

Rules

RULE

Department of Agriculture and Forestry Boll Weevil Eradication Commission

Boll Weevil Eradication (LAC 7:XV.314, 321 and 327)

In 1997 the Red River Eradication Zone was created for the purpose of establishing a boll weevil eradication program. Nineteen parishes were included in the Red River Eradication Zone. A majority of the cotton producers in the Red River Eradication Zone voted to impose an assessment on each acre of cotton to assist in paying for the eradication program. The assessment for the Red River Eradication Zone for the first 5-year period was set at \$10 per acre for 1997, \$35 per acre for 1998 and \$10 per acre for 1999-2001. At the end of the first five years the cotton producers voted to enter the Red River Maintenance Program. The maintenance program assessment for the 2002 and 2003 was set at \$10 per acre.

In 1999 the Louisiana Eradication Zone was created for the purpose of establishing a boll weevil eradication program in all parishes not included in the Red River Eradication Zone. A majority of the cotton producers in the Louisiana Eradication Zone voted to impose an assessment on each acre of cotton to assist in paying for the eradication program. The assessment for the Louisiana Eradication Zone for the first 5-year period was set at \$15 per acre for 1999-2003.

In September of 2003 the cotton producers in both eradication zones voted to continue the boll weevil eradication program. The cotton producers in both eradication zones also voted to continue the assessment at a maximum assessment of \$6 per acre since both eradication zones would be in similar, if not identical, boll weevil eradication maintenance programs as of 2004.

Because both the Red River Eradication Zone and the Louisiana Eradication Zone are now in similar, if not identical, maintenance programs and the assessment is uniform throughout the state there is no longer a need to maintain two separate zones or to provide for separate assessments in the rules and regulations. For these reasons these Rules and Regulations are being amended for the purpose of combining all parishes in Louisiana into one eradication zone and to establish a uniform assessment throughout the State of Louisiana in accordance with the September 2003 referendum approved by a majority of the cotton producers in the state and to provide for related matters.

These Rules are enabled by R.S. 3:1609. Rules 314, 321 and 327 are hereby amended and repromulgated to read as follows.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 3. Boll Weevil

§314. Boll Weevil Eradication Zone: Creation

A. One boll weevil eradication zone is hereby created within the state of Louisiana consisting of all the territory within the state of Louisiana.

B. This boll weevil eradication zone shall be known as the Louisiana Eradication Zone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 23:195 (February 1997), amended LR 24:2231 (December 1998), LR 30:2443 (November 2004).

§321. Assessments, Payment and Penalties

A. The September 2003 referendum set the maximum annual assessment at \$6 per acre of cotton planted in the state. The annual assessment on cotton producers in the Louisiana Eradication Zone shall be \$6 per acre for each acre of cotton planted in the state. Each cotton producer shall pay his annual assessment to the ASCS office for the parish in which the cotton is planted by the later of July 1 or final certification of the growing season for the crop year in which he plants cotton.

B. A cotton producer may request a waiver of all or part of the assessment for any crop year in which he plants cotton in accordance with the following procedure. The granting of a waiver of all or part of any assessment for a crop year is within the discretion of the commission.

1. A cotton producer requesting a waiver of the assessment for a crop year must submit a written request for a waiver to the commission.

2. The commission must receive the written request, through mail, fax or other form of actual delivery, on or before 4:30 p.m. on August 1 of the crop year for which the waiver is requested. A written request for a waiver will be deemed to be timely when the papers are mailed on or before the due date. Timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. A fax shall be considered timely only upon proof of actual receipt of the transmission.

3. The written request for a waiver must show the name of the cotton producer, the field number, the number of acres for which a waiver is requested, the date the acres were failed, the reasons the waiver is being requested and a certification that all living cotton plants and cotton stalks were destroyed prior to July 15 of the crop year and that the acreage will remain void of all living cotton plants through December 31 of the same crop year.

4. Each cotton producer who has timely filed a request for a waiver with the commission shall be notified of the date, time and place the commission is scheduled to consider the request for a waiver at least 10 days prior to the commission meeting. The commission shall not consider a written request that is not timely.

5. A cotton producer, whose timely request for a waiver is denied by the commission, shall be entitled to pay his assessment without imposition of a per acre penalty fee if he pays the assessment within 30 days after receiving written notification of the commission's decision.

6. The commission has the authority to inspect any cotton field in which a cotton producer has claimed to have destroyed the cotton crop. Failure of the cotton producer to allow inspection shall be a violation of these regulations.

C. - H. ...

I. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, 1612, and 1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 21:669 (July 1995), LR 23:195 (February 1997), LR 24:2231 (December 1998), LR 25:829 (May 1999) amended LR 29:859 (June 2003) amended LR 30:1142 (June 2004), LR 30:2443 (November 2004).

§327. Program Participation

A. All cotton producers growing cotton in Louisiana are required to participate in the boll weevil eradication program in accordance with the Louisiana Boll Weevil Eradication Law and these regulations.

B. Cotton producers shall destroy cotton stalks in every field planted in cotton, on or before December 31 of each crop year. Cotton stalk destruction shall consist of shredding or disking in a manner that destroys standing cotton stalks. Cotton stalks that come up in a failed field must also be destroyed by December 31 of the crop year. Failure to destroy stalks by December 31 of each crop year shall be a violation of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, 1612, 1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 27:280 (March 2001), amended LR 30:2444 (November 2004).

Bob Odom
Commissioner

0411#046

RULE

Department of Civil Service Civil Service Commission

Election of Employee Member of
State Civil Service Commission
(LAC 40:XXVII.101)

Editor's Note: The following Section has been moved from Title 8 to Title 40 in accordance with the Office of the State Register's uniform system of codification.

In accordance with the provisions of R.S.42: 1357 (B), the Director of State Civil Service has amended §101 affecting the election of the employee member of the State Civil

Service Commission. The last election was held in 1999. The amendments were necessary to comply with revisions made to RS: 42.1351 through 1360 since the 1999 election and to prepare for the upcoming election, the call for which will be issued January 3, 2005.

Title 40

LABOR AND EMPLOYMENT

Part XXVII. Civil Service Commission

Chapter 1. Public Officials and Employees

§101. Election of Employee Member of the State Civil Service Commission

A. Qualifications: Term of Office

1. The classified employee member of the State Civil Service Commission shall be a full-time, permanent employee in the classified state service for a period of one year prior to the date on which he qualifies as a candidate and shall serve a term of six years unless serving to fill the unexpired term of a vacancy.

