. Standard. Students will develop an understanding of the characteristics and interrelationships of matter and energy in the physical world.

3. Strand: Life Science

a. Standard. Students will become aware of the characteristics and life cycles of organisms and understand their relationships to each other and to their environment.

4. Strand: Earth and Space Science

a. Standard. Students will develop an understanding of the properties of earth materials, the structure of Earth's system, Earth's history, and Earth's place in the universe.

5. Strand: Science and the Environment

a. Standard. In learning environmental science, students will develop an appreciation of the natural environment, learn the importance of environmental quality, and acquire a sense of stewardship. As consumers and citizens, they will be able to recognize how our personal, professional, and political actions affect the natural world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

§2027. Social Studies Tests Structure

A. The Social Studies tests consist of two sessions.

1. Session 1 consists of 32 multiple-choice test items for grade 11 that assess knowledge, conceptual understanding, and application of skills in all four social studies strands (i.e., Geography, Civics, Economics, and History). Items in Session 1 are intermingled across strands.

2. Session 2 consists of 2 open-ended questions calling for a constructed response and requiring higher-order thinking in a social studies context (e.g., grasping a concept, analyzing information, evaluating a principle, or applying a skill). Students may be required to construct or interpret a

chart, graph, map, timeline, or other graphic representation; to supply a short written answer; or to produce a short writing in response to a social studies issue or problem. Each of the constructed-response items represents one of the four social studies strands. Each task in part B is scored on a 0 to 2 point scale.

B. The four social studies strands assessed are:

1. Strand G—Geography: Physical and Cultural Systems

a. Standard. Students develop a spatial understanding of Earth's surface and the processes that shape it, the connection between people and places, and the relationship between man and his environment.

2. Strand C—Civics: Citizenship and Government

a. Standard. Students develop an understanding of the structure and purposes of government, the foundations of the American democratic system, and the role of the United States in the world while learning about the rights and responsibilities of citizenship.

3. Strand E—Economics: Interdependence and Decision Making

a. Standard. Students develop an understanding of fundamental economic concepts as they apply to the interdependence and decision making of individuals, households, businesses, and governments in the United States and the world.

4. Strand H—History: Time, Continuity, and Change

a. Standard. Students develop a sense of historical time and historical perspective as they study the history of their community, state, nation, and world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2)

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:

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., December 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: *Integrated LEAP and
LEAP Alternate Assessment, Level 2***

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rule consolidates into Bulletin 118 the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The proposed rule change will have no implementation cost to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections at the state or local governmental levels.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There should be no effect on costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be no impact on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0610#031

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28: CXV.2373-2385, and 3113)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*. The proposed changes of the Career and Technical Internship policies will assure that students are able to schedule and fulfill the requirements of the course and to provide trained students to the local industry.

**Title 28
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

§2373. Agricultural Education

A. The Agricultural Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Exploratory Agriscience	7-8	-
Agribusiness	11-12	1/2
Agricultural Education Elective I, II	9-12	1/2-3
Agriscience I	9-12	1
Agriscience II	10-12	1
Agriscience III	11-12	1

Course Title(s)	Recommended Grade Level	Units
Agriscience IV	12	1
Agriscience III Laboratory	11-12	1
Agriscience IV Laboratory	12	1
Agriscience-Construction	11-12	1/2
Agriscience Elective	9-12	1
Agriscience-Entrepreneurship	11-12	1/2
Agriscience-Leadership Development	11-12	1/2
Agriscience-Welding Systems I	11-12	1/2
Agriscience-Welding Systems II	11-12	1/2
Animal Systems	11-12	1/2
Aquaculture	11-12	1/2
Biotechnology	11-12	1
Care and Management of Small Animals I	11-12	1/2
Care and Management of Small Animals II	11-12	1/2
Cooperative Agriscience Education I	11-12	3
Cooperative Agriscience Education II	12	3
Crop Systems	11-12	1/2
Environmental Applications	11-12	1/2
Equine Science	11-12	1/2
Food and Fiber	11-12	1/2
Forestry	11-12	1/2
Horticulture I	11-12	1/2
Horticulture II	11-12	1/2
Precision Agriculture	11-12	1
Small Engines (Applications)	11-12	1/2
Industry-Based Certifications		
ABC Welding in Agriscience	11-12	1-3
ABC Carpentry in Agriscience	11-12	1-3
ABC Electricity in Agriscience	11-12	1-3
ABC Pipefitting in Agriscience	11-12	1-3

B. Agriscience III and IV Laboratory, Agriscience Internship I and II, and Cooperative Agriscience Education I and II are offered only to students who are also enrolled in Agriscience III or Agriscience IV for two consecutive semester courses during the year.

C. Semester courses are designed to be offered in the place of, or in addition to, Agriscience III and/or IV.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 33:

§2375. Business Education

A. The Business Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Exploratory Keyboarding (Middle School)	6-8	-
Accounting I	10-12	1
Accounting II	11-12	1
Administrative Support Occupations	11-12	1
Business Communications	10-12	1
Business Computer Applications	10-12	1
Business Education Elective I, II	9-12	1/2-3
Business English	12	1
Business Law	11-12	1/2
Computer Technology Literacy	9-12	1
Computer Multimedia Presentations	11-12	1/2
Cooperative Office Education (COE)	12	3
Desktop Publishing	11-12	1
Economics	11-12	1

Course Title(s)	Recommended Grade Level	Units
Entrepreneurship	11-12	1
Financial Mathematics	10-12	1
Introduction to Business Computer Applications	9-12	1
Keyboarding	9-12	1/2
Keyboarding Applications	9-12	1/2
Lodging Management I	10-12	1-3
Lodging Management II	11-12	1-3
Principles of Business	9-12	1
Telecommunications	10-12	1/2
Web Design	10-12	1/2
Word Processing	11-12	1

B. Cooperative Office Education shall be limited to seniors. The students shall have successfully completed Keyboarding/Keyboarding Applications or Introduction to Business Computer Applications and one of the following: ASO or Word Processing or BCA, and have maintained an overall "C" average. The students' attendance records should also be considered. Other prerequisites may be required by the LEA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 33:

§2377. General Career and Technical Education

A. General Career and Technical Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
CTE Internship I	11-12	1
CTE Internship II	12	1
CTE Internship I	11-12	2
CTE Internship II	12	2
General Cooperative Education I	11-12	3
General Cooperative Education II	12	3
Education for Careers	9-12	1/2-1
Teacher Cadet I	11-12	1
Teacher Cadet II	12	1
Advanced Television Broadcasting I	10-12	1-3
Advanced Television Broadcasting II	11-12	1-3
Digital Media I	10-12	1-3
Digital Media II	11-12	1-3
Oracle Internet Academy		
Database Design and Programming	11-12	1
Java Programming	11-12	1
Database Programming with PL/SQL	11-12	1/2
Finance Academy		
Economics and the World of Finance	11-12	1/2
Banking and Credit	11-12	1/2
Financial Planning	11-12	1/2
Securities	11-12	1/2
Insurance	11-12	1/2
International Finance	11-12	1/2
Introduction to Financial Services	11-12	1/2-1
Hospitality and Tourism Academy		
Introduction to Travel and Tourism	11-12	1/2
Travel and Tourism II	11-12	1/2
Travel Destinations I, II	11-12	1/2
Systems Applications	11-12	1/2
Economics for Travel and Tourism	11-12	1/2
Information Technology Academy		
Introduction to Information Technology	11-12	1/2
Digital Networks	11-12	1/2

Course Title(s)	Recommended Grade Level	Units
Advanced Web Tools	11-12	1/2
Databases	11-12	1/2
Introduction to the Internet	11-12	1/2
Logic for Programming	11-12	1/2

B. General Cooperative Education courses shall be limited to students who meet the specific prerequisites and requirements of one of the specialized cooperative education programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 33:

§2379. Family and Consumer Sciences Education

A. The Family and Consumer Sciences (FACS) Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Exploratory FACS	7-8	-
Family and Consumer Sciences I	9-12	1
Family and Consumer Sciences II	10-12	1
Food Science	10-12	1
Adult Responsibilities	11-12	1/2
Child Development	10-12	1/2
Personal and Family Finance	10-12	1/2
Family Life Education	10-12	1/2
Clothing and Textiles	10-12	1/2
Housing and Interior Design	10-12	1/2
Nutrition and Food	10-12	1/2
Parenthood Education	11-12	1/2
Advanced Child Development*	10-12	1/2
Advanced Clothing and Textiles*	10-12	1/2
Advanced Nutrition and Food*	10-12	1/2
FACS Elective I, II	9-12	1/2-3
*The related beginning semester course is prerequisite to the advanced semester course.		
Occupational Courses		
Clothing and Textile Occupations I	11-12	1-3
Clothing and Textile Occupations II	12	1-3
Early Childhood Education I	11-12	1-3
Early Childhood Education II	12	1-3
Food Services I	11-12	1-3
Food Services II	11-12	1-3
Food Service Technician	11-12	1
Housing & Interior Design Occupations	11-12	1-3
ProStart I	11-12	1-3
ProStart II	12	1-3
Cooperative FACS Education	12	3

AUTHORITY NOTE: Promulgated in accordance R.S. 17:7; R.S. 17:24.4; R.S. 17:279.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 33:

§2381. Health Occupations

A. Health Occupations course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
AHEC of a Summer Career Exploration	9-12	1/2
Allied Health Services I	10-12	1-2

Course Title(s)	Recommended Grade Level	Units
Allied Health Services II	10-12	1-2
Cooperative Health Occupations	11-12	3
Dental Assistant I	10-12	1-2
Dental Assistant II	11-12	2-3
Emergency Medical Technician—Basic	10-12	2
First Responder	9-12	1/2-2
Health Occupations Elective I, II	9-12	1/2-3
Health Science I	11-12	1-2
Health Science II	12	1-2
Introduction to Emergency Medical Technology	10-12	2
Introduction to Health Occupations	9-12	1
Introduction to Pharmacy Assistant	10-12	1-2
Medical Assistant I	10-12	1-2
Medical Assistant II	11-12	1-2
Medical Assistant III	12	1-2
Medical Terminology	9-12	1
Nursing Assistant I	10-12	1-3
Nursing Assistant II	11-12	1-3
Pharmacy Technician	12	1-2
Sports Medicine I	10-12	1-2
Sports Medicine	11-12	1-2

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:

§2383. Marketing Education

A. Marketing Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Advertising and Sales Promotion	11-12	1
Cooperative Marketing Education I	11-12	3
Cooperative Marketing Education II	12	3
Entrepreneurship	11-12	1
Marketing Education Elective I, II	9-12	1/2-3
Marketing Management	11-12	1
Marketing Research	11-12	1
Principles of Marketing I	9-12	1
Principles of Marketing II	12	1
Retail Marketing	11-12	1
Tourism Marketing	11-12	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:

§2385. Technology Education

A. Technology Education (formerly industrial arts) course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Communication/Middle School	6-8	-
Construction/Middle School	6-8	-
Manufacturing Technology/Middle School	6-8	-
Modular Technology/Middle School	6-8	-
Transportation Technology/Middle School	6-8	-

Course Title(s)	Recommended Grade Level	Units
Advanced Electricity/Electronics	10-12	1
Advanced Metal Technology	10-12	1
Advanced Technical Drafting	10-12	1
Advanced Wood Technology	10-12	1
Architectural Drafting	10-12	1
Basic Electricity/Electronics	9-12	1
Basic Metal Technology	9-12	1
Basic Technical Drafting	9-12	1
Basic Wood Technology	9-12	1
Communication Technology	9-12	1
Construction Technology	10-12	1
Cooperative Technology Education	10-12	3
Energy, Power, and Transportation Technology	9-12	1
General Technology Education	9-12	1
Manufacturing Technology	9-12	1
Materials and Processes	10-12	1
Physics of Technology I	10-12	1
Physics of Technology II	11-12	1
Power Mechanics	9-12	1
Technology Education Computer Applications	9-12	1
Technology Education Elective I, II	9-12	1/2-3
Welding Technology	10-12	1
Industry-Based Certifications		
Process Technician I, II	11-12	1
ABC Carpentry I, II TE	11-12	1-3
ABC Electrical I, II TE	11-12	1-3
ABC Instrumentation Control Mechanic I, II	11-12	1-3
ABC Pipe Fitter I, II TE	11-12	1-3
ABC Welding Technology I, II TE	11-12	1-3

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:

§3113. Work-Based Learning

A. - C. ...

D. Certification Requirements for Teachers

1. The cooperative education teacher-coordinator shall hold a valid teaching certificate entitling the holder to teach cooperative education in the CTE program or a valid CTTIE certificate to teach Trade and Industrial Cooperative Education. A General Cooperative Education educator shall hold a valid cooperative education certification.

2. The internship teacher-coordinator shall hold a valid teaching certificate in the CTE program that aligns with the student's internship worksite. A General CTE Internship educator shall hold a valid CTE or CTTIE certification.

E. Scheduling Work-based Learning

1. ...

2. Internships shall incorporate classroom instruction and on-the-job training. The classroom phase shall include a minimum 1 class period per week throughout the course of CTE related classroom instruction. The on-the-job training phase shall include a minimum of 155 hours for a 1 credit course or a minimum 335 hours for a 2 credit course throughout the course. Teacher-coordinators shall be scheduled for classroom instruction and on-the-job supervision.

F. - G.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1310 (June 2005), amended LR 33:

Family Impact Statement

- 1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., December 9, 2006, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revision will change the policy for implementing Career and Technical Internship courses. It is estimated that there will be no additional costs to state governmental units. It is unknown at this time if there are any costs to local governmental units; however, it is likely that the cost will be minimal if a school system has to reprint certain items associated with these classes such as course offering sheets or counseling brochures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state/local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes are being requested to assure that students in Career and Technical Internship courses are trained in the skills requested by business and industry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
0610#079

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Business Education (LAC 28: CXV.2375)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to Bulletin 741—Louisiana Handbook for School Administrators: §2375, Business Education. The action is being requested to assure that students in the Career and Technical Web Design course have adequate time to be trained in the skills requested by business and industry.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

§2375. Business Education

A. The Business Education course offerings shall be as follows.

Table with 3 columns: Course Title(s), Recommended Grade Level, and Units. Rows include Exploratory Keyboarding, Accounting I, Business Communications, etc.

B. Cooperative Office Education shall be limited to seniors. The students shall have successfully completed Keyboarding/Keyboarding Applications or Introduction to Business Computer Applications and one of the following: ASO or Word Processing or BCA, and have maintained an overall "C" average. The students' attendance records should also be considered. Other prerequisites may be required by the LEA.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., December 9, 2006, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 741—Louisiana Handbook for School Administrators—Business Education**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revision will change the Career and Technical Web Design course credit value. It is estimated that there will be no additional costs to state governmental units. It is unknown at this time if there are any costs to local governmental units; however, it is likely that the cost will be minimal if a school system has to reprint certain items associated with these classes such as course offering sheets or counseling brochures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state/local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes are being requested to assure that students in the Career and Technical Web Design course have adequate time to be trained in the skills requested by business and industry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
0610#078

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.403)

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*, §403. Introduction. This revision to the policy for ancillary certification as a Child Nutrition Program Supervisor would allow any individual with a master's degree from a regionally accredited college or university to complete guidelines for certification in this area. This will allow more flexibility for individuals completing certification as a Child Nutrition Program Supervisor, increasing the pool of qualified applicants for employment in this area.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

§403. Introduction

A. Child Nutrition Program Supervisor—valid for life with continuous service.

B. Basic Eligibility Requirements. A master's degree 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 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 33:

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 comments until 4:30 p.m., December 9, 2006, to Nina Ford, State Board of Elementary and Secondary Education, P. O. 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 revision to the policy for ancillary certification as a Child Nutrition Program Supervisor would allow any individual with a master's degree from a regionally accredited college or university to complete guidelines for certification in this area. 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.

Beth Scioneaux
Acting Deputy Superintendent
0610#033

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—Junior Reserve Officers Training Corps Instructor (ROTC)(LAC 28:CXXXI.408)

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*, §408. Junior Reserve Officers Training Corps Instructor (ROTC). This policy allows the issuance of an Ancillary ROTC certificate to an individual who has retired from the active duty in the military or who has been officially recommended by the appropriate branch of the military service, with certification by the appropriate Department of Defense unit, to serve as a Junior Reserve Officers Training Corps Instructor (ROTC). At present, there is no certification area that allows an individual to serve as an instructor for ROTC. The proposed ancillary certificate would make available to school districts an instructor qualified to perform these duties.

**Title 28
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for
State Certification of School Personnel**

**§408. Junior Reserve Officers Training Corps
Instructor (ROTC)**

A. An ancillary certificate issued in ROTC authorizes an individual to teach Junior ROTC.

B. Provisional Certification: Valid for five years.

1. Eligibility Requirements

a. Be retired from active duty in the retired grades of E-6 through E-9, WO-1 through CWO-5, 03 through 06; and

b. official recommendation by appropriate branch of the military service with certification by the appropriate Department of Defense.

2. Renewal Guidelines. May be renewed upon request of the Louisiana 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 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., December 9, 2006, to Nina Ford, State Board of Elementary and Secondary Education, P. O. 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—Junior Reserve
Officers Training Corps Instructor (ROTC)**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This policy allows the issuance of an Ancillary ROTC certificate to an individual who has retired from the active duty in the military or who has been officially recommended by the

appropriate branch of the military service, with certification by the appropriate Department of Defense unit, to serve as a Junior Reserve Officers Training Corps Instructor (ROTC). 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.

Beth Scioneaux
Acting Deputy Superintendent
0610#058

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs—Higher Education
(LAC 28:IV.301 and 1103)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance
Higher Education Scholarship and Grant Programs
Chapter 3. Definitions**

§301. Definitions

A. Where the masculine is used, in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Average Award Amount (TOPS-Tech)—is applicable to those students awarded the TOPS-Tech and TOPS Opportunity, Performance, and Honors Awards who attend LAICU colleges and universities and are enrolled in a vocational, technical education certificate or diploma program or non-academic undergraduate degree program, and is determined by dividing the total dollar value of awards, which are made to students enrolled in the same types of programs in the prior program year (non-academic program) at eligible public colleges and universities that do not offer academic degrees at the baccalaureate level, by the total number of students that received the awards. To ensure that the average award amount (TOPS Tech) is not reduced for students during program year (non-academic program) 2006-2007 because of the adverse affects of Hurricanes Katrina and Rita on student enrollment, the average award amount (TOPS Tech) for program year (non-academic program) 2006-2007 shall be the same as calculated for program year (non-academic program) 2005-2006.

* * *

Merit Ranking Formula—a mathematical equation incorporating selected merit factors that is used to rank eligible applicants in the priority by which competitive scholarships are to be awarded. As of July 1, 1997, the TOPS Teacher Award and Rockefeller State Wildlife Scholarship are the only programs in which applicants are competitively ranked. The following formulas for the merit ranking of scholarship applicants provide for the equating of scores for high school graduating seniors and college students.

a. Formula I—applies to applicants for the Rockefeller State Wildlife Scholarship with less than 24 hours of graded college credit and to applicants for the TOPS Teacher Award with less than 48 hours of graded college credit:

$$\text{Merit Score} = \left(\left(\frac{\text{HSGPA}}{4.00} \right) \times 60 \right) + \left(\left(\frac{\text{ACT}}{36} \right) \times 40 \right)$$

b. Formula IA—applies to applicants for the Rockefeller State Wildlife Scholarship who are qualified home study completers with less than 24 hours of graded college credit:

$$\text{Merit Score} = \left(\frac{\text{ACT}}{36} \right) \times 100$$

c. Formula II—applies to applicants for the Rockefeller State Wildlife Scholarship with 24 or more hours of graded college credit and to applicants for the TOPS Teacher Award with 48 or more hours of graded college credit:

$$\text{Merit Score} = \left(\left(\frac{\text{College GPA}}{4.00} \right) \times 90 \right) + \left(\left(\frac{\text{College Level}}{4} \right) \times 10 \right)$$

d. Formula III—applies to applicants for the TOPS Teacher Award. For those applicants majoring in math or chemistry, an additional 10 points are added to the merit score determined by Formula I or II, resulting in an adjusted merit score.

e. Applicants' merit scores are ranked in descending order with the applicant with the highest merit score ranked first. The number of applicants selected for award is dependent upon the amount of award funds available.

* * *

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 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993 and 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), repromulgated LR 27:1842 (November 2001), amended LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330 and 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:

Chapter 11. Rockefeller State Wildlife Scholarship §1103. Establishing Eligibility

A. To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen; and

2. be a resident of Louisiana, as defined in §301 for at least one year prior to July 1 of the award year; and

3. submit the completed Free Application for Federal Student Aid (FAFSA) or the Renewal FAFSA, whichever is applicable to the student, by final deadline set forth in §501.C or §505.F; and

4. complete and submit such documentary evidence as may be required by LASFAC; and

5. not have a criminal conviction, except for misdemeanor traffic violations; and

6. agree that award proceeds will be used exclusively for educational expenses; and

7. be enrolled or accepted for enrollment as a full-time undergraduate or graduate student at a Louisiana public college or university majoring in forestry, wildlife or marine science, with the intent of obtaining a degree from a Louisiana public college or university offering a degree in one of the three specified fields; and

8.a. must have graduated from high school, and if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, have earned a minimum cumulative high school grade point average of at least 2.50 calculated on a 4.00 scale for all courses completed in grades 9 through 12, have taken the ACT or SAT and received test score results and, beginning with the 2006-2007 academic year (college), have an ACT Score of at least 20; or

b. beginning with the 2006-2007 academic year (college), must be a qualified home study completer and, if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, achieve an ACT Score of at least 22; or

c. if, at the time of application, the student applicant has earned 24 or more hours of college credit, then the applicant must have at least a 2.50 cumulative college grade point average; or

d. if, at the time of application, the student is in graduate school, then the applicant must have at least a 3.00 cumulative grade point average on all credits earned in graduate school.