2. The classified employee eligible to fill an unexpired term will take office after notification of a vacancy by the Director of Civil Service to the Secretary of State and upon certification by the Secretary of State, who shall certify in accordance with law. That employee will serve until a new regular election is conducted to elect a successor.

B. Call for Election

1. The Director of State Civil Service shall post on the date it is issued the call for election on bulletin board(s) at the office of the Director of State Civil Service and on the web site maintained by the Department of State Civil Service. It shall remain posted until the final day for qualification as a candidate has passed. A copy of the call shall be delivered to the Secretary of State for publication in the official state journal.

C. Nominations

1. Candidates for election to the office of Classified Employee Member of the State Civil Service Commission must include on the nomination petition their name as it is to appear on the ballot, their position classification (job), the department, agency, board or commission at which employed, their home address, and their Social Security Number or any other personal identification number designated by the Director of Civil Service.

2. The nominating petition shall include the signature, printed name, Social Security Number or any other personal identification number designated by the Director of Civil Service, and the department, agency, board or commission of each employee signing the petition.

3. The Director of State Civil Service, or his designated representative, shall examine the nominating petition of each candidate on receipt, determine whether the person nominated is eligible or ineligible and that the petition is valid or invalid on its face, and so notify the candidate of his decision within 24 hours of the receipt of the petition by mailing such notification to the candidate's home address.

4. A candidate may withdraw his name from nomination by notifying the Director of State Civil Service in writing prior to the end of the qualifying period.

D. Conduct of Election

1. All eligible candidates shall have their names listed on the ballot in alphabetical order of their last name, exactly as it appears on the nominating petition.

2. Ballot envelopes will contain ballot instructions for voting, information about each candidate whose name appears on the ballot, and the final date for voting.

3. Instructions shall contain directions about the secrecy of the balloting process with reference to state law providing for punishment for violating that secrecy.

4. Ballot envelopes shall be mailed to every employee who is qualified to vote using the last mailing address reported by the appointing authority to the Department of Civil Service.

5. The Director of Civil Service shall supervise and be responsible for the election to ensure that it is conducted in accordance with the requirements of R.S. 42:1351 through 1360.

6. Voting may be conducted electronically or by mail. Electronic means shall be via telephone, via Internet or by any other acceptable electronic means.

7. The election process will include verification that each person casting a vote is qualified to vote and that no voter casts more than one vote.

8. The Director of Civil Service may contract with a vendor to conduct the election under the director's supervision.

E. Report of Results

1. The Director of Civil Service shall provide a written report of certified election results to the State Civil Service Commission and the Secretary of State.

2. A copy of the report shall be posted at the office of the Director of State Civil Service and on the Department of State Civil Service web site for five consecutive working days following submission of the report to the secretary of state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1357(B).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Civil Service Commission, LR 24:2077 (November 1998), amended LR 30:2444 (November 2004).

Allen H. Reynolds
Director

0411#017

RULE

Board of Elementary and Secondary Education

Bulletin 111 **C** Louisiana School,
District, and State Accountability
(LAC 28:LXXXIII.701, 703, 1503, 1705,
3303, 3503, 4101, 4310, and 4317)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 111 **C** The Louisiana School, District, and State Accountability System* (LAC 28:LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components. The changes define data correction and the inclusion of Option I Alternative Schools' student

data in district accountability, establish a procedure to include newly reconfigured or reconstituted schools in accountability, address school performance scores when test scores are voided, and provide greater flexibility in evaluating the participation of students for subgroup considerations. These changes take advantage of new flexibility in guidance for No Child Left Behind and address situations that were not considered when the accountability policy was initially written.

Title 28

EDUCATION

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

Chapter 7. Subgroup Component

§701. Subgroup Component Indicators

A. - 1. ...

1.a. Participation rate test **C** 95 percent of the students within the subgroup participated in the standards-based assessments during the current year, during the current and previous year averaged, or during the current and previous two years averaged; and

1.b. - 6....

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2742 (December 2003), amended LR 30:2445 (November 2004).

§703. Inclusion of Students in the Subgroup Component

A. - 2.b. ...

3. Not exempted from testing due to medical illness, death of the student's family member(s), the student being in protective custody, or the student being identified as LEP and in an English-speaking school for less than one full academic year.

4. Beginning with the fall 2005 accountability results, former LEP students for up to two years after no longer being considered LEP under state rules.

a. These students will not count toward the minimum n for the LEP subgroup and will not be included in the SPS Growth Target adjustment.

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 30:2445 (November 2004).

Chapter 15. School Improvement (formerly called Corrective Actions

§1503. Entry into School Improvement

A. Schools shall enter school improvement by three methods of identification.

A.1. - C. ...

D. In the event that test scores are voided at a school due to testing irregularities, the accountability recalculations shall be performed. If applicable, the school shall be placed in the appropriate level of school improvement at the time of recalculation, and all associated remedies shall be applied.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2745 (December 2003), amended LR 30:2445 (November 2004).

Chapter 17. Requirements for Schools in School Improvement (SI)

§1705. School Improvement 4 Requirements

A. - F. ...

G. The LDE will review the changes to school sites due to reconstitution and will consult with the LEA on the effects that the reconstitution will have on rewards and/or school improvement status.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2747 (December 2003), amended LR 30:2446 (November 2004).

Chapter 33. New Schools and/or Significantly Reconfigured Schools

§3303. Reconfigured Schools

A. - B. ...

C. The LDE will review the changes to school sites in the reconfiguration and will consult with the LEA on the effects that the reconfiguration will have on rewards and/or school improvement status.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 30:2446 (November 2004).

Chapter 35. Inclusion of Alternative Education Students

§3503. Option I

A. The score for every alternative education student at a given alternative school shall be returned to ("sent back") and included in the home-based school's and district's accountability calculations for both the SPS and subgroup components. The alternative school itself shall receive a "diagnostic" SPS, not to be used for rewards or corrective actions, if a statistically valid number of students were enrolled in the school at the time of testing.

B. Students included in the GED/Skills Option program will be included in school accountability. They will be required to take the 9th grade Iowa Test or participate in LEAP Alternate Assessment (LAA) while enrolled. All programs will be considered Option I for alternative education purposes, and student attendance, dropout, and test score data will be sent back to the sending high schools and districts for accountability purposes.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 30:2446 (November 2004).

Chapter 41. Data Collection and Data Verification

§4101. Valid Data Considerations

A. ...

B. A test score shall be entered for all eligible students within a given school. For any eligible student who does not take the test, including those who are absent, a score of "0" on the CRT and NRT shall be calculated in the school's SPS. To assist a school in dealing with absent students, the Louisiana Department of Education shall provide an extended testing period for test administration. The only exceptions to this policy are students who were sick, whose family member(s) died, or who were in protective custody

during the test and re-testing periods and who have formal documentation for that period.