9. To be a qualified home study completer for the purposes of this Section, the applicant must:

a. successfully complete at the twelfth grade level a home study program approved by BESE; or

b. if a Louisiana public high school, a Louisiana nonpublic high school, an approved non-Louisiana high school, or an out-of-state high school was previously attended, has provided LASFAC with certification by the previously attended high school that said student was in good standing at the time the student last attended such school.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:639 (April 1998), amended LR 24:1908 (October 1998), LR 27:1220 (August 2001), repromulgated LR 27:1859 (November 2001), amended LR 28:774 (April 2002), LR 29:125 (February 2003), LR 30:2020 (September 2004), LR 33:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. (SG0776NI)

Interested persons may submit written comments on the proposed changes until 4:30 p.m., November 10, 2006, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Scholarship/Grant Programs Higher Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no costs or savings to state or local governmental units due to this change. The change allows home study completers to compete with high school graduates for the limited number of Rockefeller State Wildlife Scholarships. In addition, the change sets the payment level to be paid for TOPS Tech eligible students attending a Louisiana Association of Independent Colleges and Universities affiliated school at the same level paid during the 2005-2006 Program Year (Non-academic Program).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Home study completers will receive a small benefit since they will now be able to compete for a Rockefeller State Wildlife Scholarship. There are no estimated effects on economic benefits to non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
0610#002

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Abrasive Blasting Emissions
(LAC 33:III.1323, 1325, 1327,
1329, 1331, and 1333)(AQ249)

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.1323, 1325, 1327, 1329, 1331, and 1333 (Log #AQ249).

This proposed rule is intended to reduce particulate matter emissions from any facility that engages in or contracts to provide abrasive blasting and that is classified under a Standard Industrial Classification (SIC) Code beginning with 34, 35, or 37, or under SIC Code 1622 or 1721. The current rule is vague and not consistently followed. This rule clarifies the existing regulation by specifying the following standards of performance for abrasive blasting: prohibited materials and methods that cannot be used in abrasive blasting activities; requirement to control emissions through either enclosure or establishment of Best Management Practices; maintenance of control equipment; and recordkeeping requirements. Abrasive blasting is a common practice in Louisiana and is not currently regulated in a consistent manner. Many of the complaints received by the department are related to abrasive blasting emissions. This situation can be ameliorated by setting clear performance standards that apply equally to all businesses that engage in abrasive blasting. The basis and rationale for this rule are to improve air quality by reducing particulate matter emissions.

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 13. Emission Standards for Particulate Matter

Subchapter F. Abrasive Blasting

§1323. Emissions from Abrasive Blasting

A. Purpose. The purpose of this Subchapter is to reduce particulate matter emissions from facilities that engage in abrasive blasting.

B. Scope. This Subchapter applies to any facility in the state that engages in or contracts to provide on-site abrasive blasting and that is classified under a Standard Industrial Classification (SIC) Code beginning with 34, 35, or 37 or under SIC Code 1622 or 1721.

C. Compliance with these regulations does not eliminate the requirement to comply with any other state or federal regulation or any specific condition of a permit granted by the department.

1. Any new facility that is constructed after promulgation of these regulations shall comply with all of the requirements of this Subchapter before operation may commence.

2. Existing affected facilities shall comply with all of the requirements of this Subchapter as soon as practicable, but no later than one year after promulgation of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§1325. Definitions

A. Terms used in this Subchapter are defined in LAC 33:III.111 with the exception of the terms specifically defined below.

Abrasive Material (Abrasives, Abrasive Media)—any material used in abrasive blasting operations including, but not limited to, sand, slag, steel shot/grit, garnet, CO₂, or walnut shells.

Abrasive Blasting—the operation of cleaning or preparing a surface by forcibly propelling a stream of abrasive material against the surface.

Abrasive Blasting Equipment—any equipment utilized in abrasive blasting operations.

Emission Control Equipment—any device or contrivance, operating procedure, or abatement scheme, including, but not limited to, filters, ventilation systems, shrouds, or best management practices, that prevents or reduces the emission of air contaminants from blasting operations.

Enclose—to place tarps, shrouds, or a solid structure on all sides and the top of an area used for abrasive blasting, or to fully enclose a structure to be blasted.

Hydroblasting—abrasive blasting using high-pressure liquid as the propelling force or as the active cleaning agent.

Indoor Abrasive Blasting—abrasive blasting conducted inside of a permanent building equipped with a particulate matter collection system.

Nuisance—any condition of the ambient air beyond the property line of the offending source that is offensive to the senses, or that causes or constitutes an obstruction to the free use of property, so as to unreasonably interfere with the comfortable enjoyment of life or property. In determining whether or not a nuisance exists, the department may consider factors including, but not limited to, the following:

- a. the frequency of the emission;
- b. the duration of the emission;
- c. the intensity and offensiveness of the emission;
- d. the number of persons impacted;
- e. the extent and character of the detriment to the complainant; and
- f. the source's ability to prevent or avoid harm.

Shade Factor—for shrouds, the percent of area impermeable to particles 100 grit or greater, or to sunlight.

Shroud or Tarp—a device that is designed to enclose or surround the blasting activity to minimize the atmospheric dispersion of fine particulates and direct that material to a confined area for subsequent removal and disposal.

Surround—to place tarps, shrouds, or a solid structure on all sides of an area used for abrasive blasting.

Wet Abrasive Blasting—abrasive blasting with the addition of water to the air abrasive stream.

Vacuum Blasting—abrasive blasting in which a seal is maintained between the assembly and the blasting surface, thereby allowing the spent abrasive, surface material, and dust to be immediately collected by a vacuum device, equipped with a high efficiency (at least 95 percent) particulate filtration system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§1327. Blasting Operations

A. Abrasive Materials and Methods

1. Material derived from hazardous, toxic, medical, and/or municipal waste is prohibited from use as abrasive material.

2. Abrasives shall contain less than 10 percent (by weight) of fines that would pass through a No. 80 sieve as documented by the supplier. For the purpose of determining weight percent of fines in abrasive material, samples shall be taken according to ASTM standard ASTM D 75-87, reapproved 1992.

3. Abrasives shall not be reused for abrasive blasting unless they meet the requirements of Paragraph A.2 of this Section.

B. The following abrasives and blasting methods are exempt from the provisions of Paragraph A.2 of this Section and LAC 33:III.1329.A and F and LAC 33:III.1333.A.4-5:

1. abrasive blasting using iron or steel shot/grit;
2. abrasive blasting using CO₂;
3. hydroblasting or wet abrasive blasting;
4. vacuum blasting; and
5. abrasive blasting using other abrasives, as approved

by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§1329. Performance Standard

A. Affected facilities shall either:

1. fully enclose the structure or item to be blasted; or
2. prepare and implement a best management practices (BMP) plan as described in LAC 33:III.1331.

B. Blast cabinet exhaust shall be re-circulated to the cabinet or vented to emission control equipment.

C. If tarps are used to confine emissions due to abrasive blasting, the tarps shall:

1. have overlapping seams to prevent leakage of particulate matter;
2. have a shade factor of 80 percent or greater; and
3. be repaired prior to use if any single tear greater than 1 foot in length is present or if multiple tears greater than 6 inches in length each are present.

D. If blasting is performed in a permanent building with a particulate matter collection system, the collection system shall be exhausted through effective control equipment with a particulate matter outlet grain loading of 0.05 g/dscf or less, as documented by the control equipment manufacturer.

E. When abrasive blasting is performed over waters of the state, no blasting material or visible floating solids shall reach waters of the state unless such a discharge is authorized according to the LPDES permit program.

F. Abrasive blasting activities shall not create a nuisance.

G. The facility shall maintain stockpiles of new and/or spent abrasive material in a manner that will minimize fugitive airborne emissions. Measures to minimize emissions shall include, but not be limited to, the following:

1. covering stockpiled material;
2. wetting stockpiled material; or
3. keeping stockpiled material in containers.

H. All emission control equipment shall be used and diligently maintained in proper working order according to the manufacturer's specifications whenever any emissions are being generated that can be controlled by the facility, even if the ambient air quality standards in affected areas are not exceeded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§1331. Best Management Practices (BMP) Plans

A. Facilities that decide to use a BMP plan to comply with this Subchapter shall comply with all the requirements of this Section.

B. A complete copy of the BMP plan shall be kept at the facility and be made available to authorized representatives of the department upon request. Plans need not be submitted to the department unless requested by an authorized representative of the department.

C. Each facility shall have a designated person who is accountable for the implementation and effectiveness of the BMP plan.

D. Amendment of BMP Plan

1. After review of the plan by the department and/or upon receiving notice of a complaint, the department may require the owner/operator of the facility to amend the plan if there are indications that the plan does not adequately prevent nuisances and/or adverse off-site impacts.

2. The plan shall be amended whenever physical or operational modification of the facility renders the existing plan inadequate. The amendment shall be implemented prior to or concurrent with the facility modification.

E. Periodic Review of BMP Plan. The owner/operator of a facility shall review the plan every three years to determine if the plan adequately reduces nuisances and adverse off-site impacts. If it is determined that the plan is not adequate, the plan shall be amended within 90 days of the review to include more effective emission prevention and control technology.

F. Contents of BMP Plan. The BMP plan shall be prepared in accordance with sound engineering practices and must be site-specific. The plan information shall be presented in the following sequence:

1. the name, mailing address, and location of the facility;
2. the name of the operator of the facility;
3. the date and year of initial facility operation;
4. a description of the facility, including an indication of any nearby recreational areas, residences, or other structures not owned or used solely by the facility, and their distances and directions from the facility;
5. a description of any nearby waters of the state that may be affected, and their distances and directions from the facility;
6. a statement of the facility's procedures for preventing nuisances and/or adverse off-site impacts, including a description of any emission control equipment;
7. a statement of the facility's capability and procedures for taking corrective actions and/or countermeasures when nuisances and/or adverse off-site impacts occur;
8. written procedures for self-monitoring and self-inspection of the facility;
9. personnel training records as required by this Subchapter; and
10. signatures of responsible officials.

G. Provisions for personnel training shall be included in the BMP plan as follows.

1. Any employee and/or contractor conducting abrasive blasting shall be trained on proper abrasive blasting methods, proper handling of abrasive and spent material and floatable solids, the facility's plan, and good housekeeping practices for the facility.

2. Employees and contractors shall receive training pertaining to the plan at least once a year or when significant changes are made to the plan that affect their activities.

3. Employees, contractors, and customer representatives shall be instructed not to dispose of abrasive, spent, or floatable materials to air and water bodies or to drains, drainage channels, or trenches that lead to water bodies.

4. Contractors shall be notified of and required to perform in accordance with the provisions of the plan applicable to activities related to their contract.

H. Inspections and Records

1. The BMP plan shall be reviewed every three years to ensure that the plan meets the requirements of this Subchapter. Records of this review shall be signed or initialed by the person conducting the review, and an appropriate supervisor or the facility designee, and shall be retained for a minimum of three years.

2. In addition to other recordkeeping and reporting requirements of this Section, the following records should be maintained on the facility premises:

- a. self-inspection reports;
- b. documentation of employee and contractor training, including dates, subjects, and hours of training and a list of attendees with signatures.

I. Verification by the Department. Facilities to which this Subchapter applies may be inspected by an authorized representative of the department to ensure implementation and adequacy of the facility's BMP plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§1333. Recordkeeping and Reporting

A. The facility owner/operator shall maintain the following records on the facility premises at all times, and present them to an authorized representative of the department upon request:

1. permit application approval records and the facility's permit to construct/operate, where applicable;
2. a description of the type of *emission control equipment*, as defined in LAC 33:III.1325, employed at the facility;
3. descriptions and diagrams showing the locations of blasting operations on-site;
4. a monthly record of abrasive material usage, including weight percent of fines in abrasive material *per* the manufacturer or *per* sampling, if abrasive material is being reused. For the purpose of determining weight percent of fines in abrasive material, samples shall be taken according to ASTM standard ASTM D 75-87, reapproved 1992;
5. applicable results, and data derived from results, of containment, ventilation, air, soil, fines, and other monitoring activities;
6. records of how spent material is handled, recycled, reused, or disposed of, including the names of, and any

manifests or receipts from, any off-site facilities that accept the spent material; and

7. for abrasive blasting that is performed outside of a full enclosure or a blast cabinet, the following:

- a. observations of wind direction, recorded hourly;
- b. visual observations of particulate matter emissions, recorded hourly;
- c. a daily record of actual operating times when such blasting is performed, based on a 24-hour clock.

B. Records required by this Subchapter or any BMP plan used to attain compliance with this Subchapter shall be maintained on a 30-day rolling basis with a three-year retention period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on November 28, 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. Parking in the Galvez Garage is free 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 AQ249. Such comments must be received no later than December 5, 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 AQ249. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, Monthly Regulation Changes.

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: Abrasive Blasting Emissions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes are not expected to increase or reduce the cost to the state. No permitting requirements above

those already in existence will be required. There will be no implementation costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no change in revenue collections due to the proposed rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated costs and/or economic benefits to directly affected persons or non-governmental groups are minimal. Most facilities already utilize the required materials to meet the current standards.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Effects on competition and employment within the industry will be negligible. The proposed rule change will affect the regulated community equally.

Herman Robinson, CPM
Executive Counsel
0610#039

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

IBR of Administrative Reporting Exemption for Certain Air Releases of NO_x (NO and NO₂) (LAC 33:I.3931)(OS076ft)

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 Office of the Secretary regulations, LAC 33:I.3931 (Log #OS076ft).

This proposed rule is identical to federal regulations found in 71 FR 58525-58533, No. 192, October 4, 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 EPA administrative reporting exemptions for releases that are a result of combustion of less than 1000 pounds of nitrogen oxide (NO) and less than 1000 pounds of nitrogen dioxide (NO₂) to the air in 24 hours. The noncombustion-related releases of NO and NO₂ reportable quantities remain at 10 pounds. This rule is required to make the state regulations equivalent to federal regulations. 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 I. Office of the Secretary
Subpart 2. Notification

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges
Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. Incorporation by Reference of Federal Regulations

1. Except as provided in Subsection B of this Section, the following federal reportable quantity lists are incorporated by reference:

a. 40 CFR 117.3, July 1, 2005, Table 117.3—Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

b. 40 CFR 302.4, July 1, 2005, Table 302.4—List of Hazardous Substances and Reportable Quantities.

2. Amendments as promulgated on October 4, 2006, in the *Federal Register*, 71 FR 58525-58533, to 40 CFR Part 302, Designation, Reportable Quantities, and Notification, and 40 CFR Part 355, Emergency Planning and Notification, are hereby incorporated by reference.

B. - Note #. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004), LR 30:1669 (August 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 32:

A public hearing will be held on November 28, 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. Parking in the Galvez Garage is free 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 OS076ft. Such comments must be received no later than November 28, 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 OS076ft. This regulation is

available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

0610#053

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Public Record Requests for Legal Documents
(LAC 33:I.2007 and 2305)(OS074)

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 Office of the Secretary regulations, LAC 33:I.2007 and 2305 (Log #OS074).

This rule clarifies that regulations in LAC 33:I.Chapter 23 for public record requests apply to copies made as a direct result of suit for judicial review of an LDEQ decision (typically a permit decision). Suits for judicial review require preparation of an administrative record of decision by the Legal Affairs Division in accordance with LAC 33:I.Chapter 20. Once the administrative record of decision is compiled and indexed, a certified copy is prepared for filing with the court. Often, the person filing suit wants an additional copy of the record being filed for his own use. If an appeal to the First Circuit Court is taken, then an additional copy of the index and record must be filed with that court. All of these copies must be paid for, in accordance with state law. Clarifying that Chapter 23 applies to these records provides authority to charge for copies prepared for filing with a court at the reduced rate. The basis and rationale for this proposed rule are to ensure compliance with state law when providing the public with copies of public records, including when copies are made for submission to a court.

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 I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures
Chapter 20. Records of Decision for Judicial Review
§2001. Scope and Purpose

A. ...

B. The copying, assembly, and lodging of a record of decision with a court of competent jurisdiction pursuant to an appeal or other request for judicial review of an agency decision or other department action shall be considered a public records request in accordance with LAC 33:I.Chapter 23.

1. The cost, in accordance with LAC 33:I.Chapter 23, of the preparation of a record of decision for lodging with the court shall be borne by the person seeking judicial review unless otherwise assigned by the court.

2. In the event of conflict between the requirements of LAC 33:I.Chapter 23 and this Chapter, the requirements of this Chapter shall apply.

C. These regulations do not apply to matters handled by the Department of State Civil Service, Division of Administrative Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2050.20.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:857 (May 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

Chapter 23. Procedures for Public Record Requests **§2305. Standard Operating Procedures**

A. All requests for copies of public records, including discovery requests, subpoenas duces tecum for production of public records, and the preparation of a record of decision pursuant to LAC 33:I.Chapter 20, shall be made using LDEQ Form ISD-0005-01. A certification on LDEQ Form ISD-0005-02 shall be submitted with a request for free or reduced rate copies. Completed forms may be submitted in person, by mail, by facsimile, or by another approved method. No other form of request will be honored. Copies of the forms may be obtained through the department's website or from the department's custodian of records.

B. Payment shall be made in accordance with the rates established in this Chapter.

C. Advance payment is required, except for a request for an administrative record of decision required to be lodged with a court. Payment shall be made only by check or money order made payable to the Department of Environmental Quality. The department does not accept cash.

D. In order to ensure the preservation of department records, no records shall leave the premises, whether accompanied by agency personnel or otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 29:702 (May 2003), amended by the Office of Environmental Assessment, LR 30:2020 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on November 28, 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. Parking in the Galvez Garage is free 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 OS074. Such comments must be received no later than December 5, 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 OS074. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, Monthly Regulation Changes.

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 Record Requests for Legal Documents

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no fiscal impact as a result of this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no fiscal impact as a result of this proposed rule. This rule clarifies the application of fees to this segment of requests as are currently being charged by the department.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no fiscal impact as a result of this proposed rule to the regulated community or non-governmental groups. This rule clarifies the application of fees to this segment of requests as are currently being charged by the department

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment as a result of this proposed rule.

Herman Robinson, CPM
Executive Counsel
0610#040

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

State Manifest Requirements
(LAC 33:V.1107 and 5136)(HW093)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.1107 and 5136 (Log #HW093).

This rule removes state hazardous waste manifest requirements that are no longer valid. A new federally-mandated manifest rule that supersedes the state requirements became effective on September 5, 2006. The EPA rule was adopted by the department in May 2006. This rule cleans up state requirements remaining in the regulations due to the delayed effective date, including the fee. This rule is required for state RCRA program compliance. 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 V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 11. Generators

Subchapter A. General

§1107. The Manifest System

A. General Requirements

1. - 7. ...

8. The requirements of this Chapter and LAC 33:V.1109.C do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding LAC 33:V.1301.A, the generator or transporter must comply with the requirements for transporters set forth in LAC 33:V.1315 and 1317 in the event of a discharge of hazardous waste on a public or private right-of-way.

B. Required Information

1. The manifest must contain all of the following information before being issued:

a. the name, physical address, telephone number, and active EPA identification number of the generator;

b. the name, physical address, telephone number, and active EPA identification number of each transporter;

c. the name, physical address, telephone number, and active EPA identification number of the designated facility;

d. the description of the waste(s) (e.g., proper shipping name, EPA hazardous waste number, etc.) required

by Hazardous Materials regulations of the Louisiana Department of Public Safety and Corrections in LAC 33:V.Subpart 2.Chapter 101; and

e. the total quantity of each hazardous waste in tons, cubic yards, pounds, or gallons (liquids only), and the type, including but not limited to, metal drums, barrels, kegs, fiberboard or plastic drums, cargo tanks, tank trucks, dump trucks, metal boxes, cartons, cases, burlap bags, paper bags, plastic bags, wooden drums, portable tanks, tank cars, cylinders, wooden boxes, and fiber or plastic boxes, and number of containers as loaded into or onto the transport vehicle. If the weight is unknown, the volume and estimated weight shall be provided.

B.2. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:266, 267 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), LR 27:42 (January 2001), LR 27:709 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006), LR 33:

Chapter 51. Fee Schedules

§5136. Manifest Form Fee

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:267 (March 1995), repealed by the Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on November 28, 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. Parking in the Galvez Garage is free 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 HW093. Such comments must be received no later than December 5, 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 HW093. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, Monthly Regulation Changes.

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: State Manifest Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no fiscal impact as a result of this proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Approximately \$65,000 in revenue will be lost to the department. The Environmental Protection Agency (EPA) issued a rule that was effective September 5, 2006, that put an end to state-produced manifests. The department adopted that rule in May 2006. This rule cleans up requirements remaining in the regulations due to the delayed effective date, including the fee. There is no impact on local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no fiscal impact as a result of this proposed rule to the regulated community or non-governmental groups. EPA will still charge fees for the manifests.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment as a result of this proposed rule.

Herman Robinson, CPM
Executive Counsel
0610#041

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Waste Tire Fee Exemption for Salvage Yards
(LAC 33:VII.10505, 10519,
10521, and 10533)(SW042)

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 Solid Waste regulations, LAC 33:VII.10505, 10519, 10521, and 10533 (Log #SW042).

This rule establishes an exemption from the waste tire fee levied pursuant to R.S. 30:2413(A)(8) for tires salvaged from Louisiana-titled vehicles and sold by scrap or salvage yards. Act 821 of the 2006 Regular Session of the Louisiana Legislature provides for this exemption for the period of July 1, 2006 through June 30, 2008. These regulations provide guidance on which facilities qualify as a scrap or salvage yard and the recordkeeping requirements in order to qualify for the exemption. The basis and rationale for the proposed

rule are to implement Act 821 and to promote best management practices for the waste tire program in the state.

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 VII. Solid Waste
Subpart 2. Recycling**

Chapter 105. Waste Tires

§10505. Definitions

A. ...
* * *

Qualified Scrap or Salvage Yard—any facility that is required to be licensed pursuant to R.S. 32:752.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000), LR 27:829 (June 2001), LR 27:2226 (December 2001), LR 28:1953 (September 2002), LR 29:2779 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3158 (December 2005), LR 33:

§10519. Standards and Responsibilities of Generators of Waste Tires

A. - B. ...

C. Each tire dealer, other than qualified scrap or salvage yard tire dealers selling tires salvaged from a Louisiana-titled vehicle, doing business in the state of Louisiana shall be responsible for the collection of the \$2 waste tire fee upon the sale of each passenger/light truck tire, \$5 waste tire fee upon the sale of each medium truck tire, and \$10 waste tire fee upon the sale of each off-road tire. For recapped or retreaded tires, a waste tire fee of \$1.25 shall be collected upon the sale of each recapped or retreaded tire. *Tire dealer* includes any dealer selling tires in Louisiana, other than qualified scrap or salvage yard tire dealers selling tires salvaged from a Louisiana-titled vehicle. Qualified scrap or salvage yard tire dealers are only exempt on tires salvaged from Louisiana-titled vehicles through June 30, 2008. Any new or used tires sold by qualified scrap or salvage yard tire dealers that are not salvaged from Louisiana-titled vehicles shall have the appropriate fees collected upon the sale.