C. - D.3. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 30:2446 (November 2004).

Chapter 43. District Accountability

§4310. Subgroup Component AYP

A. - A.1.b.ii.

c. Not exempted from testing due to medical illness, death of the student's family member(s), the student being in protective custody, or the student being identified as LEP and in an English-speaking school for less than one full academic year.

d. Beginning with the fall 2005 accountability results, former LEP students for up to two years after no longer being considered LEP under state rules.

e. These students will not count toward the minimum n for the LEP subgroup and will not be included in the SPS Growth Target adjustment.

2. - 5. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1447 (July 2004), amended LR 30:2446 (November 2004).

§4317. District Accountability Data Corrections

A. Since data used for district accountability results are derived from school-level data, district accountability data corrections should be handled during the school accountability appeals period, with the exception of summer school results. Data corrections concerning summer school results should be filed within 30 days after the release of summer school test data.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2446 (November 2004).

Weegie Peabody
Executive Director

0411#004

RULE

Board of Elementary and Secondary Education

Bulletin 741 **C**Louisiana Handbook for School Administrators **C**Pre-GED/Skills Option Program (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 741 C The Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The revision will afford students the opportunity to complete a full year of instruction by adjusting the age requirement. This action is a result of requests from local education agencies.

Title 28
EDUCATION

Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§901. School Approval Standards and Regulations

A. Bulletin 741

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 28:269 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 30:2447 (November 2004).

* * *

Pre-GED/Skills Option Program

1.151.05 A school system shall implement the Pre-GED/Skills Option Program and shall obtain approval from the State Department of Education at least 60 days prior to the establishment of the program. (See High Stakes Testing Policy in Bulletin 1566.)

A program application describing the Pre-GED/Skills Option Program shall be submitted and shall address the following program requirements:

1. Students who shall be 16 years of age or older or who shall turn 16 years of age during the year they are to enroll into the program and meet one or more of the following criteria:
 - *Shall have failed LEAP 21 English language arts and/or math 8th grade test for one or two years;
 - *Shall have failed English language arts, math, science and/or social studies portion of the GEE;
 - *Shall have participated in alternate assessment;
 - *Shall have earned not more than 5 Carnegie units by age 17, not more than 10 Carnegie units by age 18, or not more than 15 Carnegie units by age 19;
 - *Students with Limited English Proficiency shall be considered eligible for the Pre-GED/Skills Option Program.
2. Enrollment is voluntary and requires parent/guardian consent.
3. Counseling is a required component of the program.
4. The program shall have both a Pre-GED/academic component and a skills/job training component. Traditional Carnegie credit course work may be offered but is not required. Districts are encouraged to work with local postsecondary institutions, youth-serving entities, and/or businesses in developing the skills component.
5. BESE will require the Pre-GED/Skills Option Program to be on a separate site. Exceptions will be considered based on space availability, transportation or a unique issue.
6. Students who complete only the skills section will be given a Certificate of skills completion.
7. Students will count in the October 1st MFP count.
8. Students will be included in School Accountability. While enrolled, they shall be required to take the 9th grade Iowa Test or alternate assessment. All programs will be considered Option 1 for alternative education purposes, and the score for every alternative education student at a given alternative school shall be returned to ("sent back") and included in the home-based school's SPS. (See Standard 20.002.00 of Bulletin 741.)

Refer to the Guidelines and Application Packet provided by the Louisiana Department of Education for the requirements to establish a Pre-GED/Skills Option Program.

* * *

Weegie Peabody
Executive Director

0411#005

RULE

Board of Elementary and Secondary Education

Bulletin 746 **Louisiana Standards for State Certification of School Personnel Louisiana Requirements PRAXIS/NTE Scores (LAC 28:I.903)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amends *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The revision changes Louisiana PRAXIS/NTE requirements for state certification in the secondary areas of agriculture, biology, general science, speech, and technology education, and in the all-level (K-12) area of art. PRAXIS exams will be available for the first time for certification in agriculture, speech, technology education, and art.

The state's new add-on policy governing addition of teaching endorsements to existing certificates allows for passing a PRAXIS exam in lieu of coursework. This policy opens new opportunities for those wishing to add agriculture, speech, technology education, and art.

Title 28
EDUCATION

Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

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 in LR 1:183, 311, 435, 541 (April, July, September, December 1975), LR 28:2505 (December 2002), LR 29:117 (February 2003), LR 29:119 (February 2003), LR 29:121 (February 2003), LR 30:2447 (November 2004).

* * *

Louisiana Requirements & Praxis/NTE Scores

Certification Area	Name of Praxis Test	Content Exam Score	Pedagogy: Principles of Learning & Teaching			
			PLT K-6 (#0522)	PLT 5-9 (#0523)	or	PLT 7-12 (#0524)
Early Childhood PK-3	Elementary Content Knowledge (0014) Effective 6/1/04	147 150	<ul style="list-style-type: none"> • 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) Effective 6/1/04	147 150	161	---		---
Grades 4-8 Generic	Middle School: Content Knowledge (0146) Not available for certification purposes effective 6/1/04. Middle Grades 4-8 candidates, effective 6/1/04, were 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)	140	---	154		---
	Effective 6/1/2006	145				
	Effective 6/1/2009	150				
Grades 4-8 Social Studies*	Middle School Social Studies (0089)	149	---	154		---
Grades 4-8 English/Language Arts	Middle School English/Language Arts (0049)	TBD	---	154		---
Grades 6-12 Certification Areas						
Agriculture	Agriculture (0700) Effective 7/1/05	510	---	---		161
Biology	Biology & General Science (0030)	580	---	---		161
	Biology: Content Knowledge (0235) Effective 7/1/05	150				
Business	Business Education (0100)	540	---	---		161
	Effective 6/1/04*	570				
Chemistry	Chemistry/Physics/General Science (0070)	530				161
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)	520	---	---		161
	French: Content Knowledge (0173) Effective 6/1/04	156				
General Science	Biology & General Science (0030) –OR–	580	---	---		161
	Chemistry/Physics/General Science (0070)	530				
	General Science: Content Knowledge (0435) Effective 7/1/05	156				
German	German (0180)	500	---	---		161
Mathematics	Mathematics (0060)	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)	530				161
Social Studies	Social Studies: Content Knowledge (0081)	149	---	---		161
	Interpretation of Materials (0083)	152				
Spanish	Spanish (0190)	540	---	---		161
	Spanish: Content Knowledge (0191) Effective 6/1/04	160				
Speech	Speech Communications (0220)	575	---	---		161
	Effective 7/1/05					
Certification Area	Name of Praxis Test	Content Exam Score	Pedagogy: Principles of Learning & Teaching			
			PLT K-6 (#0522)	PLT 5-9 (#0523)	or	PLT 7-12 (#0524)
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

All-Level Areas

Area	Name of Praxis Test	Content Exam Score	Pedagogy: Principles of Learning and Teaching			
			PLT K-6 (#0522)	PLT 5-9 (#0523)	or	PLT 7-12 (#0524)
Grades K-12 Art	Art: Content Knowledge (0133) Effective 7/1/05	155	161	154	or	161
Grades K-12 Dance	None Available***	---	161	154	or	161
Grades K-12 Foreign Languages	French (0170) French: Content Knowledge (0173) Effective 6/1/04	520 156	161	154		161
	German (0180)	500				
	Spanish (0190) Spanish: Content Knowledge (0191) Effective 6/1/04	540 160				
	Music Education (0110) Music: Content Knowledge (0113) Effective 6/1/04	530 151				
Grades K-12 Music	Music Education (0110) Music: Content Knowledge (0113) Effective 6/1/04	530 151	161	154	or	161
Grades K-12 Health and Physical Education	Physical Education (0090) Phys. Education: Content Knowledge (0091) Effective 6/1/04	550 146	161	154	or	161

***At this time, a content area exam is not required for certification in Louisiana.

Special Education Areas

Area	Content Exam	Pedagogy Requirement
Special Education	Not required prior to 6/1/04, except for entry into new Mild/Moderate alternate certification programs	PLT K-6 (161), PLT 5-9 (154) OR PLT 7-12 (161)
Effective 6/1/04		
Early Interventionist	None required at this time; under consideration for future	Education of Exceptional Students: Core Content Knowledge (0353) 143
Hearing Impaired	None required at this time; under consideration for future	Education of Exceptional Students: Core Content Knowledge (0353) 143 Education of Deaf and Hard of Hearing Students (0271) 160
Mild to Moderate Disabilities	Candidate would take content area exam appropriate to certification level CPK-3, 1-5, 4-8, 6-12 (see previous page)	Education of Exceptional Students: Core Content Knowledge (0353) 143 Education of Exceptional Students: Mild to Moderate Disabilities (0542) 141
Severe to Profound Disabilities	None required at this time; under consideration for future	Education of Exceptional Students: Core Content Knowledge (0353) 143 Education of Exceptional Students: Severe to Profound Disabilities (0544) 147
Visual Impairments/Blind	None required at this time	Education of Exceptional Students: Core Content Knowledge (0353) 143

PRE-PROFESSIONAL SKILLS TESTS

(Required for all Louisiana candidates to enter teacher preparation programs.)

Pre-Professional Skills Test	Test #	Score	Pre-Professional Skills Test	Test #	Score
PPST:RC Pre-Professional Skills Test: Reading	0710	172	Computer-Based Tests (prior to 1/16/02): CBT Reading CBT Writing CBT Mathematics	0711 0721 0731	319 316 315
PPST:WC Pre-Professional Skills Test: Writing	0720	171			
PPST:MC Pre-Professional Skills Test: Mathematics	0730	170			
Computerized PPST (1/16/02 and after) Same passing scores as written PPST:					
Reading	5710	172			
Writing	5720	171			
Mathematics	5730	170			

OTHER AREAS

Certification Area	Name of Praxis Test	Area Test Score
Administration	Educational Leadership: Administration & Supervision (0410)	620

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.

Weegie Peabody
Executive Director

0411#006

RULE

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for State Certification of School Personnel
 Revision to the Highly Qualified HOUSSE Definition to Allow Credit for Experience Earned by "Not New" Teachers (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amends *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This change in current Bulletin 746 policy amends the Highly Qualified definition for "not new" (experienced) teachers pertaining to Louisiana's High Objective Uniform State Standard of Evaluation (HOUSSE) option. The nature of the change is to allow credit for a teacher's previous work experience as a fully certified teacher, with experience credited as continuing learning units (CLUs) at the rate of three CLUs for each year of successful experience in the content area, with a maximum of 45 CLUs earned through work experience.

Relative to High Objective Uniform State Standard of Evaluation (HOUSSE) option in Louisiana's Highly Qualified definition for "not new" (experienced) teachers, this action recognizes a teacher's content expertise gained through years of practice by allowing credit in the form of continuing learning units (CLUs) for successful work experience as a fully certified teacher.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

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 1:183, 311, 399, 541 (April, July, September, December 1975), LR 28:2505 (December 2002), LR 29:117 (February 2003), LR 29:119 (February 2003), LR 29:121 (February 2003), LR 30:2450 (November 2004).

* * *

Highly Qualified Teacher in Louisiana

"Not New" Elementary Teacher	
1	Holds elementary school education certificate, a special education certificate that includes elementary school grades, or a special foreign language certificate to teach a specific foreign language in grades K-8; and
2	Does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
3	Has passed the Louisiana content-specific elementary education licensing exam; or

4	Holds a valid National Board for Professional Teaching Standards (NBPTS) certification in early childhood, middle childhood, or in a content area basic to the elementary school (e.g., Early Language Arts, Early Mathematics) and is teaching in the NBPTS area of certification; or
5	Has at least 12 semester hours of credit in each of the four core disciplines (English/language arts, including reading and writing; math; science; and social studies); or
Qualifies Under High Objective Uniform State Standard of Evaluation (HOUSSE) for "Not New Elementary Teachers" (By School Year 2005-2006)	
A "not new" teacher who does not meet the requirements of the paragraphs number 3, 4, or 5 above is considered highly qualified if he/she is state certified and teaching in the area of certification and if he/she completes ninety (90) Continuing Learning Units (CLUs) by the end of 2005-2006. A "not new" teacher's previous work experience as a fully certified teacher may be credited as CLUs at the rate of three (3) CLUs for each year of successful experience in the content area, with a maximum of 45 CLUs earned through work experience.	
*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. The Louisiana Professional Development Guidance will be used to define the 90 continuing learning units.	