D. Each dealer of passenger/light truck tires, medium truck tires, or off-road tires shall remit all waste tire fees collected as required by LAC 33:VII.10535.B and C to the department on a monthly basis on or before the twentieth day following the month during which the fees were collected. The fees shall be remitted to the Office of Management and Finance, Financial Services Division. Each such dealer shall also submit a Monthly Waste Tire Fee Report (Form WT02, available from the Office of Management and Finance, Financial Services Division), to the Office of Management and Finance, Financial Services

Division, on or before the twentieth day of each month for the previous month's activity, including months in which no fees were collected. Each tire dealer required to make a report and remit the fee imposed by this Section shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each such dealer shall maintain a complete record of the quantity of tires sold, together with tire sales invoices, purchase invoices, inventory records, and copies of each Monthly Waste Tire Fee Report for a period of no less than three years. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

E. - E.1. ...

2. "All Louisiana tire dealers, other than qualified scrap or salvage yard tire dealers selling tires salvaged from a Louisiana-titled vehicle, are required to collect a waste tire cleanup and recycling fee of \$2 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire, upon sale of each tire. These fees shall also be collected upon replacement of all recall and adjustment tires. Tire fee categories are defined in the Waste Tire Regulations. No fee shall be collected on tires weighing more than 500 pounds or solid tires. This fee must be collected whether or not the purchaser retains the waste tires. Tire dealers must accept from the purchaser, at the time of sale, one waste tire for every tire sold, unless the purchaser elects to retain the waste tire."

3. "Qualified scrap or salvage yard tire dealers are only exempt on tires salvaged from Louisiana-titled vehicles through June 30, 2008. Any new or used tires sold by qualified scrap or salvage yard tire dealers that are not salvaged from Louisiana-titled vehicles shall have the appropriate fees collected upon the sale."

F. - N. ...

O. All tire wholesalers shall keep a record of all tire sales made in Louisiana. These records shall contain the name and address of the purchaser, the date of the purchase, the number of tires purchased, and the type and size of each tire purchased. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

P. All generators of waste tires (e.g., new tire dealers, used tire dealers, qualified scrap or salvage yards, and recappers) shall maintain a complete record of purchase invoices, inventory records, and sales invoices for a period of no less than three years. Qualified scrap or salvage yard tire dealers shall make available to the administrative authority the register of business transactions as required by R.S. 32:757(A), and also maintain a record of the number of tires recovered from Louisiana-titled vehicles, which tires are resold. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours. Qualified scrap or salvage yard tire dealers are only exempt on tires salvaged from Louisiana-titled vehicles through June 30, 2008. Any new or used tires sold by qualified scrap or salvage yard tire dealers that are not salvaged from Louisiana-titled vehicles shall have the appropriate fees collected upon the sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001), LR 28:1953 (September 2002), LR 29:1818 (September 2003), LR 29:2780 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005), LR 33:

§10521. Standards and Responsibilities of Motor Vehicle Dealers

A. - B. ...

C. Motor vehicle dealers shall remit all waste tire fees collected as required by LAC 33:VII.10535.B and C to the department on a monthly basis on or before the twentieth day following the month during which the fees were collected. The fees shall be remitted to the Office of Management and Finance, Financial Services Division. Each such dealer shall also submit a Monthly Waste Tire Fee Report (Form WT02, available from the Office of Management and Finance, Financial Services Division) to the Office of Management and Finance, Financial Services Division, on or before the twentieth day of each month for the previous month's activity, including months in which no fees were collected. Each motor vehicle dealer is required to make a report and remit the fee imposed by this Section and shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each such dealer shall maintain a complete record of the quantity of vehicles sold, together with vehicle purchase and sales invoices, and inventory records, for a period of no less than three years. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

D. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1324 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§10533. Manifest System

A. - C. ...

D. Completed manifests shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:831 (June 2001), LR 27:2228 (December 2001), LR 29:2780 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:

A public hearing will be held on November 28, 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. Parking in the Galvez Garage is free 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 SW042. Such comments must be received no later than December 5, 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 SW042. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, Monthly Regulation Changes.

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: Waste Tire Fee Exemption
for Salvage Yards**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost to the department of implementing the rule as it pertains to an exemption for scrap and salvage yards is estimated to be a minimal increase in expenditure of funds that are dedicated to the Waste Tire Management Fund. The department will incur a minimal additional cost of printing and mailing notifications and signs to approximately 3,000 Louisiana registered waste tire dealers. There will be no implementation costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The rule as it pertains to an exemption for scrap and salvage yards is estimated to result in a decrease of approximately \$2,767 to \$40,000 annually in fee collections dedicated to the Waste Tire Management Fund.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The rule will result in scrap and/or salvage yards recovering tires from Louisiana-titled vehicles to avoid having to collect the waste tire fee. This will result in the consumers who buy these recovered tires not having to pay the fee. There will be no direct impact on scrap and/or salvage yards selling these tires.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The regulation change will have a minimal impact on used tire dealers other than scrap or salvage yards, as scrap and/or salvage yards will be able to sell tires without the consumer having to pay the waste tire management fee.

Herman Robinson, CPM
Executive Counsel
0610#042

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Racing Commission**

**Worker's Compensation Insurance
(LAC 46:XLI.531)**

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 46:XLI.531 "Worker's Compensation Insurance" to comply with Act No. 309 of 2005 requiring trainers to obtain workers' compensation insurance policies from the Louisiana Horsemen's Benevolent and Protective Association, or a waiver thereof.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLI. Horseracing Occupations

**Chapter 5. Assistant Trainers and Other Employees
§531. Worker's Compensation Insurance**

A. In addition to all other requirements for a trainer's license, each applicant therefor must furnish an individual certificate of insurance issued in his or her name only by the Louisiana Horsemen's Benevolent and Protective Association, or a waiver thereof, covering his or her employees and which names the Louisiana State Racing Commission as a certificate holder for purposes of coverage and cancellation of policy. Any exceptions to the form and content of the certificate may be considered on timely request.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:150.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 4:274 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 29:1820 (September 2003), LR 33:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

The domicile office of the Louisiana State Racing Commission is open from 8:30 a.m. to 5 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or Larry Munster, Assistant Executive Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule

through November 10, 2006, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Worker's Compensation Insurance**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than one-time costs directly associated with the publication of this rule there are no additional costs to the commission as a result of this action.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

As a result of recent legislation, the Horsemen's Benevolent and Protective Association received the legal authority to become the self-insurer for Workers' Compensation insurance to Louisiana horsemen. As a result, Workers' Compensation premiums have dropped dramatically. It is the hope that by reducing premiums, the more lucrative stables will transplant to Louisiana to take advantage of the low insurance premiums. The attraction of additional quality horsemen may entice more wagering, thereby increasing revenue. However, the potential increase in revenue cannot be estimated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The requirement for trainers to hold worker's compensation insurance through the Louisiana Horsemen's Benevolent and Protective Association will effectively reduce compensation premiums by one-half.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Passage of this rule could affect employment positively. Trainers having lower insurance premiums could potentially afford to hire additional personnel. Also, lower premium rates would potentially attract more out-of-state trainers.

Charles A. Gardiner III
Executive Director
0610#005

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Motor Vehicle Commission**

Advertising (LAC 46:V.Chapter 7)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapter 6, the Office of the Governor, Louisiana Motor Vehicle Commission, notice is hereby given that the Louisiana Motor Vehicle Commission proposes to repeal Chapter 7 and replace it with new regulations and language to clarify the Rule, put into the Rule customary procedures of the commission to assist its licensees in designing their advertising programs.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part V. Automotive Industry

Subpart 1. Motor Vehicle Commission

Chapter 7. Advertising

§701. Advertising; Dealer Name

A. Dealers may advertise only under the name that appears on their franchise agreement and dealer license issued by the Motor Vehicle Commission.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§703. General Prohibition

A. A person advertising motor vehicles shall not use false, deceptive, unfair, or misleading advertising.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§705. Specific Rules

A. The violation of an advertising rule shall be considered by the commission as a prima facie violation of the Louisiana Motor Vehicle Commission Law. In addition to a violation of a specific advertising rule, any other advertising or advertising practices found by the commission to be false, deceptive, or misleading shall be deemed violations of the Louisiana Motor Vehicle Commission Law, and shall also be considered violations of the general prohibition.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§707. Definitions

Abbreviations—using shortened terms for words or initials for groups of words. Commonly understood abbreviations, such as "DR", "AM/FM", "APR", "WAC", "DEMO", "EXEC", "DOC FEE", may be used. Trade industry abbreviations which are not commonly understood, such as "FTB", "A/R", "TOP", "POF", "DOC" MAY NOT be used. This rule does not contain a list of all the abbreviations one may not use.

Advertisement—an oral, written, telecommunicated, graphic, or pictorial statement made in the course of soliciting business, including, without limitation, a statement or representation made in a newspaper, magazine, or other publication, or contained in a notice, sign, poster, display, circular, pamphlet, letter, flyer, price tag, window sticker, banners, billboards, handbills, or on radio, the Internet, or via on-line computer service, or on television or any medium.

Bait Advertisement—an alluring but insincere offer to sell or lease a product of which the primary purpose is to obtain leads to persons interested in buying or leasing merchandise of the type advertised and to switch consumers from buying or leasing the advertised product in order to sell some other

product at a higher price or on a basis more advantageous to the advertiser.

Balloon Payment—any scheduled made a required by a consumer credit sale or consumer loan that is more than twice as large as the average of all prior scheduled payments except the down payment.

Buyers Guide—a form as required by the Federal Trade Commission under 16 CFR Part 455. This form is to be completed and displayed on the side window of a vehicle that has been driven more than the limited use necessary in moving or road testing a new vehicle prior to delivery to a consumer.

Clear and Conspicuous—that the statement, representation, or term being disclosed is of such size, color, contrast, and audibility and is presented so as to be readily noticed and understood. All language and terms, including abbreviations, shall be used in accordance with their common or ordinary usage and meaning by the general public. This standard may be met by the following.

1. In all printed media, where terms, conditions or disclaimers are used, they shall be clearly and conspicuously visible and printed in not less than 8-point type print or printed in 6-point upper case type print. When billboards, portable signs, posters, etc., are used, all terms, conditions or disclaimers shall be displayed and phrased in a manner which is clear and conspicuous.

a. All required ad disclosures should be adjacent to the advertised vehicle being depicted.

b. Asterisks (*) may not be used with disclosures located elsewhere in the advertisement.

c. It is an unfair or deceptive act to use, in any advertising, one or more footnotes or asterisks which, alone or in combination, confuse, contradict, materially modify or unreasonably limit the material terms of an advertisement.

2. In an audio advertisement:

a. the statement is made orally and is clear and understandable and the same in pace and volume as remainder of the advertisement;

b. the disclosure shall be placed at the end of the advertisement.

3. In a television advertisement:

a. the disclosure shall be in visual form so that the average viewer can easily read and understand it;

b. the disclosure size shall be at least 20 scan lines and each disclosure shall appear continuously on the screen for at least 10 seconds.

Dealership Addendum—a form which is to be displayed on a window of a motor vehicle when the dealership installs special features, equipment, parts or accessories, or charges for services not already compensated by the manufacturer or distributor for work required to prepare a vehicle for delivery to a buyer.

1. The addendum is to disclose:

a. that it is supplemental;

b. any added feature, service, equipment, part, or accessory charged and added by the dealership and the retail price therefore;

c. any additional charge to the selling price such as additional dealership markup; and

d. the total dealer selling price.

2. The dealership addendum form shall not be deceptively similar in appearance to the manufacturer's

label, which is required to be affixed by every manufacturer to the windshield or side window of each new motor vehicle under the Automobile Information Disclosure Act.

Demonstrator—a new motor vehicle that is currently in the inventory of the automobile dealership and used or has been used primarily for test drives by customers and other dealership purposes and so designated by the dealership. Demonstrators may be advertised for sale as such only by an authorized dealer in the same make of motor vehicle.

Disclaimer—those words or phrases used to provide a clear understanding of any advertised statement, but not used to contradict or change the meaning of the statement.

Disclosure—required information that is clear, conspicuous, and accurate and shall be in the immediate proximity of the year, make and model offered in the advertisement.

Factory Executive/Official Vehicle—a new motor vehicle that has been used exclusively by an executive or official of the dealer's franchising manufacturer, distributor or their subsidiaries.

Identification—

1. When any price of a vehicle is advertised, the following must be disclosed:

a. model year;

b. make and model number;

c. trade, brand or style name;

d. vehicle must be identified as a new, used, demonstrator, or a factory executive/official, or a factory program vehicle; and

e. when an illustration of a motor vehicle is used in an advertisement, it must be that of the motor vehicle advertised.

Internet—a system that connects computers or computer network.

Licensee—any person required to obtain a license from the Louisiana Motor Vehicle Commission.

Manufacturer's Label—the label required by the Automobile Information Disclosure Act, 15 U.S.C. 1231-1233, to be affixed by the manufacturer to the windshield or side window of each new automobile delivered to the dealer.

Program—a vehicle that is purchased at a manufacturer's closed auction or sold by or directly from the manufacturer or distributor which is current or previous year model, that has been previously tagged and/or titled, and returned to the manufacturer for disposal.

Rebate or Cash Back—a sum of money refunded to a purchaser or for the benefit of the purchaser after full payment has been rendered. The purchaser may choose to reduce the amount of the purchase price by the sum of money or the purchaser may opt for the money to be returned to himself or for his benefit subsequent to payment in full.

§709. Availability of Vehicles

A. A licensee may advertise a specific vehicle or line-make of vehicles for sale if:

1. the specific vehicle or line is in the possession of the licensee at the time the advertisement is placed, or the vehicle may be obtained from the manufacturer or distributor or some other source, and this information is clearly and conspicuously disclosed in the advertisement; and

2. the price advertisement sets forth the number of vehicles available at the time the advertisement is placed or a dealer can show he has available a reasonable expectable public demand based on prior experience. In addition, if an advertisement pertains to only one specific vehicle, then the advertisement must also disclose the vehicle's stock number or vehicle identification number.

B. Motor vehicle dealers may advertise a specific used vehicle or vehicles for sale if:

1. the specific used vehicle or vehicles is in the possession of the dealer at the time the advertisement is placed; and

2. the title certificate to the used vehicle has been assigned to the dealer.

C. This Section does not prohibit general advertising of vehicles by a manufacturer, dealer advertising association, or distributor and the inclusion of the names and addresses of the dealers selling such vehicles in the particular area.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§711. Accuracy

A. All advertised statements shall be accurate, clear and conspicuous.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§713. Untrue Claims

A. The following statements are prohibited:

1. statements such as "write your own deal", "name your own price", "name your own monthly payments", "appraise your own motor vehicle" or statements with similar meaning;

2.a. statements such as "everybody financed", "no credit rejected", "we finance anyone", "guaranteed approval", and other similar statements representing or implying that no prospective credit purchaser will be rejected because of his inability to qualify for credit;

b. statements such as "all credit applications accepted", or terms with similar meaning are deemed deceptive and shall not be used;

3. statements representing that no other person grants greater allowances for trade-ins, however stated, unless such is the case;

4. statements representing that because of its large sales volume a person is able to purchase vehicles for less than another person selling the same make of vehicles. Statements such as "big volume buying power," "manufacturer's outlet," "factory authorized outlet," and "factory wholesale outlet," shall not be used. Any term that gives the consumer the impression the dealer has a special arrangement with the manufacturer or distributor as compared to similarly situated dealers, is misleading and shall not be used;

5. "Double Rebates," "Triple Rebates" or any other amount of rebates that are not truly offered by the manufacturer are prohibited;

6. specific claims or discount offers shall not be used in connection with any motor vehicle other than new or a demonstrator and then only to show the difference between the dealer's own current selling price and the bona fide

manufacturer's suggested list price, if an automobile, or manufacturer's suggested retail price, if a truck. Full explanation must be given, as for example, "Save or discount \$ from manufacturer's list/retail price." Such statements as "Up To," "As Much As," "From"- "To," etc., shall not be used in connection with savings claims;

7. any claims such as "First", "Largest" and/or "Biggest" may be advertised only when the licensee is the "First", "Largest" and/or "Biggest" in retail sales for a calendar year. The claim of "First", "Largest" and/or "Biggest" must be qualified as to validity (using valid source data) and the time period of the claim with all qualifying language to be in the same size print as the claim. Additionally, the advertisement of the claim may only be utilized for the following calendar year.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§715. Layout

A. The layout, headlines, illustrations, or type size of a printed advertisement and the broadcast words or pictures of radio/TV advertisements shall not convey or permit an erroneous or misleading impression as to which vehicle or vehicles are offered for sale or lease at featured prices. No advertised offer, expression, or display of price, terms, down payment, trade-in allowance, cash difference, savings, or other such material terms shall be misleading and any necessary qualification shall be clearly, conspicuously, and accurately set forth to prevent misunderstanding.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§717. Manufacturer's Suggested Retail Price

A. The suggested retail price of a new motor vehicle when advertised by a manufacturer or distributor shall include all costs and charges for the vehicle advertised, except that destination and dealer preparation charges, state and local taxes, title, and license fees may be excluded from such price, provided that the advertisement clearly and conspicuously states that such costs and charges are excluded. With respect to advertisements placed with local media in Louisiana by a manufacturer or distributor which includes the names of the local dealers of the vehicles advertised, if the price of a vehicle is stated in the advertisement, such price must include all costs and charges for the vehicle advertised, including destination and dealer preparation charges and may exclude only state and local taxes, license, and title fees.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§719. Dealer Price Advertising

A. The featured price of a new or used motor vehicle, when advertised, must be the full cash price for which the vehicle will be sold to any and all members of the buying public. The only charges that may be excluded from the advertised price are:

1. state and local taxes;
2. license;
3. title; and

4. notarial fees, convenience fees and documentary fees.

B. A qualification may not be used when advertising the price of a vehicle such as "with trade", "with acceptable trade", "with dealer-arranged financing", "rebate assigned to dealer" or "with down payment".

C. If a price advertisement discloses a rebate, cash back, discount savings claim, or other incentive, the full cash price of the vehicle must be disclosed as well as the price of the vehicle after deducting the incentive. The following is an acceptable format for advertising a price with rebates and other deductions:

Mfg. Sugg. Retail Price	\$9,995
less rebate	\$ 500
less dealer discount	\$ 500
Sale Price	\$8,995

D. In the event that the manufacturer offers a discount on a package of options then that discount should be disclosed above or prior to the Manufacturer's Suggested Retail Price in the example in Subsection C with a total price of the vehicle before option discounts. The following is an acceptable format:

Total Vehicle Plus Options	\$10,995
Option Package Discount	\$ 1,000
Mfg. Sugg. Retail Price	\$ 9,995
less rebate	\$ 500
less dealer discount	\$ 500
Sale Price	\$ 8,995

E. If a rebate is only available to a selected portion of the public and not the public as a whole, the price should be disclosed as in Subsection C first and then the nature of the limitation and the amount of the limited rebate may be disclosed. The following is an acceptable format:

Mfg. Sugg. Retail Price	\$9,995
less rebate	\$ 500
less dealer discount	\$ 500
Sale Price	\$8,995
FIRST TIME BUYER'S RECEIVE ADDITIONAL \$500 OFF	

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§721. Identification

A. When the price of a vehicle is advertised, the following must be disclosed:

1. model year;
2. make;
3. model line and style or model designation; and
4. whether the vehicle is a used, demonstrator, or a factory executive/official vehicle.

B. Expressions such as "fully equipped", "factory equipped", "loaded", and other such terms shall not be used in any advertisement that contains the price of a vehicle unless the optional equipment of the vehicle is listed in the advertisement.

C. An illustration of a motor vehicle used in an advertisement must be substantially the same as that of the motor vehicle advertised.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§723. Advertising at Cost or Invoice

A. No advertisement shall be run which uses the term or terms "invoice"; "cost"; "percent over/under cost, invoice or profit"; "\$\$\$ over/under cost, invoice or profit".

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§725. Trade-In Allowances

A. No guaranteed trade-in amount or range of amounts shall be featured in advertising.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§727. Used Vehicles

A. A used vehicle shall not be advertised in any manner that creates the impression that it is new. A used vehicle shall be identified as either "used" or "pre-owned". Terms such as Program Car, Special Purchase, Factory Repurchase or other similar terms are not sufficient to designate a vehicle as used, and these vehicles must be identified as "used" or "pre-owned".

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§729. Demonstrators, Factory Executive/Official Vehicles

A. If a demonstrator or factory executive/official vehicle is advertised, the advertisement must clearly and conspicuously identify the vehicle as a demonstrator or factory executive/official vehicle. A demonstrator or factory executive/official vehicle may be sold only by a dealer franchised and licensed to sell that line-make of new motor vehicle.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§731. Auction

A. Terms such as "auction" or "auction special" and other terms of similar import shall be used only in connection with a vehicle offered or sold at a bona fide auction.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§733. Free Offers

A. No merchandise or enticement may be described as "free" if the vehicle can be purchased or leased for a lesser price without the merchandise or enticement of if the price of the vehicle has been increased to cover the cost or any part of the cost of the merchandise or enticement. The advertisement shall clearly and conspicuously disclose the conditions under which the "free" offer may be obtained.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§735. Cash Offers

A. Any cash offer funded by the dealer shall not be used and is prohibited.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§737. Authorized Dealer

A. The term "authorized dealer" or a similar term shall not be used unless the advertising dealer holds both a franchise and a Louisiana Motor Vehicle Commission license to sell those vehicles he is holding himself out as "authorized" to sell.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§739. Manufacturer and Distributor Rebates

A. It is unlawful for a manufacturer or distributor to advertise any offer of a rebate, refund, discount, or other financial inducement or incentive, which is either payable to or for the benefit of the purchaser or which reduces the amount to be paid for the vehicle, whether the amount is the vehicle purchase price, the interest or finance charge expense, or any other cost accruing to the purchaser if any portion of such rebate, refund, discount, or other financial incentive or inducement is paid or financed or in any manner contributed to by the dealer selling the vehicle, unless the advertisement discloses that the dealer's contribution may affect the final negotiated price of the vehicle. With respect to interest or finance charge expense programs, an advertisement shall disclose that participating dealers contribute to the reduction of the financing rate and that the dealer's contribution may affect the final negotiated price of the vehicle.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§741. Rebate and Financing Rate Advertising by Dealers

A. It is unlawful for a dealer to advertise an offer of a manufacturer's or distributor's rebate, discount, or other financial inducement or incentive if the dealer contributes to the manufacturer's or distributor's program unless such advertising discloses that the dealer's contribution may affect the final negotiated price of the vehicle. With respect to interest or finance charge expense programs, if a participating dealer contributes to the reduction of a financing rate, then a disclosure must state that the dealer's contribution may affect the final negotiated price of the vehicle.