Highly Qualified Teacher in Louisiana

"Not New" Middle School Teachers		"Not New" Secondary School Teachers
1	Holds a valid teaching certificate appropriate for grades 6-8 (e.g., Elementary Education 1-8, Upper Elementary Education 5-8, Middle School Education); a special education area that includes middle school grades; a secondary academic content area; or special foreign language certificate to teach a specific foreign language in grades K-8; and	Holds certificates for every core academic subject the individual teaches; and
2	Does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis; and	Does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
3	a) Has passed Louisiana subject-specific licensing exam required for a middle school academic content area or for a secondary (grades 7-12) academic content area that is appropriate to the middle school level, for every core academic subject the individual teaches; OR b) Has the equivalent of an academic major in a content area appropriate to the middle school level, for every core academic subject the individual teaches; OR c) Has earned a master's degree in a pure content area (not in education) for every core academic subject the individual teaches; OR d) Holds a valid National Board for Professional Teaching Standards (NBPTS) certification in a core content area and is teaching in the NBPTS area of certification; or	a) Has passed the Louisiana subject-specific licensing exam required for a secondary (grades 7-12) academic content area, for every core academic subject the individual teaches; or b) Has the equivalent of an academic major in a secondary content area, for every core academic subject the individual teaches; OR c) Has earned a master's degree in a pure content area (not in education) for every core academic subject the individual teaches; OR d) Holds a valid National Board for Professional Teaching Standards (NBPTS) certification in a core content area and is teaching in the NBPTS area of certification; or

Qualifies Under

High Objective Uniform State Standard of Evaluation (HOUSSE)
for "Not New" Middle School and Secondary Teachers
(By School Year 2005-2006)

A "not new" teacher who does not meet the requirements of the paragraphs 3(a), 3(b), 3(c), or 3(d) above is considered highly qualified if he/she is state certified and teaching in the area of certification and if he/she completes ninety (90) Continuing Learning Units (CLUs) by the end of 2005-2006. A "not new" teacher's previous work experience as a fully certified teacher may be credited as CLUs at the rate of three (3) CLUs for each year of successful experience in the content area, with a maximum of 45 CLUs earned through work experience.

*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. The Louisiana Professional Development Guidance will be used to define the 90 continuing learning units.

* * *

Weegie Peabody
Executive Director

0411#007

RULE

Board of Elementary and Secondary Education

Bulletin 746 **L**ouisiana Standards for State Certification of School Personnel **S**uspension and Revocation of Certificates Due to Fraudulent Documentation Pertaining to Certification (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amends *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. Currently, the teacher certification suspension and revocation policy addresses consequences due to criminal offenses. This new Bulletin 746 policy specifies conditions for suspension and revocation of a teaching certificate due to one's submission of fraudulent documentation pertaining to certification. The policy also specifies conditions under which an appeal can occur.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations**

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

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 1:183 (April 1975), amended LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:541 (December 1975), LR 28:2505 (December 2002), LR 29:117 (February 2003), LR 29:119 (February 2003), LR 29:121 (February 2003), LR 30:2451 (November 2004).

* * *

Suspension and Revocation of Certificates Due to Fraudulent Documentation Pertaining to Certification

A Louisiana teaching certificate may be suspended and 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.

Upon determining that a teacher has submitted fraudulent documentation pertaining to his/her teaching certificate, the department shall investigate the matter. 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.

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.

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.

A teacher whose certificate has been revoked under the provisions of this Part may apply for reinstatement three years or later after the effective date of the revocation of his/her certificate or three years after the conviction of any felony resulting from the submission of fraudulent documentation, whichever is later. The Due Process Committee of the board may conduct a hearing to determine if all requirements for certification have been successfully completed and whether the person has rehabilitated himself/herself sufficiently to warrant reinstatement of the teaching certificate.

* * *

Weegie Peabody
Executive Director

0411#008

RULE

Board of Elementary and Secondary Education

Bulletin 996 **L**ouisiana Standards for Approval of Teacher Education Programs (LAC 28:XLV.Chapters 1-13)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 996 Louisiana Standards for Approval of Teacher Education Programs* (LAC 28, Part XLV). Revisions to Bulletin 996 are (1) addition of preliminary or second-stage approval for new or reinstated public and private teacher preparation units; (2) change of five-year cycle to seven-year cycle for institutions that have successfully completed at least two National Council for Accreditation of Teacher Education (NCATE) evaluation cycles; and (3) technical changes to the bulletin to update its information. The first change allows a new unit to begin the

process of developing teacher education certification programs; to admit students to the new programs; to begin assembling needed documentation for full unit accreditation, per state and NCATE standards; and, after the board has granted second-stage approval to the unit, to recommend students in such programs for certification. The second change approves the NCATE plan to extend the accreditation cycle from five years to seven years for institutions seeking continued accreditation. Institutions seeking first-time accreditation would remain on a five-year cycle before moving to a seven-year cycle after the second evaluation visit.

This addition to Bulletin 996 addresses the need to provide a procedure for a new or reinstated unit to gain state approval in order to admit candidates, recommend them for state certification, and begin the NCATE accreditation process.

The state is in a Partnership Agreement with NCATE for the accreditation for Louisiana Institutions of Higher Education (IHEs). This change brings the state bulletin into full agreement with the NCATE plan to extend the accreditation cycle to seven years for proven IHEs.

Technical changes will update the language of the bulletin to a current status.

Title 28 EDUCATION

Part XLV. Bulletin 996 Louisiana Standards for Approval of Teacher Education Programs

Chapter 1. Introduction

§101. Guidelines

A. Bulletin 996 is intended to guide higher education institutions in the development and review of new programs and existing teacher education programs, to guide visiting committees in their evaluations, and to inform all interested persons of the Louisiana standards for teacher preparation programs and the procedures for program evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:2453 (November 2004).

§102. Preliminary Approval or Second-Stage Approval for New or Reinstated Public and Private Teacher Preparation Units

A. Preliminary Approval or Second-Stage Approval for New or Reinstated Public and Private Teacher Preparation Units guides private institutions seeking to develop or reinstate a teacher preparation program, and identifies certification procedures for new and reinstated public and private teacher preparation programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2452 (November 2004).

§103. The Partnership Agreement

A. In September 1999, the State Board of Elementary and Secondary Education (SBESE) authorized Cecil J. Picard, State Superintendent of Education, to sign the partnership agreement between the state and the National Council for Accreditation of Teacher Education (NCATE). Implementation began in 2000 with visits to Louisiana institutions of higher education. 2004, The NCATE/State

Partnership Agreement formalizes current practice and provides the state greater input into the review process. The State Board of Elementary and Secondary Education and the State Department of Education are committed to ensuring that the teachers in Louisiana meet high standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:2452 (November 2004).

§105. Protocol

A. Bulletin 996 contains three parts that are vital to the Teacher Preparation Program Approval Process. Part One includes the Protocol and the Protocol Addendum for First/Probation/Continuing Accreditation for Professional Education Units in the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1731 (August 2002), amended LR 30:2452 (November 2004).