B. An advertisement containing an offer of an interest or finance charge incentive that is paid for or financed by the dealer rather than the manufacturer or distributor, shall disclose that the dealer pays for or finances the interest or finance charge rate reduction, the amount of the dealer's contribution in either a dollar or percentage amount, and that such arrangement may affect the final negotiated price of the vehicle.

C. An offer to pay, promise to pay or tender cash to a buyer of a motor vehicle as in a rebate or cash back program may not be advertised, unless it is offered and paid by the motor vehicle manufacturer or distributor directly to the retail purchaser or assignee of the retail purchaser and unless the advertisement sets forth the disclosures required by the this rule.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§743. Lease Advertisements

A. Vehicle lease advertisements shall clearly and conspicuously disclose that the advertisement is for the lease of a vehicle. Statements such as "alternative financing plan", "drive away for \$_____ per month", or other terms or phrases that do not use the term "lease", do not constitute adequate disclosure of a lease. Lease advertisements shall not contain the phrase "no down payment" or words of similar import if any outlay of money is required to be paid by the customer to lease the vehicle. Lease terms that are not available to the general public shall not be included in advertisements directed at the general public, or all limitations and qualifications applicable to the lease terms advertised shall be clearly and conspicuously disclosed.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§745. Manufacturer Sales; Wholesale Prices

A. New vehicles shall not be advertised for sale in any manner that creates the impression that they are being offered for sale by the manufacturer or distributor of the vehicles. Advertisements by persons shall not contain terms such as "factory sale", "fleet prices", "wholesale prices", "factory approved", "factory sponsored", or any other similar terms which indicate sales other than retail sales from the dealer.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§747. Savings Claims; Discounts

A. A savings claim or discount offer is prohibited except to advertise a new or demonstrator vehicle, and the advertisement must show the difference between the dealer's selling price and the manufacturer's, distributor's, or converter's total suggested list or retail price.

B. The featured savings claim or discount offer for a new motor vehicle, when advertised, must be the savings claim or discount which is available to any and all members of the buying public.

C. If a dealer has added an option obtained from the manufacturer or distributor of the motor vehicle on which it is installed and disclosed the option and factory suggested retail price of the option on a dealership addendum sticker prior to offering the vehicle for sale at retail, the dealer may advertise a savings claim on that vehicle as long as the difference is shown between the dealer's selling price and the total selling price as disclosed on the dealership addendum sticker and discloses the factory-available options added in the advertisement. If an option that is added by a dealer is not a factory-available option, a savings claim may not be advertised on that vehicle.

D. Statements such as "up to", "as much as", "from", shall not be used in connection with savings or discount claims.

E. No person may advertise a savings claim or discount offer on used motor vehicles.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§749. Sales Payment Disclosures

A. An advertisement that contains any one of the following messages, statements, or terms:

1. the amount of a down payment, in either a percentage or dollar amount;
2. the amount of any payment, in either a percentage of dollar amount;
3. the number of payments;
4. the period of repayment; or
5. the amount of any finance charge;

B. Must include the following:

1. the amount or percentage of the down payment;
2. the terms of repayment (the number of months to make repayment and the amount per month) including the amount and due date of any balloon payment;
3. the annual percentage rate or APR; and
4. the amount of annual percentage rate, if increased, after consummation of the credit transaction.

C. An advertisement which complies with the Federal Truth-In-Leading Act (15 U.S.C. §160 et seq.) and amendments thereto, and any regulations issued or which may be issued thereunder, shall be deemed in compliance with the provisions of this Section. Any advertisement not in compliance with these federal provisions constitutes violation(s) of this rule.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§751. Payment Disclosure—Lease

A. An advertisement that promotes a consumer lease and contains any of the following messages, statements, or terms:

1. the amount of any payment; or
2. a statement of any capitalized cost reduction or other payment required prior to or by delivery, if delivery occurs after consummation, must clearly and conspicuously include the following:
 - a. that the transaction advertised is a lease;
 - b. the total amount due prior to or at consummation or by delivery, if delivery occurs after consummation;
 - c. the number, amounts, and due dates or periods of scheduled payments under the lease;
 - d. a statement of whether or not a security deposit is required; and
 - e. a statement that an extra charge may be imposed at the end of the lease term where the lessee's liability, if any, is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

B. Except for a periodic payment, a reference to a charge as described in this Section, to components of the total due at lease signing or delivery, cannot be more prominently advertised than the disclosure of the total amount due at lease signing or delivery.

C. If a percentage rate is advertised, that rate shall not be more prominent than any of the following disclosures stated in the advertisement, with the exception of Paragraph (19) of this Subsection, the notice required to accompany the rate:

1. description of payments;
2. amount due at lease signing or delivery;
3. payment schedule and total amount of periodic payments;
4. other itemized charges that are not included in the periodic payment. These charges include the amount of any liability that lease imposes upon the lessee at the end of the lease term;
5. total of payments;
6. payment calculation:
 - a. gross capitalized cost;
 - b. capitalized cost reduction;
 - c. adjusted capitalized cost;
 - d. residual value;
 - e. depreciation and any amortized amounts;
 - f. rent charge;
 - g. total of base periodic payments;
 - h. lease term;
 - i. base periodic payment;
 - j. itemization of other charges that are a part of the periodic payment;
 - k. total periodic payment;
 - l. early termination conditions and disclosure of charges;
 - m. maintenance responsibilities;
 - n. purchase option;
 - o. statement referencing nonsegregated disclosures;
 - p. liability between residual and realized values;
 - q. right of appraisal;
 - r. liability at the end of the lease term based on residual value;
 - s. fees and taxes;
 - t. insurance;
 - u. warranties or guarantees;
 - v. penalties and other charges for delinquency;
 - w. security interest;
 - x. limitations on rate information.

D. If a lessor provides a percentage rate in an advertisement, a notice stating that "this percentage may not measure the overall cost of financing this lease" shall accompany the rate disclosure. The lessor shall not use the term "annual percentage rate", "annual lease rate", or any equivalent term.

E. A multi-page advertisement that provides a table or schedule of the required disclosures is considered a single advertisement if, for lease terms that appear without all of the required disclosures, the advertisement refers to the page or pages on which the table or schedule appears.

F. A merchandise tag stating any item listed in Paragraphs A.1 or 2, must comply with the disclosures in Subparagraphs A.2.a-e of this Section by referring to a sign or display prominently posted in the lessor's place of business that contains a table or schedule of the required disclosures.

G. An advertisement made through television or radio stating any item listed in Paragraphs A.1 or 2, must state in the advertisement:

1. that the transaction advertised is a lease;
2. the total amount due prior to or at consummation or by delivery, if delivery occurs after consummation;
3. the number, amounts and due dates or periods of scheduled payments under the lease; and

4. either:

a. a toll-free number along with a reference that such number may be used by consumers to obtain the information in Subparagraphs A.2.a-e of this Section. The toll-free telephone number shall be available for no fewer than 10 days, beginning on the date of the broadcast and the lessor shall provide the information in Subparagraphs A.2.a-e of this Section orally or in writing upon request; or

b. direct the consumer to a written advertisement in a publication of general circulation in the community served by the media station, including the name and the date of the publication, with a statement that the required disclosures in Subparagraphs A.2.a-e of this Section are included in the advertisement. The written advertisement shall be published beginning at least three days before and ending at least 10 days after the broadcast.

H. An advertisement which complies with the Consumer Leasing Act of 1976 (15 U.S.C. §1601 et seq.) and amendments thereto, and any regulations issued or which maybe issued thereunder, shall be deemed in compliance with the provisions of this Section. Any advertisement not in compliance with these federal provisions constitutes violation(s) of this rule.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§753. Bait Advertisement

A. "Bait" advertisement shall not be used by any person.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§755. Lowest Price Claims

A. Representing a lowest price claim, best price claim, best deal claim, or other similar superlative claim shall not be used in advertising.

B. A person may not advertise a "meet or beat" guarantee.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§757. Fleet Prices

A. Terms such as "fleet prices", "fleet sales", "suppliers prices", or other terms implying that retail individual customers will be afforded the same price and/or discount as multi-purchase commercial businesses shall not be used in advertising.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§759. Bankruptcy/Liquidation Sale

A. No licensee may willfully misrepresent the ownership of a business for the purpose of holding a liquidation sale, auction sale, or other sale which represents that the business is going out-of-business. A person who advertises a liquidation sale, auction sale, or going out-of-business sale shall state the correct name and permanent address of the owner of the business in the advertisement. A person may not conduct a sale advertised with the phrase "going out-of-

business", "closing out", "shutting doors forever", "bankruptcy sale", "foreclosure", or "bankruptcy", or similar phrases or words indicating that an enterprise is ceasing business unless the business is closing its operations and follows the procedures required by Chapter 1, Part II, Title 51, Trade and Commerce, Louisiana Revised Statutes.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

§761. Gas Mileage Claims

A. Advertising which includes a gas mileage claim, i.e., a certain miles-per-gallon claim must be properly qualified as to the source of information and authenticity of the claim. Such advertisement should include, but not be limited to, a clear statement as to whether the claimed miles-per-gallon can be expected to be attained under normal or usual driving conditions.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 33:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule should have a positive effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. What effect will this have on the ability of the family or local government to perform the function as contained in this proposed Rule? This Rule is designed to help the family to obtain the information and help needed to own their own automobile.

Any person may submit data, views or positions, orally or in writing to the Louisiana Motor Vehicle Commission, 3519 12th Street, Metairie, LA 70002, or by telephone at 504-838-5207, and facsimile 504-838-5416.

Lessie House
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Advertising

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The revision and simplification of existing rules will not have any impact on expenditures for state or local governmental units as policies which have been standard

practice for many years have been incorporated into the administrative rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rule will not effect revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that implementation of the proposed rules will have little or no effect on directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of this proposal.

Lessie House
Executive Director
0610#019

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Embalmers and Funeral Directors**

Identification on Caskets
(LAC 46:XXXVII.1109)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 37:840, notice is hereby given that the Department of Health and Hospitals, Board of Embalmers and Funeral Directors intends to add a provision to Chapter 11, Funeral Establishments. The board finds it necessary to add this provision to provide identification on caskets.

This proposed Rule will assist families in their time of need should human remains be displaced from their final resting place and need to be identified.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXVII. Embalmers and Funeral Directors

Chapter 11. Funeral Establishments

§1109. Identification on Caskets

A. In compliance with the directives and the mandates as set forth within R.S. 37:853, and considering that various casket manufacturers have thoroughly researched and developed a methodology to properly preserve and display information concerning the identification of the human remains contained within their casket, all licensed funeral directors and/or embalmers and all licensed funeral establishment shall, in order to assist in the identification of caskets and/or the identification of human remains, utilize the recommendations of the individual casket manufacturer whose casket is used as the container into which the human remains are placed, in preserving and displaying the mandated information regarding the name of the decedent, their date of death, and the funeral home involved in the service.

B. Should the casket manufacturer of the product used in the service not have a recommendation for a methodology to properly preserve and display the necessary information concerning the identification of human remains, then the licensed funeral directors and/or embalmers and licensed funeral establishments shall utilize any one of the products recommended by the casket manufacturers who have in fact researched and developed a proper system or methodology to properly preserve and display the mandated information concerning human remains, or alternative use a methodology submitted to and approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:853.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 33:

Interested persons may submit written comments to Dawn Scardino, Executive Director, Louisiana State Board of Embalmers and Funeral Directors, P. O. Box 8757, Metairie, LA 70011-8757. Written comments must be submitted to and received by the board within 30 days of this notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Dawn Scardino
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Identification on Caskets

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

During fiscal year 06/07 the board will spend approximately \$700 notifying the licensed funeral establishments of this new rule. This amount includes cost of publication in the *Louisiana Register*, and the printing and mailing of the rule to each funeral establishment. The board has sufficient self-generated funds available to implement this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental agencies.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Pursuant to Act 330 of the 2006 Regular Session, implementation of this rule may cost the funeral establishments (approximately 411) \$.60 to \$1.00 per case to utilize identification products recommended by casket manufacturers. This small cost will be absorbed by many establishments. However, the cost of the basic service fee charged by funeral establishments may increase.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment.

Dawn Scardino
Executive Director
0610#076

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Practical Nurse Examiners

Temporary Permits (LAC 46:XLVII.1705)

The Board of Practical Nurse Examiners, proposes to amend LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The purpose of the proposed Rule change is to update, clarify and provide specificity to the language that allows for temporary permits to be issued to graduates of board approved or accredited practical nursing programs in Louisiana. Language has been added to provide for the expiration of temporary permits issued to applicants for licensure by examination. Language related to the examination closing date is no longer applicable and has been deleted. In addition, the proposed Rule change allows the board to increase the length of time (from 8 weeks to 12 weeks) a temporary permit is valid when said permit is issued to applicants for licensure by endorsement and provides for the board to extend the permit on a case-by-case basis. The increase in the valid time length and the ability for the board to extend the permit are proposed in order to allow the state and federal agencies conducting criminal background checks sufficient time for fingerprint processing and reporting. Furthermore, the proposed Rule change provides for emergency temporary permits to be issued by the board during a declared state of public health emergency; provides for temporary permits to be issued to a practical nurse providing care to a client being transported into, out of or through the state of Louisiana; and provides for temporary permits to be issued to previously licensed practical nurses currently enrolled in a board approved refresher course.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 1. Practical Nurses

Chapter 17. Licensure

§1705. Temporary Permit

A. A temporary permit to practice as a practical nurse in Louisiana may be issued to graduates of board approved or accredited practical nursing programs in Louisiana as follows.

1. The application for licensure by examination must be completed and submitted with the appropriate fees, and said application must be reviewed and approved by the board.

2. An official transcript must be submitted by the educational institution from which the applicant graduated, and said transcript must be reviewed and approved by the board.

3. If a temporary permit is granted, that permit shall expire on one of the following three dates, whichever comes first:

- a. eight weeks from the date of issue;
- b. the date of full licensure; or
- c. upon receipt of a score of fail on the licensure examination.

4. The temporary permit shall not be subject to extension or renewal under any circumstances, including reentry and completion of a program in practical nursing.

5. The abbreviation P.N. (T.P.), (Practical Nurse, temporary permit), shall be used with the signature of the applicant on all documents requiring said signature in the course of practice while the temporary permit is valid.

6. The P.N. (T.P.) shall serve only in a staff-nurse position.

7. The P.N. (T.P.) shall assume only those duties and functions commonly included in the staff-nurse position.

8. The P.N. (T.P.) shall practice only in nursing situations in which a registered nurse or physician is providing direct supervision.

B. A temporary permit may be issued to licensees pending disciplinary action at time of license renewal.

C. A 12 week temporary permit may be issued to applicants for licensure by endorsement upon receipt of all of the following: verification of current licensure, in good standing, from another state or U.S. territory; a notarized sworn statement, by the applicant, that the applicant meets the requirements for licensure in this state and has a negative history for criminal activity, a negative history for chemical dependency, and a negative history for complaints against and/or related to any and all licenses held for any profession in any state or U.S. territory; the required fee; and confirmation that required fees and forms have been submitted to the appropriate state and/or federal agencies for the processing of the applicant's criminal history record. The temporary permit shall be immediately revoked upon receipt of information indicating that the applicant may not qualify for licensure. A temporary permit issued to applicants for licensure by endorsement may be extended on a case-by-case basis but may not be reissued to any person, under any circumstances, including reapplication for licensure by endorsement.

D. During a declared state of public health emergency, an emergency temporary permit may be issued to practical nurses licensed in another jurisdiction of the U.S. whose license is current, unrestricted and in good standing in such jurisdiction, provided that the practical nurse register with the board prior to providing practical nursing care. The emergency permit may be issued for 60 days or until termination of the state of public health emergency, whichever comes first. The permit may be extended for two additional 60 day periods. Only gratuitous services may be provided by practical nurses who are working on an emergency temporary permit.

E. A temporary permit may be issued to practical nurses licensed in another jurisdiction of the U.S. whose license is current, unrestricted and in good standing in such jurisdiction for a period not to exceed 14 days when the practical nurse is providing care to a client being transported into, out of or through the state.

F. A temporary permit may be issued to practical nurses enrolled in board approved refresher courses provided the practical nurse has been previously licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:341 (April 1984), amended by the Department of Health and Hospitals, Board of Practical

Nurse Examiners, LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 28:2355 (November 2002), LR 32:637 (April 2006), LR 33:

Family Impact Statement

The proposed amendments, to Rule XLVII.Subpart 1, should not have any impact on family as defined by R.S. 49:972. There should not be any 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, family earnings and family budget, the behavior and personal responsibility of children, and/or the ability of the family or local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments until 3:30 p.m., November 10, 2006, to Claire Doody Glaviano, Board of Practical Nurse Examiners, 3421 N. Causeway, Ste. 505, Metairie, LA 70002.

Claire Doody Glaviano, MN, APRN
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Temporary Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the rule publication costs, which are estimated to be \$200.00 in fiscal year 2007, it is not anticipated that the proposed rule amendments will result in any material costs or savings to the Board of Practical Nurse Examiners, any state unit or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will have no significant effect on costs and/or economic benefits to directly affected persons, or nongovernmental groups. The proposed rule change updates, clarifies and provides specificity to existing language that allows for temporary permits to be issued to applicants (approximately 1,000 per year) for licensure by examination. The proposed rule change also allows the board to increase the length of time (from eight weeks to 12 weeks) a temporary permit is valid when issued to applicants (approximately 200 per year) for licensure by endorsement. This increase will allow the state and federal agencies conducting criminal background checks sufficient time for fingerprint processing and reporting. Furthermore, the proposed rule change provides for emergency temporary permits to be issued by the board during a declared state of public health emergency; provides for temporary permits to be issued to a practical nurse providing care to a client being transported into, out of or through the state of Louisiana; and provides for temporary permits to be issued to previously licensed practical nurses currently enrolled in a board approved refresher course.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Claire Doody Glaviano, RN, MN
Executive Director
0610#003

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Tuberculosis Control Program—Health Examinations
of Employees, Volunteers and Patients at Day Care
Centers and Residential Facilities
(LAC 51:II.503 and 505)

Notice is hereby given, 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, and based on the amendment and reenactment of R.S. 40:1156, intends to amend LAC 51:II.Chapter 5, specifically §503, Mandatory Tuberculosis Testing and §505, Required Medical Examinations of All Persons Admitted to Nursing Homes and Residential Facilities.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part II. The Control of Diseases

Chapter 5. Health Examinations for Employees, Volunteers and Patients at Certain Medical and Residential Facilities

§503. Mandatory Tuberculosis Testing

A. [Formerly paragraph 2:022] All persons prior to or at the time of employment at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Public Health and Hospitals, Office of Public Health out-patient health care facility or any person prior to or at the time of commencing volunteer work involving direct patient care at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Public Health and Hospitals, Office of Public Health out-patient health care facility shall be free of tuberculosis in a communicable state as evidenced by either:

1. a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration;

2. a normal chest X-ray, if the skin test or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; is positive; or

3. a statement from a licensed physician certifying that the individual is non-infectious if the X-ray is other than normal. The individual shall not be denied access to work solely on the basis of being infected with tuberculosis, provided the infection is not communicable.

B. [Formerly paragraph 2:023] Any employee or volunteer at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Public Health and Hospitals, Office of Public Health out-patient health care facility who has a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a positive

blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; or a chest X-ray other than normal, in order to remain employed or continue work as a volunteer, shall complete an adequate course of chemotherapy for tuberculosis as prescribed by a Louisiana licensed physician, or shall present a signed statement from a Louisiana licensed physician stating that chemotherapy is not indicated.

C. [Formerly paragraph 2:024] Any employee or volunteer at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Public Health and Hospitals, Office of Public Health outpatient health care facility who has a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a negative result of a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; in order to remain employed or continue work as a volunteer, shall be re-tested annually as long as the purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; remains negative. Any employee converting from a negative to a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; shall be referred to a physician and followed as indicated in §503. B.

D. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of Louisiana Revised Statutes 40:4(A)(2) and Revised Statutes 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1220 (June 2002), amended LR 32:98 (January 2006), LR 33:

§505. Required Medical Examinations of All Persons Admitted to Nursing Homes and Residential Facilities [formerly paragraph 2:026]

A. Any person (adult or child) admitted to any nursing home or other residential facility shall have a complete history and physical examination by a licensed physician within 30 days prior to or 48 hours after admission, except that any resident who has complied with this provision shall be exempt from re-examination if transferred to another residential facility provided the record of examination is transferred to the new facility. This examination shall include laboratory tests as indicated by the history and physical examination. A purified protein derivative intradermal skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, shall be given to all residents under 35 years of age and a purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis*, approved by the United States Food and Drug Administration, plus a chest X-ray to all residents over 35 years of age, no more than 30 days prior to admission to any nursing home or other residential facility. If the skin test or a blood assay for *Mycobacterium tuberculosis* approved by the

United States Food and Drug Administration is not done prior to admission, it may be done within 72 hours after admission and interpreted at the appropriate time. A repeat skin test or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, is not required if the patient has a chest X-ray with no abnormalities indicative of tuberculosis and has had a negative skin test or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, documented within one year of admission or if the patient has a previously documented positive skin test or a positive result of a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration. A record of the admission history, physical examination, purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, chest X-ray, and any other laboratory tests shall be a part of the permanent record of each resident. No resident with evidence of active tuberculosis shall be admitted unless the examining physician states that the resident is on an effective drug regimen, is responding to treatment, and presents no imminent danger to other patients or employees, or unless the facility has, been specifically cleared by the Office of Public Health and the Department of Health and Hospitals to house patients with active tuberculosis.

B. [Formerly paragraph 2:026-1] Any resident who is a case or an asymptomatic carrier of a communicable disease which may pose a serious risk to other patients or employees shall not be admitted except under the supervision of the state health officer or his agent.

C. [Formerly paragraph 2:027] When a suspicious case or carrier of a communicable disease poses a serious public health risk, appropriate measures shall be taken to prevent the disease from spreading to other residents.