§107. NCATE 2000 Standards May 11, 2000

A. The National Council for Accreditation of Teacher Education standards (NCATE 2000 Standards: May 11, 2000). The standards selected for state program approvals are identical to the standards prescribed by the National Council for the Accreditation of Teacher Education (NCATE 2000 Standards: May 11, 2000). These standards focus on the overall quality of the professional education unit, with emphases on policies, procedures, candidates, assessment, field experiences, clinical practice, governance, administration, staffing, and resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1731 (August 2002), amended LR 30:2452 (November 2004).

§109. State Supplement

A. Bulletin 996 contains the Louisiana State Supplement Standards for Teacher Preparation Program Approval, standards that are unique to Louisiana education initiatives. Although particular sections of this bulletin are addressed specifically to the institution or to the visiting committee, it is important for the visiting committee to be familiar with the directions given to the institution, and vice versa. Study and observance of Bulletin 996 by all concerned will greatly facilitate the state program approval and national unit accreditation processes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1731 (August 2002), amended LR 30:2452 (November 2004).

Chapter 2. Preliminary Approval or Second-Stage Approval for New or Reinstated Public and Private Teacher Preparation Units

§201. Preliminary Approval and Second Stage Approval

A. The Louisiana Department of Education staff reviews applications for preliminary approval and for second-stage approval of public and private, new or reinstated teacher education units. When an application is judged satisfactory, a recommendation is made to the State Board of Elementary

and Secondary Education (SBESE) for preliminary approval or for second-stage approval.

B. The state may conduct scheduled and/or unscheduled reviews of the teacher education unit, including on-site visits, during the preliminary approval or second-stage approval phase.

C. Public institutions seeking preliminary approval or second-stage approval must submit duplicate documents to the Board of Regents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2452 (November 2004).

§203. Application for Preliminary Approval

A. Preliminary approval authorizes the institution to proceed with developing the teacher education unit and programs identified in the request, and to admit candidates to programs under conditions specified in Paragraph 8 below. Preliminary approval does not authorize the recommendation of graduates for certification.

B. The board will grant preliminary approval for a period of one year. At the end of that year, if requested by the institution, the board may grant a one-year extension of preliminary approval. The application for preliminary approval must include the following items:

1. official declaration of intent, with request for approval, in the form of a letter from the head of the institution and or the head of the teacher education unit;

2. evidence of regional accreditation status (e.g. Southern Association of Colleges and Schools);

3. documentation describing general education classes (e.g., number of general education course hours by discipline and catalog course descriptions);

4. documentation describing certification areas to be offered, with required courses to meet state certification requirements, including a core of professional education classes;

5. evidence of collaboration with school districts, including a plan for development of an advisory board of community representatives (PK-16+ Council). The written plan should describe how the council would be used and should name members and/or potential members;

6. evidence to show that the institution's governing structure will accept, respect, include, and support a teacher preparation unit and programs (letter from head of the institution, with budget detail showing funding sources);

7. documentation showing expertise of individuals directed to guide the unit and its programs (vita of the dean or chair, department heads, director of field experiences, faculty, etc.);

8. an articulation agreement to transfer credit hours with another, approved teacher preparation institution that agrees to recommend the new/reinstated institution's candidates for certification, as needed, for continuous progress and program completion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2453 (November 2004).

§205. Application for Second-Stage Approval

A. Second-stage approval authorizes the institution to recommend candidates for certification, under limits stipulated in the conditions, for a period of one to three years.

B. Before the termination of second-stage approval, the unit shall present evidence that it has met pre-conditions for full state approval and/or national accreditation or shall request that second-stage approval be extended. The State Board of Elementary and Secondary Education (SBESE) may grant only one such extension, for a period of one year, when problems are identified that require solution prior to application for full state approval and/or national accreditation. The application for second-stage approval must include the following items:

1. a narrative describing the institutional and teacher education unit mission, reflecting the teacher education unit as an integrated and integral part of the university, and reflecting a common mission of all colleges (e.g., College of Education, College of Arts/Sciences, etc.) within the institution responsible for the preparation of teachers. The narrative should specify beliefs that drive the institution and unit and may include the knowledge bases from which these beliefs developed;

2. a written description of the professional education unit that is primarily responsible for the preparation of teachers and other professional educational personnel. This may be a chart or a narrative that specifies all professional education programs offered by the institution and degrees awarded for each program, and an organizational chart showing the unit's relationship to other administrative units within the institution;

3. evidence that a dean, director, or chair is officially designated to represent the unit and has been assigned authority and responsibility for its overall administration and operation (e.g., a job description for the head of the professional education unit);

4. evidence of written policies and procedures that guide unit operation, including policies or procedures pertaining to candidates. This may be submitted as hard copy (e.g., catalogs, handbooks) or as instructions for accessing a website;

5. response to Louisiana Specific Standards/Rules/Guidelines, including Title 17 of the Louisiana Revised Statutes, Sections 7.1, 7.2, to ensure that the unit is meeting state law, that courses reflect content standards, that field experiences are included, that admissions requirements are met, etc.;

6. a description of the unit's system of monitoring and evaluating its candidates, programs, operations, and the performance of its graduates. This will reflect how the unit will assess programs, unit effectiveness, and candidates as well as how the unit will provide follow-up data on its graduates;

7. instrument(s) for assessing candidates for admission to and exit from the teacher preparation program. This would include requirements for entrance to teacher education programs, through transition points, and for successful program completion as well as procedures for remediation, if necessary;

8. full budget report for the implementation of programs, including internal and external sources of funding, and including both hard and soft monies;

9. evidence of submission for state approval of all certification programs offered at the institution. By progressing through the full program approval process, programs will become sanctioned by the Louisiana Department of Education and the Board of Regents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2453 (November 2004).

§207. Application by the Unit for Full State Approval and/or for Accreditation by NCATE (National Council for the Accreditation of Teacher Education)

A. The institution's teacher education unit must meet both NCATE and state standards in order to secure state approval and/or NCATE accreditation. At the time it completes the second-stage approval phase of the approval process, the institution must meet requirements to satisfy NCATE pre-conditions.

B. An institution seeking full NCATE accreditation must submit an "Intent to Seek NCATE Accreditation" form to NCATE. An institution pursuing state approval only must respond to each of the NCATE pre-conditions and submit to Division Director, Teacher Certification and Higher Education, Louisiana Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2454 (November 2004).

Chapter 3. Protocol State Requirements

§301. Adoption of NCATE Standards by Reference

A. The state has adopted the standards prescribed by the National Council for the Accreditation of Teacher Education (NCATE 2000 Standards: May 11, 2000). These standards are available on the NCATE website (www.ncate.org) and from the National Council for the Accreditation of Teacher Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1731 (August 2002), amended LR 30:2454 (November 2004).

§303. First/Continuing/Probation Accreditation for State Program Approval for Professional Education Units in the State of Louisiana

A. Dates of Visit

1. First/Continuing

a. Institutions receive copies of the regulations governing the approval of teacher preparation programs. The regulations require the institution to notify the department of intent to seek approval not less than one year prior to the year in which current state approval will end.

b. Institutions accredited for the first time will remain on the five-year cycle before moving to the seven-year cycle after the second fully-accredited visit.

c. Visits are scheduled from Saturday through Wednesday noon. The Louisiana Department of Education must agree upon the date of the visit.

B. Timelines

1. First/Continuing

a. In Accordance to NCATE Timelines

b. All teacher preparation programs have received the current approval regulations and certification regulations.

C. Preconditions

1. First

a. For state-only visits, Preconditions #1-10 are sent to the LSDE approximately 18 months prior to the on-site visit.

2. First/Continuing/Probation

a. For state approval Preconditions #11 and #12 must be met.

D. Program Review Documents (Program review documents required)

1. First/Probation

a. Two copies of each program review must be submitted to the LSDE at the same time they are submitted to NCATE. For a state-only visit, two copies should be submitted to LSDE.

b. The state coordinates program reviews by national professional education associations with guidelines that have been approved by the Specialty Area Studies Board.

c. A copy of the national review also must be sent to the LSDE. The information will be made available to the Louisiana State Board of Elementary and Secondary Education for review, if requested.

2. Continuing

a. Two copies of each program review and one copy of the national review should be sent to the LSDE. This information will be made available to the Louisiana State Board of Elementary and Secondary Education for review, if requested.

E. Standards

1. First/Continuing/Probation

a. NCATE standards and the Louisiana State Supplement Standards apply to the professional education unit, as per Louisiana State Board of Elementary and Secondary Education.

F. Institutional Report

3. First/Probation

a. The institution responds to NCATE/state standards. For state only visits, a copy of the institutional report, undergraduate and graduate catalog are sent to each member of the state team and to the state consultant.

b. The institutional report must address, in addition to NCATE requirements, the specific Louisiana requirements.

4. Continuing

a. The institution must send one copy of the institutional report to each member of the state team and to the state consultant. The institutional report must address NCATE requirements (if applicable) and the specific Louisiana requirements.

G. Previsit

1. First/Continuing/Probation

a. The state chair meets with LSDE consultants and the institution's unit head and/or designee to plan for the visit. This previsit occurs at the institution within 60 days of the visit.

b. The state chair and state consultant should have received a copy of the institution's report(s) prior to the previsit.

H. Team Members (Joint)

1. First/Continuing/Probation

a. A team is selected from Louisiana's Board of Examiners (BOE) by the coordinator of teacher preparation program approval and the Section Administrator of Teacher Certification and Higher Education. Louisiana regulations require that team members represent a broad background and experience in education. The team must include representatives of Louisiana Education Authorities (LEAs), higher education, and the LSDE and must represent geographic, gender and racial diversity. The institution is given the opportunity to request the withdrawal of any team member for good cause. The LSDE approves or denies the request.

I. Team Size

1. First/Continuing/Probation

a. The total number of team members will be determined jointly by NCATE, (if applicable) and/or by the LSDE, based on the number of programs to be reviewed. All Louisiana members will be voting members of the team. The state consultant will not vote but will have full rights otherwise.

J. Team Chairs

1. First/Continuing/Probation

a. The coordinator for teacher preparation program approval and the section administrator of certification and higher education appoints the state co-chair. The state co-chair will be responsible for coordinating the writing of findings addressing Louisiana standards, based on information provided by Louisiana team members.

K. Team Decisions

1. First/Continuing/Probation

a. For NCATE/State visits, the Louisiana team members will determine if the specific Louisiana standards have been met and will determine the weaknesses to be cited and recorded for each standard. The team generally uses a consensus process.

b. For state-only visits, the Louisiana team members will vote on both NCATE and state standards to determine if the unit has met standards and if not, the weaknesses to be cited.

L. Team Expenses

1. First /Continuing/Probation

a. The institution is required to cover all travel and maintenance expenses for the members of the Louisiana BOE.

M. Team Training

1. First/Continuing/Probation

a. Louisiana members have successfully completed an LBOE training session in the past six years.

N. Other Team Participants

1. First/Continuing/Probation

a. The state consultant's expenses are covered by the LSDE.

O. On-Site Visit

1. First/Continuing/Probation

a. The NCATE template for on-site visits guides the conduct of the visit as outlined in the *Handbook for First*

Accreditation Visits and the *Handbook for Continuing Accreditation Visits*.

b. The state format for an exit interview includes providing information on the rating of the standards with weaknesses cited.

c. For a state-only visit, an exit conference is held before the team departs on Wednesday. The state chair and the state consultant from the LSDE conduct it. The unit head, unit visit coordinator and the president and/or provost may also attend.

P. BOE Team Report

1. First/Continuing/Probation

a. For NCATE/state visits, the state co-chair will compile the state section of the report. A draft of the state report will be mailed to each state member and the state consultant for review and to the institution for its review of any factual errors.

b. For state-only visits, the state chair will compile the entire report. A draft of the team report will be mailed to each team member and the state consultant for review and to the institution for its review of any factual errors. The unit has approximately five days to respond in writing.

c. After receiving the unit's response and making appropriate changes, if necessary, the chair submits the final report, including state standards if joint visit, to LSDE, which then sends two copies of the report to the institution and NCATE (if applicable).

Q. Institutional Rejoinder

1. First/Continuing/Probation

a. The institution must submit two copies of its BOE report rejoinder, addressing all applicable standards, to the LSDE. The institution may, as appropriate, send a written state report rejoinder to the LSDE.

R. Final Action Report

1. First/Continuing/Probation

a. The LSBESE reviews the institutional report and any institutional rejoinders and/or responses. The LSBESE makes the final decision on the approval of the teacher preparation programs (unit) at that institution. The Louisiana Unit Accreditation Board (LUAB) meets to recommend the action to be taken, based on the report and the rejoinder, and LSDE staff takes the action recommendation to LSBESE. The actions that the board can take include full approval, provisional approval, probationary approval, or denial of approval for the unit. A letter from the State Board of Elementary and Secondary Education to the head of the education unit conveys final board action, with a copy to the president of the institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1731 (August 2002), amended LR 30:2454 (November 2004).