D. [Formerly paragraph 2:028] Any child under 18 years of age in any residential facility in the state shall have an annual examination by a licensed physician to determine the child's physical condition, mental condition and the presence of any indication of hereditary or other constitutional disease. Any deformity or abnormal condition found upon examination shall be entered by the physician on the medical record of the child.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1220 (June 2002), amended LR 32:

Family Impact Statement

1. The Effect on the Stability of the Family. This proposed Rule will enhance the stability of the family in providing for early detection of infection with tuberculosis and early treatment of the employees, volunteers and patients at Day Care Centers and Residential Facilities to minimize the untoward health effects of this contagious disease in all persons referenced above and to members of their families.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. It is envisioned that this proposed Rule will have no effect

on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. This proposed Rule will enhance the functioning of the family in providing for early detection of infection with tuberculosis and early treatment of the of the employees, volunteers and patients at Day Care Centers and Residential Facilities to minimize the untoward health effects of this contagious disease in all persons referenced above and to members of their families.

4. The Effect on the Family Earnings and Family Budget. Early treatment of tuberculosis is done as much as possible on an out-patient basis for people not unduly ill with the chronic disease tuberculosis. This requires minimal time spent away from work and/or home. Clinic visits and drugs are provided at no charge to the patient by the Department of Health and Hospitals Office of Public Health. Patients seeking care privately will generally have their health care covered by health insurance. Those persons seeking care at a state-run hospital out-patient clinic will also receive their care free or at reduced fees. The cost of a blood assay for *Mycobacterium tuberculosis* is comparable to that of the traditional tuberculin skin test. Therefore the effect on family earnings and family budget is estimated to be zero or negligible.

5. The Effect on the Behavior and Personal Responsibility of Children. It is the opinion of the tuberculosis control program staff that this proposed Rule will no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. The blood assay for *Mycobacterium tuberculosis* will not be offered by the Public Health Laboratories of the Louisiana Department of Health and Hospitals Office of Public Health. The family has been shown to be able to cooperate with the functions called for in this proposed rule by compliance with existing requirements for mandatory tuberculosis testing, i.e., the tuberculin skin test, and it is anticipated that the same compliance will be exhibited by those who choose to have the blood assay for *Mycobacterium tuberculosis* instead of the skin test. The proposed Rule does not pose any responsibility nor additional costs upon local government.

All interested persons are invited to submit written comments on the proposed regulation. Persons may submit written comments no later than November 9, 2006 by 4:30 p.m., to Dr. Louis D. Trachtman, Medical Director of the Office of Public Health, 1010 Common Suite-1136 New Orleans, LA 70112.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tuberculosis Control Program Health Examinations of Employees, Volunteers and Patients at Day Care Centers and Residential Facilities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will allow for the use of a blood assay for the presence of *Mycobacterium tuberculosis* as well the

traditional tuberculin skin test for persons required to be tested for tuberculosis. The blood assay for *Mycobacterium tuberculosis* has received recent approval from the federal Food and Drug Administration for use and its use is recommended by the United States Centers for Disease Control and Prevention.

There are no implementation costs anticipated other than the \$200 cost of printing the Notice of Intent and the Rule in the Louisiana Register. No increase in the expenditure of funds is anticipated by the DHH/Office of Public Health in the implementation of the proposed rule and the management of the tuberculosis program. This testing will not be offered in the Public Health Laboratories of the Department of Health and Hospitals Office of Public Health. Likewise, there is no new workload adjustment or additional paperwork for the same reason.

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 new or additional costs and/or economic benefits to directly affected persons or non-governmental groups. Tuberculosis testing has been required for the same groups of persons by DHH/OPH and the cost to those affected is approximately the same for the blood assay as for the traditionally used tuberculin skin test. This test is an acceptable alternative to institutions to use for employees required to have tuberculosis testing for their work.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are estimated to be no effects on competition and employment.

Sharon Howard
Assistant Secretary
0610#059

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Health Care Services Provider Fees
Pharmacy Services (LAC 48:I.4001)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.4001 as authorized by R.S. 36:254. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of Management and Finance amended and repromulgated the rules governing provider specific fees for nursing facility services, intermediate care facility services for the mentally retarded and developmentally disabled, transportation services and pharmacy services in a codified format in Title 48 of the Louisiana Administrative Code (LAC) (*Louisiana Register*, Volume 26, Number 7). In June 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing inadvertently repromulgated the provisions governing provider fees for pharmacy services in LAC 50:XXIX which, in essence,

removed the provisions from Title 48 (*Louisiana Register*, Volume 32, Number 6).

The bureau now proposes to repeal the provisions governing provider fees for pharmacy services in LAC 50:XXIX.981 and repromulgate these provisions in LAC 48:I.4001. This action is being taken to place the provisions back in the appropriate Section in the Administrative Code.

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.

Title 48
PUBLIC HEALTH-GENERAL
Part I. General Administration
Subpart 1. General
Chapter 40. Provider Fees
§4001. Specific Fees

A. - C.2. ...

D. Pharmacy Services. A prescription fee shall be paid by each pharmacy and dispensing physician for each out-patient 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 Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

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 proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, November 28, 2006 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for 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: Health Care Services Provider Fees
Pharmacy Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 06-07. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in FY 06-07 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 06-07. It is anticipated that \$136 will be expended in FY 06-07 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The Department proposes to repeal the current provisions governing provider fees for pharmacy services in LAC 50:XXIX and repromulgate these provisions in LAC 48:I under licensing standards for pharmacy providers. This action is being taken to place the provisions back in the appropriate section in the Administrative Code because they were inadvertently removed from Title 48. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 06-07, FY 07-08 and FY 08-09.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Jerry Phillips
Acting Medicaid Director
0610#084

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Pharmacy Benefits Management Program—Antihemophilia
Drugs Reimbursements and Pharmacy Provider Fees
(LAC 50:XXIX.971 and 981)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to repeal LAC 50:XXIX.971 and 981 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 the reimbursement methodology for antihemophilia drugs, factor products, to reduce the estimated acquisition cost reimbursement rate (*Louisiana Register*, Volume 32, Number 2). The bureau subsequently repromulgated all Rules governing Medicaid covered pharmacy services under the Louisiana Administrative Code (*Louisiana Register*, Volume 32, Number 6). In August 2006, an Emergency Rule was promulgated to amend the provisions of the June 20, 2006 Rule to repeal the Section dealing with reimbursement for antihemophilia drugs (*Louisiana Register*, Volume 32, Number 8). The bureau now proposes to adopt the following Rule to continue the provisions of the August 20, 2006 Emergency Rule.

In addition, the bureau also proposes to repeal the current provisions governing the provider fees for pharmacy services in LAC 50:XXIX and repromulgate these provisions in LAC 48:I. This action is being taken to place the provisions in the appropriate Section in the Administrative Code.

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 no effect on family functioning as described in R.S. 49:942.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 9. Methods of Payment

Subchapter F. Antihemophilia Drugs

§971. Reimbursement

A. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1066 (June 2006), repealed LR 33:

Subchapter G. Provider Fees

§981. Prescription Fee

A. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1066 (June 2006), repealed LR 33:

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 proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, November 28 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for 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: Pharmacy Benefits Management Program—Antihemophilia Drugs Reimbursements and Pharmacy Provider Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in an estimated increase in expenses (restoration of proposed reductions) to the state of \$168,756 for FY 06-07 only. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in FY 06-07 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 implementation of this proposed rule will increase federal revenue collections by \$388,428 for FY 06-07 only. In FY 06-07 \$102 is included 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 continues the provisions of the August 20, 2006 emergency rule to repeal provisions that reduced the Estimated Acquisition Cost reimbursement rate under the Medicaid Program to prescription drug providers for Antihemophilia drugs, Factor products, to the average wholesale price minus 30 percent (approximately 547 claims per year). It also repeals provisions governing provider fees which will be repromulgated in Title 48. It is anticipated that implementation of this proposed rule will increase reimbursements for Antihemophilia drugs by \$556,980 for FY 06-07 only.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition and employment as a result of the implementation of this proposed rule.

Jerry Phillips
Acting Medicaid Director
0610#083

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 78—Policy Form Filing Requirements (LAC 37:XIII.Chapter 101)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 78 regarding policy form filing requirements.

The proposed regulation is being amended to 1) provide an exception to the requirements of a complete filing for a) the filing of an amendatory rider or endorsement associated or in connection with an insurance product including those that have been previously approved by the department not

more than three years prior to the filing of such rider or endorsement and b) the filing of insurance products under the Multi-State Review Program; 2) establish procedures relative to notice for policies that have been deemed approved by the insurer or withdrawn from consideration by the insurer; and, 3) embody statutory fees for policy form filings outlined in the insurance code. Additionally, in accordance with the passage of Act 325 of the 2004 Regular Session of the Louisiana Legislature, the proposed changes permit an insurer to issue a group, health, and accident insurance policy to a multiple employer trust fund established on behalf of participating employers, provided that statutory protections are the same for all participating employers and employees.

The changes affect the following: LAC 37:XIII §10101, §10105, §10107, §10109, §10113, §10115, §10117 and §10119. Section 10117 has been retitled and pertains to "Severability", which language was contained in §10105. Section 10119 was formerly §10117.

**Title 37
INSURANCE**

Part XIII. Regulations

Chapter 101. Regulation 78—Policy Form Filing Requirements

§10101. Purpose

A. - A.1. ...

2. to clarify the provisions of R.S. 22:620.B;
3. to protect the interests of insurance consumers and the public through improvements to the form filing, review and approval processes; and
4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, Directive 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:

§10105. Applicability and Scope

A. This regulation applies to all insurers doing business in the state of Louisiana subject to the form filing, review and approval provisions of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, Directive 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:

§10107. Filing and Review of Health Insurance Policy Forms and Related Matters

A. ...

Affirmative Approval—department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to Subsection D hereof.

Association—an organization legally formed for purposes other than the procurement of insurance and, depending upon the particular insurance products in question, meeting the requirements of R.S. 22:215.A(1)(a)(iv), or R.S. 22:250.1(5)(b), or R.S. 22:1734(4), whichever is applicable.

Certification of Compliance—certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that upon knowledge and belief a filing is complete and in

compliance with all applicable statutes, and rules and regulations promulgated by the department. A certification of compliance must be included with any filing for certified approval.

Certified Approval—approval on the basis of an expedited review by the department of a complete filing based upon the inclusion of a statement of compliance and a certification of compliance, executed by an officer or authorized representative of the filing insurer on a form prescribed by the department. The department shall by directive determine those specific types of coverages and particular types of contracts for which the certified approval procedure is either required or available at the option of the insurer.

Commissioner—the Commissioner of Insurance of the Louisiana Department of Insurance.

Complete Filing—the filing of a single insurance product, including any required filing fees; a basic insurance policy form, application form and supplemental application form, if any, to be attached to the policy or be a part of the contract; any life or health and accident rider or endorsement forms; all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable statement of compliance.

Deemed Approval—approval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

Department—the Louisiana Department of Insurance.

Insurer—every person engaged in the business of making contracts of insurance, as further defined in R.S. 22:5. As used in this Section, insurer shall also include fraternal benefit societies and health maintenance organizations.

Method of Marketing—marketing either through independent or captive agents; telephone, electronic mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

Trust—a fund established by an employer, two or more employers in the same industry, a labor union, an association, or to a multiple employer trust established by an insurer on behalf of participating employers, pursuant to a trust instrument which transfers title to property and/or funds to one or more trustees to be administered as fiduciaries for the benefit of others, pursuant to R.S. 22:215.A(1). All participating employers and employees must have the same statutory protections that would apply if such policy was purchased by the employer directly from the insurer.

B. ...

1. Pursuant to R.S. 22:620.A, no basic insurance policy form, other than surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and approved by the commissioner. This requirement also

applies to any group health or accident insurance policy covering residents of Louisiana, regardless of where issued or delivered. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

2. A health and accident transmittal document must accompany every filing, describing the items included in the filing, the insurance product for which the filing is being made, and the method of marketing to be used for the product. If the filing includes life insurance to be offered as an optional benefit under the base health insurance contract, the policy forms should be submitted in triplicate, notwithstanding the provisions of Paragraph C.2 hereof, and include the appropriate statement of compliance for said life insurance product.

C. ...

1. The department shall designate, by directive, those insurance products which must be filed pursuant to the requirements for certified approval as set forth in Subsection F hereof, "Time Periods and Requirements for Certified Approval of Policy Form Filings." A directive issued pursuant to this Subsection may also designate those insurance products which may, at the discretion of the insurer, be filed either pursuant to said requirements for certified approval, or as ordinary filings subject to review as set forth in Subsection E hereof. All insurance products not so designated shall be filed pursuant to the requirements for compliance review as set forth in Subsection E hereof, "Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms."

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

ii. completed health and accident transmittal document as prescribed by the department;

2.a.iii. - 2.b.ii. ...

iii. completed health and accident transmittal document as prescribed by the department;

iv. - ix. ...

x. proposed plan of operation, as set forth in Regulation 33, Section 525.E for Medicare Select insurance plans, in duplicate;

xi. ...

xii. any new related advertising as defined in Rule 3A, Section 105, in duplicate; and

xiii. ...

c. Filings of policy forms for Long-Term Care insurance must include, in final wording, the following items, in order:

i. ...

ii. completed health and accident transmittal document as prescribed by the department;

iii. - xii. ...

xiii. any new related advertising as defined in Rule 3, Section 1305, in duplicate; and

c.ix. - d. ...

e. Filings of group health and accident products intended for issuance to an association are limited to associations as defined herein and must include the association's constitution, by-laws, membership application, membership agreement and brochure of membership benefits other than the insurance products offered.

f. Filings of group health and accident products intended for issuance to a trust are limited to trusts established by an employer, an association, or to a multiple employer trust established by an insurer on behalf of participating employers, and must include the trust agreement, articles of incorporation or other instrument creating the trust, and member adoption agreement. If the trust was established by an association, the filing must include the information described in Subparagraph C.2.e hereof.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed at the discretion of the department, subject to the conditions stated herein, for the following policy forms.

1. - 3. ...

4. Long-Term Care Advertising. No filing fees will be required for these filings.

5. Filings of amendatory riders or endorsements are permitted where the insurance product to be altered was originally certified or granted affirmative approval not more than three years prior to the filing of said amendatory rider or endorsement.

a. Such filings must include either:

i. specimen copies of the pertinent previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized; or

ii. a detailed list that includes:

(a) the department's form filing number;

(b) date of approval; and

(c) the form number for each previously approved policy form for which the amendment applies.

b. Such filings must also include an affidavit, on a form prescribed by the department, affirming that the insurance product, if amended by rider or endorsement as requested, will be fully compliant with all pertinent statutes and regulations. Premium rates and classification of risks are not required with such filings.

c. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

6. Filings of amendatory riders or endorsements, as needed to bring into compliance with law any existing insurance products that have been previously certified or granted affirmative approval and are currently in force but are no longer being marketed, must include specimen copies of the previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized. Premium rates and classification of risks are not required with such filings. The transmittal document shall advise that the previously approved or certified form is no longer being marketed. Such filings must include statutory filing fees for standardized plans in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

7. Medicare Supplement Rate Filings. Such filings must clearly indicate the percentage of increase in rates for each standardized plan and existing pre-standardized plan. Such filings must include statutory filing fees for standardized plans in accordance with the most current fee

schedule applicable to such filings, as set forth by the Louisiana Legislature.

8. Exclusionary riders pursuant to R.S. 22:250.11.C; provided that the policy form filings and dates approved are identified for each previously approved product with which the exclusionary rider form will henceforth be used. No filing fees will be required for these filings. The exclusionary rider form shall be included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing.

9. Assumption certificates, which must be filed in duplicate, with a single copy of the assumption agreement, letter of domiciliary state approval, information fully identifying the block of business being assumed, the number of covered lives residing in the state of Louisiana to be affected by the assumption, and the effective date of the assumption. No filing fees will be required for these filings.

10. Following approval of a complete filing of a Medicare Supplement insurance product, subsequent filings by the same insurer of standardized plans of insurance of the same type do not require inclusion of associated forms such as the replacement notice or plan of operation, unless changes have been made or the plan of operation has changed. No filing fees will be required for any of the above associated forms. However, subsequent filings of an outline of coverage will require a filing fee in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

11. Following approval of a complete filing of a long-term care insurance product, subsequent filings by the same insurer of other long-term care products do not require inclusion of associated forms such as the replacement notice, personal worksheet, disclosure notice and suitability letter, unless changes have been made. No filing fees will be required for any of the above associated forms. However, subsequent filings of an outline of coverage will require a filing fee in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

12. Forms for lines of insurance or insurance products specifically exempted pursuant to statute.

E. - E.1 ...

2. If a filing is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this regulation.

3. ...

4. If affirmatively approved by order of the commissioner prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. ...

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the insurer shall submit written notice to the department if the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46, but not earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 45-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different

from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

7. The commissioner may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. ...

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46 referred to in Paragraph E.6 or day 61, but not earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

F. - F.3. ...

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but not earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

5. No insurer, through an officer or authorized representative, shall file a certification of compliance containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a certification of compliance contains any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the insurer may be subjected to the provisions of Subsection I hereof.

G. ...

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing, must comply with all provisions of this Section for such a filing, and, in addition to the required filing fee, must include:

a. - b. ...

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the commissioner on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. - c. ...

d. a copy of the prior order of approval, issued by the commissioner on the previous filing.

3. When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing.

H. ...

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise expressed by the Louisiana Legislature.

2. A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

3. Insurers shall notify the department in writing to advise when a previously approved basic insurance policy form will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall also advise whether or not coverage issued in this state under the policy form remains in force and whether or not such existing business will continue to be renewed. The notification shall provide the policy form numbers being discontinued and dates originally approved by the department.

I. ...

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an insurer, if the department determines that any of the reasons for disapproval as stated in R.S. 22:621 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected insurer or immediately where there has been a violation of the Louisiana Insurance Code that results in irreparable injury, loss, or damage and injunctive relief is necessary. In the event injunctive relief is granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

a. ...

b. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall

recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4 and 5 hereof.

2. ...

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the department's withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which department approval has been withdrawn; and

2.c. - 3.b.ii. ...

c. Where such a required change can be clearly explained to prospective policyholders through amendatory endorsement forms or rider forms, such approval shall not extend to any reprinting of such forms.

4. Thirty days following receipt of the notice by the affected insurer, of withdrawal of approval by the department, an affected product shall not be issued by the insurer, except in accordance with a corrective action plan approved by the department. The insurer has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly. In the event the affected insurer issues the product without approval from the department, and injunctive relief is necessary and granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

5. - 7. ...

J. Appeals and Hearings

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. Pursuant to R.S. 22:1351, such demand must be in writing, must specify in what respects such person is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such insurer or other person learned of the act, or failure to act, upon which the demand for hearing is based.

K. ...

1. Every person filing policy forms, or related forms, for approval by the department shall maintain the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained for a period of five years after the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof and no coverage issued on risks in this state utilizing such forms remains in force.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:

§10109. Filing and Review of Life and Annuity Insurance Policy Forms and Related Matters

A.

Affirmative Approval—department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to Subsection D hereof.

* * *

Certification of Compliance—certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A certification of compliance must be included with any filing for certified approval.

Certified Approval—approval on the basis of an expedited review by the department of a complete filing based upon the inclusion of a statement of compliance and a certification of compliance, executed by an officer or authorized representative of the filing insurer on forms prescribed by the department. The department shall by directive determine those specific types of coverage and particular types of contracts for which the certified approval procedure is either required or available at the option of the insurer.

Commissioner—the Commissioner of Insurance of the Louisiana Department of Insurance.

Complete Filing—the filing of a single insurance product, including any required filing fees; a basic insurance policy form, application form and supplemental application form, if any, to be attached to the policy or be a part of the contract; any life or health and accident rider or endorsement forms; all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable statement of compliance.

* * *

Deemed Approval—approval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

Department—the Louisiana Department of Insurance.

* * *

Insurer—every person engaged in the business of making contracts of insurance, as further defined in R.S. 22:5. As used in this Section, insurer shall also include fraternal benefit societies.

Method of Marketing—marketing either through independent or captive agents; telephone, electronic mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

* * *

B. ...

1. Pursuant to R.S. 22:620.A, no basic insurance policy form, other than surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and approved by the commissioner. This requirement applies to any group life insurance policy or annuity covering residents of Louisiana where issued or delivered in Louisiana. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

2. A life and annuity transmittal document must accompany every filing, describing the items included in the filing, the insurance or annuity product for which the filing is being made, and the method of marketing to be used for the product. If the filing includes health insurance to be offered as an optional benefit under the base life insurance contract, the policy forms should be submitted in triplicate, notwithstanding the provisions of Paragraph C.2 hereof, and include the appropriate statement of compliance for said health insurance product.

C. - C.2.a.i. ...

ii. completed life and annuity transmittal document as prescribed by the department;

2.a.iii. - 2.b.i. ...

ii. completed life and annuity transmittal document as prescribed by the department;

iii. - x. ...

c. Filings of group life and annuity products intended for issuance to an association are limited to associations as defined herein, and must include the association's constitution, by-laws, membership application, membership agreement and brochure of membership benefits other than the insurance products offered.

d. Filings of group life and annuity products intended for issuance to a trust are limited to trusts established by an employer or association and must include the trust agreement, articles of incorporation or other instrument creating the trust, and member adoption agreement. If the trust was established by an association, the filing must include the information described in Subparagraph C.2.c hereof. This Subsection shall not apply to trusts established by qualified or government pension plans.

e. Filings of amendatory riders or endorsements are permitted where the insurance product to be altered was originally certified or granted affirmative approval not more than three years prior to the filing of said amendatory rider or endorsement.

i. Such filings must include either:

(a). specimen copies of the pertinent previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized; or

(b). a detailed list that includes:

(i). the department's form filing number;

(ii). date of approval; and

(iii). the form number for each previously approved policy form for which the amendment applies.

ii. Such filings must also include an affidavit, on a form prescribed by the department, affirming that the insurance product, if amended by rider or endorsement as requested, will be fully compliant with all pertinent statutes and regulations. Actuarial memorandums are not required with such filings.

iii. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

f. Filings of amendatory riders or endorsements as needed to bring into compliance with law any existing insurance or annuity products that have been previously approved and are currently in force but are no longer being marketed, must include specimen copies of the previously approved forms, the dates previously approved, and the specific terms and provisions being amended, underlined in red or otherwise noted. The transmittal letter shall advise that the previously approved form is no longer being marketed. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed at the discretion of the department, subject to the conditions stated herein, for the following policy forms.

1. - 4. ...

5. Multi-State Review Program. The Multi-State Review Program is a program consisting of several participating states that allows an insurer to simultaneously file an insurance product through the state of Florida's online I-Filing System while providing simultaneous approval of such product in all participating states. Approval is subject to the combined review standards of the participating states. A filing fee is required for insurance products filed under the Multi-State Review Program.

E. - E.1. ...

2. If a filing is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this regulation.

3. ...

4. If affirmatively approved by order of the commissioner prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. ...

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the insurer shall submit written notice to the department if the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46, but no earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 45-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

7. The commissioner may send written notice prior to expiration of the initial 45-day period extending the time

allowed for approval or disapproval by an additional 15 days.

a. ...

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46 referred to in Paragraph E.6 or day 61 but no earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

F. ...

1. The department will make available Statements of Compliance setting forth the statutory and regulatory requirements specific to the various forms of coverage and contract types, as well as Certification of Compliance forms.

2. - 3. ...

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but no earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

5. No insurer, through an officer or authorized representative, shall file a certification of compliance containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a certification of compliance contains any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the insurer may be subjected to the provisions of Subsection I hereof.

G. ...

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. - b. ...

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the commissioner on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. - c. ...

d. a copy of the prior order of approval, issued by the commissioner on the previous filing.

3. When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing.

H. ...

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise expressed by the Louisiana Legislature.

2. A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

H.3. - I. ...

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an insurer, if the department determines that any of the reasons for disapproval as stated in R.S. 22:621 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected insurer or immediately where there has been a violation of the Louisiana Insurance Code that results in irreparable injury, loss, or damage and injunctive relief is necessary. In the event injunctive relief is granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

a. ...

b. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4 and 5 hereof.

2. ...

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance

with the findings stated in the department's withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which department approval has been withdrawn; and

2.c. - 3.c. ...

4. Thirty days following receipt of the notice by the affected insurer, of withdrawal of approval by the department, an affected product shall not be issued by the insurer, except in accordance with a corrective action plan approved by the department. The insurer has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly. In the event the affected insurer issues the product without approval from the department, and injunctive relief is necessary and granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

5. - 7. ...

J. Appeals and Hearings

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. Pursuant to R.S. 22:1351, such demand must be in writing, must specify in what respects such person is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such insurer or other person learned of the act, or failure to act, upon which the demand for hearing is based.

K. ...

1. Every person filing policy forms, or related forms, for approval by the department shall maintain the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained for a period of five years after the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof and no coverage issued on risks in this state utilizing such forms remains in force.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620 and R.S. 22:621.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2544 (December 2002), amended LR 33:

§10113. Filing and Review of Property and Casualty Insurance Policy Forms and Related Matters

A. ...

Affirmative Approval—department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to Subsection D hereof.

Basic Insurance Policy Form—an insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance product. It includes endorsements, and application forms where written application is required and is to be attached to the policy or be a part of the contract. It does not include policies, riders, or endorsements designed, at the request of the individual policyholder, contract holder, or certificate holder, to delineate insurance coverage upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policy.

Certification of Compliance—certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A certification of compliance must be included with any filing for certified approval.

Certified Approval—approval on the basis of an expedited review by the department of a complete filing based upon the inclusion of a statement of compliance and a certification of compliance, executed by an officer or authorized representative of the filing insurer on forms prescribed by the department. The department shall by directive determine those specific types of coverage and particular types of contracts for which the certified approval procedure is either required or available at the option of the insurer.

Commissioner—the Commissioner of Insurance of the Louisiana Department of Insurance.

Complete Filing—the filing of a single insurance product, including any required filing fees; a basic insurance policy form, application form to be attached to the policy or be a part of the contract; all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable statement of compliance.

* * *

Deemed Approval—approval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

Department—the Louisiana Department of Insurance.

* * *

Method of Marketing—marketing either through independent or captive agents; telephone, electronic mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

Rate/Rule Approval—a department notice addressed to an insurer granting authorization to implement or revise rates and/or rules on a specified date.

* * *

B. ...

1. Pursuant to R.S. 22:620.A, no basic insurance policy form, other than surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and

approved by the commissioner. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

B.2. - C.2.a.ii. ...

iii. completed property and casualty transmittal document as prescribed by the department;

2.a.iv. - 3.a. ...

i. required filing fee, per adoption of each advisory organization's reference or item filing, per insurance company whether or not delayed;

a.ii. - b.iv. ...

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed at the discretion of the department, subject to the conditions stated herein, for the following policy forms:

1. informational filings, submitted for acknowledgement, for surety bond forms as exempted by R.S. 22:620 A(1). No filing fees will be required for these filings.

2. ...

3. application forms or enrollment forms to be used with a particular insurance product, or with multiple insurance products, provided that the policy form filings and dates approved are identified for each previously approved product with which the application form will henceforth be used, and the application form is included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing. No filing fees will be required for these filings;

4. ...

5. riders or endorsements. Filings of amendatory riders or endorsements are permitted where the insurance product to be altered was originally certified or granted affirmative approval.

a. Such filings must include either:

i. specimen copies of the pertinent previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized; or

ii. a detailed list that includes:

(a) the department's form filing number;

(b) date of approval; and

(c) the form number for each previously approved policy form for which the amendment applies.

b. The rider or endorsement forms shall be included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing.

c. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

E. - E.1. ...

2. If a filing is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this regulation.

3. A basic insurance policy form must be submitted to the department in accordance with the "General Filing Requirements" of this Section no less than 45 days in advance of planned issuance, delivery or use.

4. - 5. ...

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the

insurer shall submit written notice to the department if the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46, but not earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 45-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

7. The commissioner may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. ...

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date or, advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46 referred to in Paragraph E.6 or day 61, but not earlier than the 45 day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

F. - F.2.a. ...

b. signed and dated certification of compliance;

c. all other items as set forth in Paragraph C.2 hereof.

3. ...

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but no earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

5. No insurer, through an officer or authorized representative, shall file a certification of compliance containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a certification of compliance contains any inaccuracies, false attestations, or material omissions, approval of the subject forms may be

withdrawn, and the insurer may be subjected to the provisions of Subsection I hereof.

G. ...

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing, must comply with all provisions of this Section for such a filing, and, in addition to the required filing fee, must include:

a. - b. ...

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the commissioner on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. - c. ...

d. a copy of the prior order of approval, issued by the commissioner on the previous filing.

3. When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing.

H. ...

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise expressed by the Louisiana Legislature.

2. A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

H.3. - I. ...

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an insurer, if the department determines that any of the reasons for disapproval as stated in R.S. 22:621 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected insurer or immediately where there has been a violation of the Louisiana Insurance Code that results in irreparable injury, loss, or damage and injunctive relief is necessary. In the event injunctive relief is granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

a. ...

b. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4, and 5 hereof.

2. ...

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the department's withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which department approval has been withdrawn; and

2.c. - 3.b.ii. ...

c. Where such a required change can be clearly explained to prospective policyholders through amendatory endorsement forms or rider forms, an insurer may request department approval to utilize its existing inventory of the policy forms in question subject to the incorporation of approved amendatory endorsement forms or rider forms. Such approval shall not extend to any reprinting of such forms.

4. Thirty days following receipt of the notice by the affected insurer, of withdrawal of approval by the department, an affected product shall not be issued by the insurer, except in accordance with a corrective action plan approved by the department. The insurer has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly. In the event the affected insurer issues the product without approval from the department, and injunctive relief is necessary and granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

5. - 7. ...

J. Appeals and Hearings

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. Pursuant to R.S. 22:1351, such demand must be in writing, must specify in what respects such person is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such insurer or other person learned of the act, or failure to act, upon which the demand for hearing is based.

K. ...

1. Every person filing policy forms, or related forms, for approval by the department shall maintain the original set

of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained for a period of five years after the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof, and no coverage issued on risks in this state utilizing such forms remains in force.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620 and R.S. 22:621.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2548 (December 2002), amended LR 33:

§10115. Penalties

A. Pursuant to R.S. 22:1462.1, "False or Fraudulent Material Information," in accordance with all provisions thereof, and specifically applicable to all documents required by this regulation.

1. It shall be unlawful for any person to intentionally and knowingly supply false or fraudulent material information pertaining to any document or statement required by the department.

A.2. - B. ...

1. The provisions of R.S. 22:1217, including:

a. payment of a monetary penalty of not more than \$1,000 for each and every act or violation, but not to exceed an aggregate penalty of \$100,000 unless the person knew or reasonably should have known he was in violation of applicable law, in which case the penalty shall be not more than \$25,000 for each and every act or violation, but not to exceed an aggregate penalty of \$250,000 in any six-month period; and

1.b. - 2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:

§10117. Severability

A. If any provision of this regulation, or its application to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end, the provisions of this regulation are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:

§10119. Effective Date (formerly Section 10117)

A. This regulation became effective January 1, 2003; however, the amendments to this regulation will become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:

Family Impact Statement

The proposed amendments to LAC 37:XIII, Chapter 101 regarding policy form filing requirements should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. the ability of the family or a local government to perform the function as contained in the proposed regulation.

A public hearing on this proposed regulation will be held on November 27, 2006, at 9:30 a.m., in the Poydras Hearing Room of the Poydras Building, 1702 North Third Street, Baton Rouge, LA. Interested persons who wish to make comments may do so at the public hearing or by writing to Carol Fowler-Guidry, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Comments will be accepted through the close of business, 4:30 p.m., November 27, 2006. No preamble concerning the proposed regulation is available.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Regulation 78 Policy Form Filing Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

DOI does not expect any implementation costs as a result of the adoption of this regulation. The Department of Insurance currently performs policy forms filing, review and approval. This regulation clarifies the processes already in place. Extra workload, if any, will be absorbed by existing DOI staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be some increase in revenue (approximately \$5,000) collected by DOI as a result of this regulation. The Life and Annuity division was not previously charging the fees set forth for certain policy form filings.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be some additional costs for Life and Annuity insurers making certain policy form filings because the Department of Insurance was not previously charging the appropriate fee(s) for all filings in that division.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this regulation should have no impact upon competition and employment in the state.

Chad M. Brown
Deputy Commissioner
0610#057

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Interest Abatement and Compromise (LAC 61:III.2115)

Under authority of R.S. 47:1601(A)(2)(d) and (e) and 47:1511 and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:III.2115 to provide guidance as to when interest will be abated or compromised.

Revised Statute 47:1601(A)(2)(d) authorizes the secretary to abate interest due to unreasonable errors or delays by the department in performing ministerial or managerial acts. Revised Statute 47:1601(A)(2)(e) authorizes the secretary to waive interest to promote the effective administration of the tax laws. Guidance is needed to make taxpayers aware of the circumstances under which interest will be abated or compromised.

Title 61 REVENUE AND TAXATION

Part III. Department of Revenue—Administrative Provisions and Miscellaneous

Chapter 21. Interest and Penalties

§2115. Abatement and Compromise of Interest

A. Abatement of Interest under R.S. 47:1601(A)(2)(d)

1. The following definitions apply when determining whether interest may be abated under R.S. 47:1601(A)(2)(d).

a. *Managerial Act*—an administrative act that occurs during the processing of a taxpayer's case involving the temporary or permanent loss of records or the exercise of judgment or discretion relating to management of personnel. A decision concerning the proper application of the law is not a managerial act. Further, a general administrative decision, such as the department's decision on how to organize the processing of tax returns or its delay in implementing an improved computer system, is not a managerial act for which interest can be abated under this Section.

b. *Ministerial Act*—a procedural or mechanical act that does not involve the exercise of judgment or discretion, and that occurs during the processing of a taxpayer's case after all prerequisites, such as conferences and review by supervisors, have taken place. A decision concerning the proper application of the law is not a ministerial act.

2. The following circumstances are examples of situations that do not constitute an unreasonable error or delay by the department.

a. Interest accrues as a result of the taxpayer's failure to pay the tax liability he calculates for each period when due.

b. Interest accrues as a result of the taxpayer's failure to pay the entire balance owed once he and the department are in agreement as to the amount of the balance.

c. Interest accrues while the taxpayer waits for a determination of his refund claim in order to offset prior period underpayments.

d. Interest accrues as a result of the taxpayer's failure to cooperate with department personnel. Examples include but are not limited to:

- i. the taxpayer does not timely furnish information to the department;
- ii. the taxpayer delays meetings or appointments with department personnel.

B. Compromise of Interest under R.S. 47:1601(A)(2)(e)

1. Before the secretary may consider compromising any amount of interest, the taxpayer must have paid all outstanding taxes.

2. When determining whether or not to compromise interest for a taxpayer, the secretary will examine the taxpayer's filing and compliance history, any special circumstances that may exist, and the hazards of litigation. This list is not all-inclusive.

3. Interest may be compromised when the department and the taxpayer interpret the law differently and there is no binding judicial decision regarding the issue. If interest is compromised with regard to an unresolved issue, the taxpayer will agree to thereafter operate under the department's interpretation of the law.

4. Interest may only be compromised for a specific taxpayer if the taxpayer has not had any interest compromised within the past five years.

5. Interest may only be compromised for a specific taxpayer if neither the taxpayer, his affiliates, nor his related entities have ever had any interest compromised that arose from the same issue.

6. The secretary may compromise any portion of the total interest for which compromise is requested.

7. Following is a partial list of circumstances in which interest will not be compromised.

a. Taxpayer is party to a voluntary disclosure agreement for the period in which the interest accrued.

b. Interest accrues as a result of participation in an abusive tax avoidance transaction.

c. Interest that accrues on trust taxes that the taxpayer has collected but not remitted.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:1601(A)(2)(d) and (e) and 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 33:

Family Impact Statement

This proposed Rule, LAC 61:III.2115, which provides guidance as to when interest will be abated or compromised, 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. The implementation of this proposed Rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budgets;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Leonore Heavey, Senior Policy Consultant, 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., Monday, November 27, 2006. A public hearing will be held on Tuesday, November 28, 2006, at 10 a.m. in the 7th Floor River Room 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: Interest Abatement and Compromise**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed rule provides guidance to taxpayers as to when interest will be abated or compromised under R.S. 47:1601(A)(2)(d), which authorizes the secretary to abate interest when due to unreasonable errors or delays by the department in performing ministerial or managerial acts, or R.S. 47:1601(A)(2)(e), which authorizes the secretary to waive the interest to promote the effective administration of the tax laws.

Implementation of this proposed rule will have minimal impact on the agency's costs. Compromising or abating interest under certain circumstances will promote the effective administration of the tax laws and allow disputed cases to be resolved. The proposed rule will have no costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule, which provides guidance to taxpayers of the circumstances under which interest will be abated or compromised, will result in an indeterminable reduction in the state's interest collections. We do not have data to estimate the amount of the revenue loss. This proposed rule will have 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)

This proposed rule, which provides for circumstances under which interest will be abated or compromised, will result in reduced interest payments for qualifying taxpayers. The amount of the interest to be abated or compromised cannot be determined.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no effect on competition or employment.

Cynthia Bridges
Secretary
0610#060

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Sales Tax Exclusions for Paper and Wood Products
Manufacturing Facilities (LAC 61:I.4304)

Under the authority of R.S. 47:301(j), 301(13)(m), 302(T), 321(J), 331(R), and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.4304 to provide

guidance to taxpayers concerning the sales tax exclusions provided by Act 48 of the 2005 First Extraordinary Session of the Louisiana Legislature.

Act 48 amends the sales tax definitions of "cost price" and "sales price" to provide that paper and wood products manufacturers shall be liable for sales or use tax payment only on the first \$6.20 per MMBtu of the "cost price" or "sales price" of their purchases of natural gas during the period July 1, 2006, through December 31, 2008.

Act 48 also enacts R.S. 47:302(T), 321(J), and 331(R) to provide that paper or wood products manufacturing facilities shall not be liable for sales or use tax on their sales, purchases, or uses of electric power or energy during the same period.

This proposed Rule defines "paper manufacturing facility" and "wood products manufacturing facility" and provides for the application of the exclusion for facilities that engage in additional revenue-producing activities in the facility.

Title 61

REVENUE AND TAXATION

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

Chapter 43. Sales and Use Tax

§4304. Exclusions for Paper and Wood Products Manufacturing Facilities

A. For purposes of the sales tax exclusions provided by R.S. 47:301(j), 301(13)(m), 302(T), 321(J), and 331(R) for paper and wood products manufacturing facilities, the following definitions apply.

Paper Products Manufacturing Facility—a facility that manufactures paper through the introduction of wood, rags, and other raw materials into chemical processes. This includes the production of finished paper products, such as towels, packages, cartons, boxes, and wraps. Businesses that manufacture products using paper produced by others, such as printers, publishers, engravers, and sign makers are not considered to be paper products manufacturers for the purposes of the sales tax exclusions.

Wood Products Manufacturing Facility—a facility that produces products from saw logs, parts of saw logs, or wood residue, and includes lumber mills, saw mills, manufacturers of plywood, and manufacturers of particle board. Businesses that fabricate products from woods manufactured by others, such as cabinet makers and millwork producers are not considered to be wood products manufacturers for the purposes of the sales tax exclusions.

B.1. The sales tax exclusions extend to natural gas, electric power, and energy consumed for both manufacturing and non-manufacturing activities within paper or wood products manufacturing facilities, such as lighting, heating, and cooling, provided that:

a. no revenue producing activity, other than paper or wood products manufacturing, is conducted within the facility, and

b. any administrative functions conducted within the facility, such as human resources, sales, or accounting, relate solely to the local manufacturing facility.

2. If revenue producing activities other than paper or wood products manufacturing are conducted within a facility, or if administrative functions conducted within a facility relate other than to the local facility's paper or wood products manufacturing operations, the consumption of

electric power or energy and natural gas must be apportioned between the paper and wood products manufacturing and the other business activities. The sales or use tax on the other business activities must be paid on the tax bases or at the tax rates that are applicable to those other business activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:301(j), 301(13)(l), 302(T), 321(J), 331(R), and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 33:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our Legislative oversight committees.

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 Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, 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., Monday, November 27, 2006. A public hearing will be held on Wednesday, November 29, 2006, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Sales Tax Exclusions for Paper and Wood Products Manufacturing Facilities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Act 48 of the 2005 First Extraordinary Legislative Session provides that during the period July 1, 2006, through December 31, 2008, the taxable base on sales of natural gas to paper and wood products manufacturing facilities shall not exceed any amount in excess of \$6.20 per MMBtu and that no state sales tax will be due on sales of electric power or energy to paper and wood products manufacturing facilities. This proposed rule defines the terms "paper products manufacturing facility" and "wood products manufacturing facility," for purposes of eligibility for these tax reductions.

Implementation of this proposed rule will have minimal impact on the Department of Revenue's costs. Costs will be incurred to prepare news releases and information to be posted

on the department's web site to inform taxpayers of the tax reductions and to print and process applications for the rate reductions from eligible taxpayers.

The proposed rule will have no costs or savings to local governmental units, since local sales and use taxes are not levied on sales of electricity or natural gas.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Enrolled Fiscal Note on Act 48 of the 2005 First Extraordinary Session estimated State revenue losses based on tax reductions for paper and wood products manufacturing facilities. The Fiscal Note estimated that such losses would be the following: \$5.5 million in FY 2006-07, \$5 million in FY 2007-08, and \$2.4 million in FY 2008-09. These amounts represent likely maximum revenue losses to the state because natural gas prices are currently lower than forecast in the fall of 2005 when the original estimates were developed. Actual revenue losses will depend on natural gas prices through FY 2008-09 and may not exceed the original estimates in the Fiscal Note.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Paper and wood products manufacturers will financially benefit from the rule and associated Act in the amounts indicated in the preceding paragraph.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should provide a positive effect on competition and employment in the paper and wood products manufacturing industries.

Cynthia Bridges
Secretary
0610#038

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the Louisiana State Employees'
Retirement System**

**Vesting—Prior State Employment
(LAC 58.I.4501 and 4503)**

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to adopt LAC 58.I.4501 and 4503. The proposed Rules clarify existing law to show which LASERS rank-and-file members are vested for certain eligibility, contribution rates and other matters related to the enactment of Act 75 of 2005. These proposed Rules comply with and are enabled by R.S. 11:515 and 537.

No preamble for these proposed Rules is necessary.

Title 58

RETIREMENT

**Part I. State Employees' Retirement System
Chapter 45. Effects of Act 75 of the 2005 Regular
Session**

§4501. Members Affected

A. This Chapter concerns those members of LASERS affected by Act 75 of the 2005 Regular Session of the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:537.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 33:

§4503. Vesting because of Prior State Employment

A. Members whose first employment making them eligible for membership in the system began on or before June 30, 2006 and who subsequent to that date cease such employment shall remain vested under the retirement eligibility provisions existing on that date, but only so long as they do not receive a refund of their accumulated employee contributions on or after July 1, 2006.

B. Upon receipt of a refund of accumulated contributions, all rights in the system are cancelled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:537.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 33:

Family Impact Statement

The proposed enactment of LAC 58.I.4501 and 4503 concern the enactment of Act 75 of the 2005 Regular Session, which established a new tier within the Louisiana State Employees' Retirement System ("LASERS"). That tier is comprised of rank-and-file members hired on or after July 01, 2006. The Act also contains a number of changes to retirement eligibility, employee contributions, etc., that distinguish these state employees from those hired prior to that date. These regulations should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rules.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., November 30, 2006, to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement System, P.O. Box 44213, Baton Rouge, LA 70804.

Cindy Rougeou
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Vesting—Prior State Employment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No implementation costs to state or local governmental units are anticipated to result from the implementation of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Members whose first state employment making them eligible for membership in LASERS began on or before June 30, 2006 and who subsequent to that date cease such employment but later become re-employed by the state shall be affected. Because the rules merely clarify existing law, no costs or economic benefits to those persons are anticipated to result.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated to result from the implementation of these rules.

Cindy Rougeou
Executive Director
0610#068

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the Louisiana State Employees'
Retirement System**

**Renunciation of Benefit
(LAC 58.I.2301)**

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to amend LAC 58.I.2301. This proposed Rule sets out the terms and conditions under which a retiree may renounce all or part of his benefit. This proposed Rule complies with and is enabled by R.S. 11:515 and 11:452.

No preamble for this proposed Rule is necessary.

Title 58

RETIREMENT

**Part I. Louisiana State Employees' Retirement System
Chapter 23. Renunciation of Benefit**

**§2301. Terms and Conditions of Renunciation of
Benefit**

A. Any person eligible to receive, or receiving, a benefit from the Louisiana State Employees' Retirement System may renounce such benefit under the following terms and conditions.

1. The renunciation shall be unconditional and irrevocable. Once a benefit is renounced, LASERS shall have no further obligation or liability with respect to that benefit, and the person renouncing the benefit shall, under no circumstances, be eligible to receive that benefit.

2. A base benefit may be renounced in whole or in part. An adjustment to a base benefit (cost-of-living adjustment, adjustment for inflation, or one-time supplemental payment) may only be renounced in its entirety. If an adjustment is renounced, the base benefit need not be renounced.

3. If more than one person is entitled to receive a particular survivor benefit, each person entitled to a portion of the benefit may renounce his entitlement. The person or persons who continue to have an entitlement in that benefit shall receive the benefit to which they are entitled without consideration of the person who becomes ineligible through renunciation. Any adjustment shall be prospective only.

4. If the party making the renunciation is married, the spouse must join in the renunciation.

5. If the person making the renunciation is subject to an executed and effective community property settlement, only that portion of the benefit due the person making the renunciation may be renounced, except as provided for in R.S. 11:446.E.

6. If the person making the renunciation is legally separated or divorced, but is not subject to an executed and effective community property settlement, the renunciation must be approved by the court having jurisdiction over the separation or divorce.

7. If the person making the renunciation is retired and has named a joint and survivor beneficiary, the renunciation cannot affect the joint and survivors' beneficiary or benefit, including adjustments to the joint and survivor benefit.

8. If a benefit is renounced by a member prior to receipt by the member of a sum equal to his or her accumulated contributions, the balance of the accumulated contributions will be paid to the member.

9. A renunciation must be made on a form provided by LASERS, and must be executed before a notary public and two witnesses, neither of whom may be a spouse nor presently named beneficiary. The renunciation is effective and irrevocable when received by LASERS.

10. A person revoking or participating in renunciation of a benefit must hold LASERS harmless from such action.

11. A renunciation may not be used to terminate active participation in LASERS.

12. Amounts credited to a DROP account cannot be renounced.

13. A benefit or portion of a benefit that has been renounced may be used to recoup benefits or refunds of accumulated contributions paid by administrative error or mistake.

14. Only those persons who have selected the maximum benefit or Option 1 under R.S. 11:441 may renounce their entire monthly benefit.

B. LASERS makes no representation with respect to the effect of a renunciation on a person's eligibility for receipt of any state or federal benefits, or for participation in any private, local, state, or federal program. Eligibility for or participation in such programs, or eligibility for or receipt of such benefits, is an issue for which the person making the renunciation is solely responsible. Ineligibility for or termination of participation in such programs or benefits shall not affect the irrevocable character of the renunciation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:452 and 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 33:

Family Impact Statement

As stated above, the proposed amendment of LAC 58.I.2301 concerns the terms and conditions under which a retiree may renounce all or part of his benefit. This regulation should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;

4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. 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 on the proposed changes until 4:30 p.m., November 30, 2006, to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement System, P.O. Box 44213, Baton Rouge, LA 70804.

Cindy Rougeou
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Renunciation of Benefit**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs to state or local governmental units are anticipated to result from the implementation of this rule change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of this rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The rule change is directed at those persons who have retired from LASERS and who subsequently seek to renounce their entire benefit. No costs or economic benefits to those persons are anticipated to result from the proposed rule adoption.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition and employment is anticipated to result from the implementation of this rule change.

Cindy Rougeou
Executive Director
0610#067

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Coastwide Nutria Control Program (LAC 76:V.123)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the incentive payment portion of the regulations on the Coastwide Nutria Control Program.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§123. Coastwide Nutria Control Program

A. The Department of Wildlife and Fisheries does hereby establish regulations governing participation in the Coastwide Nutria Control Program. The administrative responsibility for this program shall rest with the Department Secretary; the Assistant Secretary, Office of Wildlife; and the Fur and Refuge Division.

1. The Coastwide Nutria Control Program objective is to provide economic incentive, through an incentive payment to participants, to encourage the harvest of up to 400,000 nutria annually from coastal Louisiana. The incentive payment shall be the amount set by the Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA) Task Force. For the purpose of this program, coastal Louisiana is bounded on the north by Interstate 10 from the Louisiana-Texas line to Baton Rouge, Interstate 12 from Baton Rouge to Slidell, and Interstate 10 to the Louisiana-Mississippi line.

2 - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:2205 (October 2002), amended LR 33:

Family Impact Statement

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments relative to the proposed Rule to Philip Bowman, Administrator, Fur and Refuge Division, Box 98000, Baton Rouge, LA 70898, prior to Thursday, December 7, 2006.

Terry D. Denmon
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Coastwide Nutria Control Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no state or local governmental implementation costs or savings associated with this proposed rule change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no impact on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule change will have no impact on trappers and hunters who participated in the Coastwide Nutria Control Program (CNCP). Participants in the CNCP will be impacted

when the Coastal Wetlands Planning Protection and Restoration Act Task Force make an adjustment to the nutrient economic incentive payment. The impact to participants of the CNCP may be positive or negative depending on the incentive price set and the current costs of harvest.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition and employment in the public and private sectors.

Wynette Kees
Deputy Undersecretary
0610#036

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Public Oyster Seed Grounds—Little Lake (LAC 76:VII.521)

The Wildlife and Fisheries Commission does hereby give notice of its intent to designate certain state-owned water bottoms within Jefferson and Lafourche Parishes as the Little Lake Public Oyster Seed Grounds. Authority to establish the Little Lake Public Oyster Seed Grounds is vested in the Wildlife and Fisheries Commission by R.S. 56:6(12) and R.S. 56:434(A).

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oyster

§521. Public Oyster Seed Grounds—Little Lake

A. The Little Lake Public Oyster Seed Grounds is described as that portion of the state-owned water bottoms within the boundary as shown on a map by the Department of Wildlife and Fisheries, dated August 29, 2006, and more particularly described.

1. Beginning at the intersection of the western shoreline of Barataria Waterway and the northern shoreline of Bayou St. Denis at latitude 29 degrees 29 minutes 41.385 seconds North, longitude 90 degrees 01 minutes 12.443 seconds West; thence southerly to a point at latitude 29 degrees 29 minutes 32.297 seconds North, longitude 90 degrees 01 minutes 08.030 seconds West; thence southerly to a point at latitude 29 degrees 29 minutes 23.314 seconds North, longitude 90 degrees 01 minutes 10.035 seconds West; thence southerly to a point at latitude 29 degrees 29 minutes 09.521 seconds North, longitude 90 degrees 01 minutes 15.178 seconds West; thence westerly to a point at latitude 29 degrees 29 minutes 10.637 seconds North, longitude 90 degrees 01 minutes 29.713 seconds West; thence southerly to a point at latitude 29 degrees 28 minutes 33.134 seconds North, longitude 90 degrees 01 minutes 30.449 seconds West; thence westerly to a point at latitude 29 degrees 28 minutes 40.110 seconds North, longitude 90

degrees 03 minutes 27.833 seconds West, thence southerly to a point at latitude 29 degrees 28 minutes 36.574 seconds North, longitude 90 degrees 03 minutes 29.741 seconds West; thence southwesterly to a point at latitude 29 degrees 28 minutes 22.052 seconds North, longitude 90 degrees 03 minutes 56.413 seconds West; thence southwesterly to a point at latitude 29 degrees 28 minutes 20.369 seconds North, longitude 90 degrees 04 minutes 01.526 seconds West; thence westerly to a point at latitude 29 degrees 28 minutes 19.527 seconds North, longitude 90 degrees 04 minutes 16.811 seconds West; thence westerly to a point at latitude 29 degrees 28 minutes 19.340 seconds North, longitude 90 degrees 04 minutes 23.149 seconds West; thence southwesterly to a point at latitude 29 degrees 28 minutes 12.363 seconds North, longitude 90 degrees 04 minutes 28.498 seconds West; thence westerly to a point at latitude 29 degrees 28 minutes 13.253 seconds North, longitude 90 degrees 04 minutes 33.578 seconds West; thence westerly to a point at latitude 29 degrees 28 minutes 13.533 seconds North, longitude 90 degrees 04 minutes 36.968 seconds West; thence southerly to a point at latitude 29 degrees 28 minutes 11.567 seconds North, longitude 90 degrees 04 minutes 38.407 seconds West; thence southerly to a point at latitude 29 degrees 28 minutes 05.627 seconds North, longitude 90 degrees 04 minutes 38.482 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 58.698 seconds North, longitude 90 degrees 04 minutes 38.568 seconds West; thence westerly to a point at latitude 29 degrees 27 minutes 55.110 seconds North, longitude 90 degrees 04 minutes 46.543 seconds West; thence westerly to a point at latitude 29 degrees 27 minutes 52.581 seconds North, longitude 90 degrees 05 minutes 06.066 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 48.538 seconds North, longitude 90 degrees 05 minutes 03.132 seconds West; thence easterly to a point at latitude 29 degrees 27 minutes 49.851 seconds North, longitude 90 degrees 04 minutes 45.184 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 37.031 seconds North, longitude 90 degrees 04 minutes 37.154 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 36.560 seconds North, longitude 90 degrees 04 minutes 36.658 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 24.833 seconds North, longitude 90 degrees 04 minutes 38.534 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 18.564 seconds North, longitude 90 degrees 04 minutes 37.351 seconds West; thence westerly to a point at latitude 29 degrees 27 minutes 23.151 seconds North, longitude 90 degrees 04 minutes 54.963 seconds West; thence southwesterly to a point at latitude 29 degrees 27 minutes 11.170 seconds North, longitude 90 degrees 05 minutes 08.473 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 06.634 seconds North, longitude 90 degrees 05 minutes 08.198 seconds West; thence southwesterly to a point on the southern shoreline of Little Lake at latitude 29 degrees 27 minutes 03.038 seconds North, longitude 90 degrees 05 minutes 14.223 seconds West; thence westerly along the shoreline of Little Lake to the intersection of the western shoreline of Little Lake and the southern shoreline of Bay L'ours at latitude 29 degrees 30 minutes 02.067 seconds North, longitude 90 degrees 12 minutes 02.839 seconds West; thence westerly along the

shoreline of Bay L'ours to the intersection of the northern shoreline of Bay L'ours and the western shoreline of Little Lake at latitude 29 degrees 31 minutes 05.281 seconds North, longitude 90 degrees 11 minutes 51.880 seconds West; thence northerly along the western shoreline of Little Lake to the intersection of the northern shoreline of Little Lake and the western shoreline of Bayou Perot at latitude 29 degrees 34 minutes 11.659 seconds North, longitude 90 degrees 10 minutes 13.934 seconds West; thence northerly along the western shoreline of Bayou Perot to a point on the western shoreline of Bayou Perot at latitude 29 degrees 34 minutes 40.000 seconds North, longitude 90 degrees 10 minutes 08.000 seconds West; thence east to a point on the eastern shoreline of Bayou Perot at latitude 29 degrees 34 minutes 40.000 seconds North, longitude 90 degrees 09 minutes 20.000 seconds West; thence southerly along the eastern shoreline of Bayou Perot to the intersection of the eastern shoreline of Bayou Perot and the northern shoreline of Little Lake at latitude 29 degrees 33 minutes 55.686 seconds North, longitude 90 degrees 10 minutes 18.146 seconds West; thence southeasterly along the northern shoreline of Little Lake to the intersection of the northern shoreline of Little Lake and the western shoreline of Turtle Bay at latitude 29 degrees 31 minutes 57.674 seconds North, longitude 90 degrees 08 minutes 55.092 seconds West; thence northeasterly along the shoreline of Turtle Bay to the intersection of the eastern shoreline of Turtle Bay and the northern shoreline of Little Lake at latitude 29 degrees 31 minutes 55.937 seconds North, longitude 90 degrees 06 minutes 28.544 seconds West; thence southeasterly along the northern shoreline of Little Lake to a point on the northern shoreline of Little Lake at latitude 29 degrees 31 minutes 28.031 seconds North, longitude 90 degrees 05 minutes 14.708 seconds West; thence southeasterly to the intersection of the eastern shoreline of Little Lake and the northern shoreline of Bayou St. Denis at latitude 29 degrees 31 minutes 20.272 seconds North, longitude 90 degrees 04 minutes 50.608 seconds West; thence southeasterly along the northern shoreline of Bayou St. Denis to the point of beginning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(12) and R.S. 56:434(A).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out in R.S. 49:972(B).

Interested persons may submit written comments relative to the proposed Rule until 4:30 p.m., Thursday, December 7, 2006 to Patrick D. Banks, Department of Wildlife and Fisheries, Marine Fisheries Division, Box 98000, Baton Rouge, LA 70898-9000.

Terry D. Denmon
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Public Oyster Seed Grounds Little Lake

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated. A slight increase in workload and paperwork to the state is anticipated to be incurred from monitoring the proposed new public oyster seed grounds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governmental units are anticipated to be positively impacted by the proposed rule. The magnitude of the impact cannot be determined at this time.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The creation of the Little Lake Oyster Seed Grounds is anticipated to provide additional oyster resources for harvest and positive economic benefits to Louisiana oyster harvesters and businesses operating in the area. The magnitude of these impacts cannot be determined at this time and will depend on the additional number of oysters harvested from the proposed new public oyster seed grounds.

Non-governmental entities that impact public oyster seed grounds will be subject to R.S. 56:434.1 (Public Oyster Seed Ground Development Account). They will be required to restore the public oyster seed grounds as compensation for impacts associated with activities occurring on or over the public oyster seed grounds. The magnitude of the economic impacts to non-governmental entities cannot be determined at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition or employment.

Janice A. Lansing
Undersecretary
0610#037

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY – SEPTEMBER 2006

LAC Title	Part.Section	Effect	Location LR 32 Month Page	LAC Title	Part.Section	Effect	Location LR 32 Month Page
4	III.101,103,112,119,127,131	Amended	Jan. 84	28	LXXIX.109,303	Amended	Aug. 1416
	III.102,106,114,122	Adopted	Jan. 84		LXXXIII.Chapters 3,5,7,14,17,21	Amended	June 1017
	III.105,107-111,113,115-117	Repealed	Jan. 84		LXXXIII.Chapters 4,6,24	Adopted	June 1017
	III.121,123-125,129,133-135	Repealed	Jan. 84		LXXXIII.Chapter 35,43	Amended	June 1017
	III.137-139	Amended	Jan. 84		LXXXIII.4101,4103	Amended	June 1017
7	XXIII.125	Amended	May 794	LXXXIII.4104	Adopted	June 1017	
	XXIII.125	Repromulgated	June 1011	LXXXIII.4301	Amended	Apr. 543	
	XXV.101,107,113,115,121	Amended	May 796	LXXXIII.Chapter 45	Adopted	Aug. 1412	
	XXV.101,107,113,115,121	Repromulgated	June 1015	CV.Chapters 1-27	Adopted	Apr. 555	
	XXIX.117	Amended	Jan. 78	CXI.107.305,307,309,313,315	Amended	Feb. 232	
	XXIX.117	Amended	June 1010	CXI.312, 316	Adopted	Mar. 390	
	XXXIII.101-125	Amended	June 1011	CXI.701,1101,1115,1141,1151	Amended	Feb. 232	
	XLI.Chapter 3	Adopted	May 794	CXI.1153,1301,1313,1335,1345	Amended	Feb. 232	
				CXI.1347,1349,1351,1355,1501	Amended	Feb. 232	
				CXI.1351	Amended	Mar. 390	
10	XV.Chapter 17	Adopted	May 837	CXI.1701,1901,2501,2701	Amended	Feb. 232	
				CXI.2001	Adopted	Feb. 232	
13	I.Chapter 33	Adopted	Feb. 228	CXI.3303,3305,3307,3501	Amended	Feb. 232	
	I.Chapter 33	Amended	Sept. 1594	CXV.507	Amended	Aug. 1416	
19	VIII.Chapters 1 and 3	Adopted	Feb. 229	CXV.1103	Amended	Apr. 545	
	VIII.Chapters 11 and 13	Adopted	June 1044	CXV.1103	Amended	June 1029	
22	I.107	Amended	June 1069	CXV.2319,2377,2387	Amended	Aug. 1414	
	I.107	Amended	July 1247	CXV.2320	Adopted	Feb. 240	
	I.305	Amended	Feb. 249	CXV.2377	Amended	Apr. 546	
	I.316	Amended	Mar. 406	CXXV.101, 301-317	Adopted	May 797	
	I.701	Adopted	Jan. 108	CXXVII.Chapters 1-7	Adopted	July 1200	
	I.703	Adopted	Jan. 102				
	I.705	Adopted	Apr. 640	32	VII.101,301-319	Amended	Jan. 118
	I.707	Adopted	Aug. 1462	VII.321	Adopted	Jan. 118	
	I.721	Adopted	Jan. 107	VII.Chapter 7 and 11	Amended	Jan. 118	
	I.761	Adopted	Jan. 101	VII.Chapter 101	Adopted	Jan. 118	
	I.763	Adopted	Jan. 102				
	I.765	Adopted	Apr. 637	33	I.3931	Amended	Apr. 603
	I.767	Adopted	July 1249	III.111,507	Amended	May 808	
	I.769	Adopted	July 1248	III.111,504,509,607,709,711	Amended	Sept. 1598	
	I.2301-2321	Amended	May 849	III.505	Amended	Sept. 1597	
	I.2327	Adopted	May 849	III.506	Adopted	Sept. 1597	
	III.4101-4105, 4501, 4511	Adopted	Jan. 78	III.919	Amended	Feb. 241	
	III.4107-4113	Repealed	Jan. 78	III.1432,2160,3003,5116,5122	Amended	May 808	
	III.4503-4509	Amended	Jan. 78	III.3003	Amended	Sept. 1595	
	III.4513-4543	Repealed	Jan. 78	III.5311,5901	Amended	May 808	
	III.4715,4723	Amended	June 1043	V.105,108,109,1501,1705,1717	Amended	Apr. 605	
	III.4743	Adopted	May 833	V.105,109	Amended	May 819	
III.5901-5905	Adopted	Jan. 78	V.901,905,907,909,911,923,1119	Repealed	May 819		
III.6101, 7101, 7102, 7103	Repromulgated	Jan. 78	V.1101,1107,1108,1109,1113	Amended	May 819		
XIII.503	Amended	Feb. 242	V.1123,1301,1307,1309	Amended	May 819		
XV.Chapter 2	Adopted	May 836	V.1516,2208,4356	Adopted	May 819		
			V.1529,2205,2299	Amended	May 819		
			V.2247,3001,3873,4101	Amended	Apr. 605		
			V.3099	Amended	Apr. 603		
28	I.903	Amended	Apr. 547	V.3105,4145,4351-4355,4901	Amended	May 821	
	I.903	Amended	Apr. 548	V.4103,4107-4135	Repealed	Apr. 605	
	I.903	Amended	Apr. 549	V.4105,4139,4143,4145,4301	Amended	Apr. 605	
	I.903	Amended	Apr. 552	V.4141	Adopted	Apr. 605	
	V.109	Amended	Mar. 391	V.10303	Amended	Apr. 641	
	VI.107,305,309,311	Amended	Aug. 1433	IX.1123	Amended	May 815	
	VI.315	Amended	Aug. 1434	IX.1123	Amended	May 816	
	VII.109	Amended	Mar. 392	IX.1123	Amended	May 817	
	IX.101,301,309,313,315,321	Repromulgated	Mar. 386	IX.2501,2505,2703,4903	Amended	May 818	
	IX.103,105,107,302,303,305	Amended	Mar. 386	IX.2511	Amended	Sept. 1603	
	IX.307,311,317,319	Amended	Mar. 386	IX.2701	Amended	July 1220	
	IX.325,327,501	Repromulgated	Mar. 386	IX.2903,6105,6109,6111,6113	Amended	June 1032	
	XXI.501,507,511,521,523,527	Amended	July 1219	IX.6115,6123,6129,7127	Amended	June 1032	
	XXXIII.101,301,305,315,505,507	Amended	June 1030	XI.301,509,1313	Repromulgated	Mar. 393	
	XXXIII.701,707,717,901	Amended	June 1030	XL2301,4901,4903	Amended	Apr. 603	
	XXXVII.1901	Amended	Mar. 391	XV.102,322,421,442,703,723	Amended	May 810	
	XLIX.Chapters 1,3,5,11,13,17	Amended	Aug. 1417	XV.399	Amended	May 819	
	XLIX.Chapter 7	Amended	May 801	XV.728,736,737,741,742,743	Amended	May 810	
	XLIX.Chapters 21,23,25,31	Amended	Aug. 1417	XV.755,757,763,804	Amended	May 810	

LAC Title	Part.Section	Effect	Location LR 32 Month Page	LAC Title	Part.Section	Effect	Location LR 32 Month Page
33	XV.1517	Amended	Apr. 603	48	I.12501	Amended	May 845
35	I.1720	Amended	July 1221		I.2901, 2903	Repromulgated	Mar. 403
37	I.101,301-313,501,701-705	Repealed	Aug. 1434		I.7601-7613	Amended	Jan. 99
	I.101,301,701-721,901,1101,2501	Amended	Aug. 1434		I.9121	Amended	May 846
	XIII.525	Amended	Aug. 1462		I.9717 and 9911	Amended	June 1067
	XIII.Chapter 95	Amended	Jan. 94		I.9820	Adopted	June 1067
40	III.101	Amended	Jan. 92		V.6303	Amended	Feb. 248
42	I.2101-2111	Adopted	Feb. 255		IX.701,703,707-721	Adopted	July 1240
	I.2301-2339	Amended	Feb. 251		IX.705	Amended	July 1240
	XI.2403,2411,2413	Amended	Jan. 108	50	I.Chapters 7,9,83	Adopted	May 846
	XI.2413	Amended	Sept. 1613		I.2901,2903,2907,2911	Amended	Mar. 404
43	V.Chapter 4	Adopted	Sept. 1608		I.8311	Adopted	May 849
	XXVII.Chapter 32	Adopted	Apr. 612		XIII.305	Adopted	Mar. 406
46	I.1513	Amended	Jan. 83		XV.7501	Repealed	Mar. 406
	V.Chapter 47	Adopted	July 1221		XV.10101,10501,10505,11701	Amended	Sept. 1607
	XI.101	Amended	Feb. 242		XXI.Chapters 53-61	Adopted	Sept. 1604
	XI.108	Adopted	Feb. 242		XXI.Chapters 81,83,85	Amended	July 1245
	XXVII.701,703	Amended	July 1223		XXI.8701,8901	Amended	July 1245
	XXVII.702	Repromulgated	July 1223		XXII.Chapters 21-27	Adopted	Aug. 1461
	XXVII.704,705	Adopted	July 1223		XXIX.Chapters 1-9	Adopted	June 1052
	XXXI.309,313	Amended	May 834	51	II.Chapter 1	Amended	June 1049
	XXXI.311,321	Amended	May 834		II.503	Amended	Jan. 98
	XXXI.502	Adopted	May 834	55	I.509	Amended	Jan. 109
	XXXI.701,705,707,709,713	Amended	May 834		I.515	Amended	Jan. 110
	XXXI.1109,1111,1113	Amended	May 836		I.Chapter 19	Adopted	May 853
	XXXIII.128	Adopted	July 1227		V.1301	Amended	Jan. 109
	XXXIII.301,306,415,419,501	Amended	Feb. 243	58	IV.101	Repealed	Aug. 1432
	XXXIII.1506,1509,1511,1611	Amended	Feb. 243		I.703, 1501	Amended	Feb. 265
	XXXIII.1613,1703,1705	Amended	Feb. 243		I.1301	Amended	Aug. 1466
	XXXIX.301,501,503,901,903	Amended	June 1048		I.2511	Amended	Feb. 265
	XLV.101,301,901,1101,1301	Amended	July 1230		I.2713, 2715, 4111	Amended	June 1070
	XLV.1201,4101	Adopted	July 1230		I.4135	Adopted	June 1070
	XLV.1501,1701,1901,2101	Amended	July 1230		I.4301	Adopted	Feb. 265
	XLV.2501,2701,2901,3101,3301	Amended	July 1230		III.401	Adopted	May 866
	XLV.3501,3701,3901,5101,5301	Amended	July 1230		III.510	Adopted	May 867
	XLV.5501,5701,5901,6101	Amended	July 1230	61	I.306	Amended	Mar. 415
	XLVII.501,1705	Amended	Apr. 636		I.601	Adopted	Apr. 641
	XLVII.3333, 4507	Amended	Feb. 246		I.1114	Adopted	Feb. 261
	XLVII.3529	Amended	July 1240		I.1115	Repealed	Feb. 260
	XLVII.3703	Amended	Feb. 245		I.1128	Repealed	Feb. 263
	XLVII.3705	Adopted	Feb. 245		I.1130	Amended	Mar. 409
	LI.Chapters 1-8	Adopted	Apr. 629		I.1134	Amended	Mar. 421
	LIII.705	Amended	Apr. 636		I.1175	Adopted	Feb. 260
	LIII.907	Amended	June 1049		I.1311	Adopted	Feb. 259
	LVII.703	Amended	July 1247		I.1195	Adopted	May 864
	LXI.105,901,903,907,909	Amended	Sept. 1618		I.1905	Amended	May 866
	LXI.1303,1315,1505,2505	Amended	Sept. 1618		I.2903	Amended	Sept. 1614
	LXIII.403	Amended	July 1228		I.4301	Amended	Jan. 111
	LXIII.801-805,809-813	Amended	July 1228		I.4301	Amended	May 865
	LXIII.808	Adopted	July 1228		I.4351	Amended	Jan. 111
	LXIII.903	Adopted	July 1227		I.4371	Amended	Feb. 262
	LXVII.301,303,501-507,701,705	Amended	Aug. 1445		I.4373	Amended	Feb. 261
	LXVII.305,2708	Adopted	Aug. 1445		I.4412	Repealed	Jan. 111
	LXVII.509,511,703,903,905	Repealed	Aug. 1445		I.5301	Amended	July 1250
	LXVII.901,907,1501-1507,1701	Amended	Aug. 1445		III.2111	Adopted	Feb. 260
	LXVII.1101,1103,1301-1307	Repealed	Aug. 1445		V.101,103,203	Amended	Mar. 425
	LXVII.1703,1901,1903,2101	Amended	Aug. 1445		V.205	Repealed	Mar. 425
	LXVII.1705,1707,1905,2513	Repealed	Aug. 1445		V.211,301,304,309,703	Amended	Mar. 425
	LXVII.2301,2501,2701-2707	Amended	Aug. 1445		V.705	Repealed	Mar. 425
	LXVII.2709-2721,2723-2733	Repealed	Aug. 1445		V.907,1103,1307,1501,1503,2503	Amended	Mar. 425
	LXVII.2901-2903,3101,3501	Amended	Aug. 1445		V.3101,3103,3105,3307	Amended	Mar. 425
	LXVII.3301,5513-5545	Repealed	Aug. 1445		V.3501,3503,3507	Amended	Mar. 425
	LXVII.3703,3705,5301-5323	Amended	Aug. 1445	67	I.101-119	Amended	Jan. 114
	LXVII.5501-5511	Amended	Aug. 1445		III.1207,1227,1257	Amended	Feb. 263
	LXX.9107,9111,9117	Amended	Aug. 1444		III.1235,1949	Amended	Apr. 645
	XCI.103,301-321	Amended	Mar. 394		III.1229,1935,1979,1980	Amended	Sept. 1615
	XCI.323, 325	Repealed	Mar. 394		III.1937	Repealed	Sept. 1615
	XCI.501-509, 701-707,711	Amended	Mar. 394		III.2518	Adopted	Mar. 442
	XCI.713, 801	Adopted	Mar. 394		III.2518	Amended	Aug. 1465

LAC Title	Part.Section	Effect	Location		LAC Title	Part.Section	Effect	Location	
			LR 32	Month Page				LR 32	Month Page
67	III.Chapter 51	Amended	Aug.	1464	73	I.723	Amended	July	1251
	III.5305,5327,5347	Amended	Feb.	263	76	I.307	Adopted	Apr.	646
	III.5329	Amended	Sept.	1615		V.115	Amended	Apr.	647
	III.5349	Adopted	Feb.	263		VII.341	Repromulgated	Jan.	125
	III.5539	Adopted	Feb.	264		VII.341	Amended	June	1071
	III.5583	Adopted	Sept.	1617		VII.367	Amended	Feb.	266
	V.3503	Amended	Apr.	645		VII.369	Adopted	July	1255
	V.3507	Amended	Apr.	644		XIX.111	Amended	July	1251
	V.Chapter 57	Adopted	Jan.	112		XIX.101,103	Amended	July	1253
70	III.136, 139	Repromulgated	Jan.	117					

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Department of Environmental Quality Office of the Secretary Legal Affairs Division

Identification of BART Eligible Sources

In a cover letter dated June 8, 2006, and electronically distributed, DEQ requested that all facilities that submit annual emissions reports to the Emission Inventory complete a second Best Available Retrofit Technology (BART) survey. The purpose of the second survey was to update the BART-eligible list to reflect the impact of Hurricanes Katrina and Rita on facilities in Louisiana. The BART-eligible list below is a requirement of Environmental Protection Agency (EPA) finalized amendments to the July 1999 Regional Haze Rule for Protection of Visibility in National Parks and Wilderness Areas. The final rule and other EPA documentation related to BART may be found at www.epa.gov/visibility/actions.html.

The BART requirements of the regional haze rule apply to facilities built between 1962 and 1977 that have the potential to emit facility-wide more than 250 tons per year (tpy) of one or more visibility-impairing pollutants and impact a mandatory class I Federal area. These stationary sources fall into 26 categories, including utility and industrial boilers and large industrial plants such as pulp mills, refineries, and smelters.

If any of the information contained in the list is incorrect or if subject facilities have been omitted, a facility representative should contact James Orgeron at (225) 219-3578 or at James.Orgeron@LA.gov, or Darlene Doshier-Collard at (225) 219-3580 or at Darlene.Doshier-Collard@LA.gov, of the Office of Environmental Assessment, Air Quality Assessment Division, Plan Development Section. All facilities on this list are considered to have a BART eligible source and to be subject to all the requirements of the BART rule.

FACILITY NAME	AI NUMBER	COMPANY NAME	EIS ID
Baton Rouge Chemical Plant	286	ExxonMobil	0840-0014
Little Gypsy	687	Entergy Louisiana	2520-0009
Alexandria Plant	872	Procter & Gamble Manufacturing Company	2360-0051
Clifton Ridge Terminal	1006	CITGO Petroleum Corporation	0520-0036
Pontchartrain Diamines Unit	1101	DuPont	2580-0001
Geismar Plant	1136	Shell Chemical LP	0180-0010
Meraux Refinery	1238	Murphy Oil USA, Inc.	2500-0001
Lake Charles Facility	1244	Firestone Polymers LLC	0520-0007
Lake Charles Manufacturing Complex	1250	CITGO Petroleum	0520-0016
Derivatives	1255	PPG Industries, Inc.	0520-0004
Cabot Ville Platte Plant	1291	Cabot Corporation	0920-0001
Baton Rouge Facility	1314	Rhodia, Inc.	0840-0033
Bastrop - Louisiana Mill	1338	International Paper Company	1920-0001
Chalmette Refinery	1376	Chalmette Refining, L.L.C.	2500-0005
Gramercy Alumina	1388	Gramercy Alumina	2560-0002
Baton Rouge Plant	1395	Lion Copolymer LLC	0840-0008
Baton Rouge Smelter	1396	Exide Technologies	0840-0004
Norco Refinery	1406	Motiva Enterprises LLC	2520-0002
Louisiana Operations	1409	The Dow Chemical Company	1280-0008
Geismar Plant	1433	Chemtura USA Corporation	0180-0012
Cos-Mar Styrene Monomer Plant	1607	TOTAL Petrochemicals USA, Inc.	1280-0013
Oak Point Plant	1708	Chevron Oronite Company LLC	2240-0001
Geismar Site	2049	BASF Corporation	0180-0013
St. Francisville Mill	2073	Tembec USA LLC	3160-0003
Taft/Star Manufacturing Complex	2083	Union Carbide Corp.	2520-0001
Pineville Mill	2140	International Paper	2360-0001
Sulfuric Acid Plant	2340	Chemtrade Refinery Services Inc.	0500-0003
Port Allen Refinery	2366	Placid Refining Company, L.L.C.	3120-0010
St. Gabriel Plant - HCN Unit	2367	Syngenta Crop Protection	1280-0007
St. James Styrene Facility	2384	Chevron Phillips Chemical Company, LP	2560-0007
CF Industries Donaldsonville	2416	CF Industries	0180-0004
Alliance Refinery	2418	ConocoPhillips Co.	2240-0015
Faustina Plant	2425	Mosaic Fertilizer LLC	2560-0005
Teche Power Station	2432	Cleco Power LLC	2660-0007
Ivanhoe Carbon Black Plant	2518	Degussa Engineered Carbons LP	2660-0018
Uncle Sam Plant	2532	Mosaic Fertilizer LLC	2560-0004
Port Hudson Operations	2617	Georgia Pacific	0840-0010
Willow Glen	2625	Entergy Gulf States	1280-0010

FACILITY NAME	AI NUMBER	COMPANY NAME	EIS ID
ExxonMobil Baton Rouge Refinery	2638	ExxonMobil Refining & Supply Co.	0840-0015
Red River Mill	2645	Weyerhaeuser Company	1980-0004
Convent Refinery	2719	Motiva Enterprises LLC	2560-0001
Ninemile Point	2841	Entergy Louisiana	1340-0006
Rodemacher Power Station	2922	Cleco Power LLC	2360-0010
Garyville Refinery	3165	Marathon Petroleum Company LLC-LA Refining Division	2580-0013
Lake Charles Chemical Plant	3271	Sasol North America Inc.	0520-0017
Facility Wide	3647	Smurfit-Stone Container Enterprise, Inc	1300-0001
Geismar Plant - Ammonia Group	3732	PCS Nitrogen	0180-0028
Addis Plant	4174	Sid Richardson Carbon Company	3120-0006
North Bend	4998	Columbian Chemicals Company	2660-0005
Lake Charles Plant	5337	Equistar Chemicals	0520-0002
Geismar Ethylene Plant	5565	Williams Olefins LLC	0180-0030
Nelson	7893	Entergy Gulf States	0520-0014
Ruston Electrical Generation Station	8167	City of Ruston	1720-0007
Houma Generating Station	8838	Terrebonne Parish Consolidated Government	2880-0019
Big Cajun 1 Power Plant	11917	Louisiana Generating LLC	2260-0010
Springfield Boiler	19375	City of Natchitoches Utility Dept.	1980-0009
Sterlington	19483	Entergy Louisiana	2160-0004
Canal Plant	19901	Cabot Corporation	2660-0004
DeRidder Paper Mill	19933	Boise Cascade	0320-0002
Sterlington Ammonia Plant	23941	Koch Nitrogen Company	2160-0017
St. Charles Refinery	26003	Valero Refining-New Orleans, LLC	2520-0016
Plaquemine Steam Plant	26034	Louisiana Energy and Power Authority	1280-0044
Morgan City Steam Plant	26326	Louisiana Energy and Power Authority	2660-0069
Norco Chemical Plant - East Site	26336	Shell Chemical LP	2520-0079
Lake Charles Plant	27051	Lyondell Chemical Company	0520-0189
Louis "Doc" Bonin Electric Generation Station	31135	Lafayette Utilities System	1520-0002
Michoud	32494	Entergy New Orleans	2140-0014
St. James Terminal	36538	Koch Pipeline Company, L.P.	2560-0006
Pecan Grove Tank	37119	CITGO Petroleum Corporation	0520-0035
Pontchartrain Chloroprene Unit	38806	DuPont Performance Elastomers	2580-0041
Big Cajun 2 Power Plant	38867	Louisiana Generating LLC	2260-0005
Bogalusa Mill	38936	Temple Inland	3060-0001
Burnside Plant	67572	E.I. du Pont de Nemours & Co., Inc.	0180-0007
Waterford	83898	Entergy Louisiana	2520-0014

Herman Robinson, CPM
Executive Counsel

0610#050

POTPOURRI

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Lafourche 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 Lafourche 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 Lafourche Parish must be submitted to the Environmental Protection Agency not later than June 15, 2007.

A public hearing will be held at 1:30 p.m. on November 28, 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., December 5, 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 Lafourche 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 Southeast Regional Office, located at 645 N. Lotus Drive, Suite C, Mandeville, LA 70471. The document is available on the Internet at www.deq.louisiana.gov/portal/Default.aspx?tabid=2381.

Herman Robinson, CPM
Executive Counsel

0610#049

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**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Proposed Permit Actions in
Hurricane Impacted Areas

On November 20, 2005, the Department of Environmental Quality published expanded public notice procedures to be used in hurricane impacted areas. Recovery in most of those areas has progressed to the point that the expanded procedures are no longer needed. Therefore, the Department is providing notice that it will revert to the public notice procedures that are required by the Environmental Quality regulations in *Louisiana Administrative Code* Title 33 for public noticing of permitting activities in the previously-defined Category 1 and 2 parishes (Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Plaquemines, Pointe Coupee, St. Charles, St. Helena, St. James, St. John, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge and West Feliciana).

The previously-defined Category 3 parishes will retain some level of expanded public notice procedures as follows:

Cameron Parish:

In addition to the required public notice procedures provided in LAC Title 33, the notices will be published in the *Lake Charles American Press*.

Orleans and St. Bernard Parishes:

1. In addition to the required public notice procedures provided in LAC Title 33, an additional newspaper will be selected in which to publish the notices. This will be the newspaper with the largest circulation in a parish that physically adjoins the parish in which the facility is located.

2. If not already required to do so, the Department will publish the notices in *The Advocate*, the official state journal.

When arranging public hearings to solicit comments regarding permitting activities, the Department will work with stakeholders to find suitable hearing site locations.

For more information, contact Linda Levy, Administrator, Office of Environmental Services, Environmental Assistance Division, at (225) 219-3241. This notice is available on the Internet at:

www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Herman Robinson, CPM
Executive Counsel

0610#048

POTPOURRI

**Department of Health and Hospitals
Board of Veterinary Medicine**

Board Meeting Dates

The members of the Louisiana Board of Veterinary Medicine will meet at 8:30 a.m. on the following dates in 2007:

- Thursday, February 1, 2007
- Thursday, April 5, 2007
- Thursday, June 7, 2007 (Annual Meeting)
- Thursday, August 2, 2007
- Thursday, October 4, 2007
- Thursday, December 6, 2007

These dates are subject to change, so please contact the board office via telephone at (225) 342-2176 or e-mail at lbvm@eatel.net to verify actual meeting dates.

Wendy D. Parrish
Administrative Director

0610#054

POTPOURRI

**Department of Insurance
Office of the Commissioner**

Commercial and Homeowners Insurance Disclosure Forms

In accordance with R.S. 22:696 and 22:1477, the Louisiana Department of Insurance has developed the following disclosure forms to be used by all property and casualty insurance companies delivering or issuing homeowners or commercial insurance policies that provide coverage for damage to property in Louisiana. Pursuant to R.S. 22:696 and 22:1477, the insurer shall present the appropriate disclosure form to the insured as an insert in the front of the policy. Compliance with R.S. 22:696 and 22:1477 shall begin January 1, 2007.

**IMPORTANT INFORMATION REQUIRED BY THE
DEPARTMENT OF INSURANCE OF THE STATE OF LOUISIANA
Homeowners Insurance Policy Coverage Disclosure Summary**

This form was promulgated pursuant to LSA-R.S. 22:1477.

This is only a summary of your coverage and does not change, expand, or reduce the coverage or any other provisions contained in your policy. The language in your policy is controlling.

****READ YOUR INSURANCE POLICY FOR COMPLETE
POLICY TERMS AND CONDITIONS****

COVERAGE(S) FOR WHICH PREMIUM WAS PAID

- Coverage A
- Coverage B

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DEDUCTIBLES

All perils deductible	\$	per each loss
Wind or hail deductible	\$	per each loss due to wind or hail
Hurricane deductible	\$	per each loss due to Hurricane
Named Storm deductible	\$	per each loss due to Named Storm

**You may be able to reduce your premium by increasing your deductible. Contact your producer or insurer for more details.

LIMITATIONS OR EXCLUSIONS UNDER THIS POLICY

FLOOD, regardless of how caused, when flood is the peril that causes the loss. This may include, but is not limited to, storm surge, waves, tidal water, overflow of a body of water, whether driven by wind or not.

Flood Insurance, which is not provided under this policy, may be available through the National Flood Insurance Program (NFIP). NFIP flood insurance may provide coverage for damage to your dwelling and/or contents subject to the coverage limits and terms of the policy.

- You may contact your producer or insurer for more information on the National Flood Insurance Program.
- Excess Flood Insurance may be available under a separate policy, from this or another insurer, if the amount of the primary flood insurance is not enough to cover the value of your property.

MOLD or **FUNGUS** This may include, but is not limited to, fungus and rot.

****FOR ALL OTHER LIMITATIONS OR EXCLUSIONS REFER TO YOUR POLICY FOR COMPLETE DETAILS ON TERMS AND CONDITIONS****

CLAIM FILING PROCESS

There may be time limitations for filing a claim and satisfactory proof of loss. There may also be time limitations for repairing and replacing damaged property that could cause you to not recover the replacement value of your property, if applicable.

PAYMENT OF CLAIMS

Depending on the terms of the insurance policy, some losses may be paid based on actual cash value (ACV) and others based on replacement cost value (RCV).

- ACV is the amount needed to repair or replace the damaged or destroyed property, minus the depreciation.
- RCV involves the initial payment of actual cash value (ACV) of a loss, and the subsequent payment of the additional amount that is actually and necessarily expended to repair or replace the damaged or destroyed property.

**Refer to your policy for the terms and conditions describing how a particular loss is paid.

PAYMENT AND ADJUSTMENT OF CLAIMS

Pursuant to LRS 22:658, except in the case of catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim and of a claim for reasonable medical expenses within fourteen (14) days after notification of loss by the claimant.

In the case of a catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim within thirty (30) days after notification of loss by the claimant.

All insurers shall make a written offer to settle any property damage claim, including a third-party claim, within thirty (30) days after the receipt of satisfactory proof of loss of that claim.

Failure to make such payment within thirty (30) days after receipt of such satisfactory written proofs and demand therefore or failure to make a written offer to settle any property damage claim, including third-party claims, within thirty (30) days after receipt of satisfactory proofs of loss of that claim may result in a penalty for the insurer.

If the insurer is found to be arbitrary, capricious or without probable cause in settling any property damage claim, the insurer must pay the insured, in addition to the amount of the loss, fifty percent (50%) damages on the amount found to be due from the insurer to the insured, or one thousand (\$1,000.00) dollars, whichever is greater, as well as reasonable attorney fees and costs if applicable.

IMPORTANT INFORMATION REQUIRED BY THE DEPARTMENT OF INSURANCE OF THE STATE OF LOUISIANA Commercial Property Insurance Policy Coverage Disclosure Summary

This form was promulgated pursuant to LSA-R.S. 22:667.1 and 22:696.

This is only a summary of your coverage and does not change, expand, or reduce the coverage or any other provisions contained in your policy. The language in your policy is controlling.

****READ YOUR INSURANCE POLICY FOR COMPLETE POLICY TERMS AND CONDITIONS****

COVERAGE(S) FOR WHICH PREMIUM WAS PAID

- Coverage A
- Coverage B
- ...

DEDUCTIBLES

All perils deductible	\$	per each loss
Wind or hail deductible	\$	per each loss due to wind or hail
Hurricane	\$	per each loss due to Hurricane
Named Storm deductible	\$	per each loss due to Named storm

**You may be able to reduce your premium by increasing your deductible. Contact your producer or insurer for more details.

LIMITATIONS OR EXCLUSIONS UNDER THIS POLICY

FLOOD, regardless of how caused, when flood is the peril that causes the loss. This may include, but is not limited to, storm surge, waves, tidal water, overflow of a body of water, whether driven by wind or not.

Flood Insurance, which is not provided under this policy, may be available through the National Flood Insurance Program (NFIP). NFIP flood insurance may provide coverage for damage to your dwelling and/or contents subject to the coverage limits and terms of the policy.

- You may contact your producer or insurer for more information on the National Flood Insurance Program.
- Excess Flood Insurance may be available under a separate policy from this or another insurer if the amount of the primary flood insurance is not enough to cover the value of your property.

MOLD or **FUNGUS** This may include, but is not limited to, fungus and rot.

****FOR ALL OTHER LIMITATIONS OR EXCLUSIONS REFER TO YOUR POLICY FOR COMPLETE DETAILS ON TERMS AND CONDITIONS****

James J. Donelon
Commissioner

0610#029

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