§305. Protocol Addendum for Change in State Status of NCATE Accredited Teacher Education Units in Louisiana

A. As a result of action taken by the NCATE Executive Board in October of 1999, an addendum has been included with the State of Louisiana's Partnership Protocol, to reflect actions to be taken by NCATE and the state when a "change in state status" occurs for an NCATE accredited teacher education unit.

1. Notification

a. The state will provide to NCATE a copy of the teacher education standards that describe how status of programs will be determined.

b. Within 30 days, the state will provide NCATE notification of a "change in state status" affecting a Louisiana NCATE-accredited institution.

c. Supporting documentation, pertaining to the decision that leads to a "change in state status," will be provided to NCATE, pending approval by the State Board of Elementary and Secondary Education.

d. As with all institutional actions by the Louisiana State Board of Elementary and Secondary Education, public notice will be given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1733 (August 2002), amended LR 30:2455 (November 2004).

Chapter 5. Preconditions for Teacher Preparation Program Approval

§501. Requirements of Preconditions

A. The preconditions for teacher preparation program approval are required to assure that any education unit undergoing review has met fundamental criteria that undergird the state's and NCATE's standards for accreditation. An education unit should submit its preconditions report to the Louisiana Department of Education and to NCATE office, if simultaneously pursuing national accreditation, within 18 months of its planned program approval visit. State department personnel and, in the case of national approval, NCATE staff will advise the unit if any additional documentation is required to complete the preliminary process for program approval. Once the preconditions process is complete with notification from the Louisiana Department of Education and/or NCATE, the institution should begin its preparation toward state and/or national accreditation of its teacher preparation program.

B. The state entered into a partnership agreement with the National Council for Accreditation of Teacher Education (NCATE) to conduct joint state program approval and NCATE unit accreditation reviews. The state has adopted and is incorporating by reference Preconditions 1-9 prescribed by NCATE. These standards are available from the NCATE website (www.ncate.org) or from the National Council for Accreditation of Teacher Education.

C. Preconditions #10, #11, and #12 must be met by education units seeking approval.

1. Precondition #10. The institution is an equal opportunity employer and does not discriminate on the basis of race, sex, color, religion, age or handicap (consistent with Section 702 of Title VII of the Civil Rights Act of 1964, which deals with exemptions for religious corporations, with respect to employment of individuals with specific religious convictions).

a. Documentation required:

i. a copy of the institution's official action pledging compliance with nondiscriminatory laws and practice.

2. Precondition #11. Under state legislative authority R.S. 17:7(6), as amended, the unit complies with the qualifications and requirements for the certification of

teachers established by the State Board of Elementary and Secondary Education.

a. Documentation required:

i. teacher education handbooks (faculty and student) or university catalog that publishes the unit's policies and procedures regarding but not limited to the following:

(a). procedures for student evaluation and counseling upon first entry into the institution;

(b). 2.20 average on a 4.00 scale as a condition for entrance into a teacher education program;

(c). passage of standardized test for entry into teacher education;

(d). experiences in schools of varied socioeconomic and cultural characteristics;

(e). instruction on child discipline and the prevention of disruptive behavior in schools;

(f). reading courses (three hours for secondary , six hours for middle grades, and nine hours for elementary);

(g). a minimum of 270 clock hours in student teaching with 180 hours of actual teaching;

(h). a substantial part of 180 hours of actual student teaching on an all day basis;

(i). 2.50 cumulative grade point average at graduation; and

(j). evaluation criteria of faculty and timeframes.

3. Precondition #12. The teacher education unit must meet the BESE requirements for certification for each program area offered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1733 (August 2002), amended LR 30:2456 (November 2004).

Chapter 7. NCATE 2000 Unit Standards §701. Partnership Agreement

A. The state entered into a partnership agreement with the National Council for Accreditation of Teacher Education (NCATE) effective through Fall 2004 to conduct joint state program approval and NCATE unit accreditation reviews. The state has adopted and is incorporating by reference the standards prescribed by NCATE. These standards are available from the NCATE website (www.ncate.org) or from the National Council for Accreditation of Teacher Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1733 (August 2002), amended LR 30:2456 (November 2004).

Chapter 9. Louisiana State Supplement for Teacher Preparation Program Approval

§901. Introduction

A. Each teacher preparation program seeking approval from the Louisiana State Board of Elementary and Secondary Education (LSBESE) is required to incorporate and adhere to the NCATE standards and to track closely the NCATE accreditation process. Each Louisiana university is required to develop a report describing how the unit is addressing the key state initiatives as identified and delimited in the Louisiana State Supplement for Teacher Preparation Program Approval. It is the responsibility of the teacher preparation program to prepare and present a clear

description of how it is responding to each of the Louisiana Standards.

B. The rubrics, as listed, develop a continuum of quality regarding a beginning teacher's ability to meet effectively the requirements of the five domains in *The Louisiana Components of Effective Teaching*. The integration of the Louisiana Content Standards is to be evidenced in the teacher education curricula of each teacher education unit. Each teacher education program must show evidence of integration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1733 (August 2002), amended LR 30:2456 (November 2004).

Chapter 11. The Components of Effective Teacher Preparation

Subchapter A. Standard A Candidates Provide Effective Teaching for All Students

§1101. Planning

A. Candidates at both the initial and advanced levels of the Teacher Education Program Provide Effective Instruction and Assessment for All Students

1. The teacher education program provides candidates¹ at both the initial and advanced levels with knowledge and skills in the following planning processes: specifying learner outcomes, developing appropriate activities which lead to the outcomes, planning for individual differences, identifying materials and media for instruction, specifying evaluation strategies for student achievement, and developing Individualized Education Plans (IEPs) as needed.

Unacceptable	Acceptable	Target
Candidates recognize the components of planning and know that they are expected to meet the learning needs of each student.	Candidates demonstrate knowledge of the steps in developing plans to meet the learning needs of each student.	Candidates develop and implement plans as needed to meet the learning needs of each student.

¹Candidates. Individuals admitted to or enrolled in programs for the First preparation of teachers. Candidates are distinguished from students in P-12 school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1734 (August 2002), amended LR 30:2457 (November 2004).

§1103. Management

A. The teacher education program provides candidates at both the initial and advanced levels with knowledge and skills in the management component, which includes maintaining an environment conducive to learning, maximizing instructional time, and managing learner behavior.

Unacceptable	Acceptable	Target
Candidates understand various approaches to classroom/behavior management.	Candidates create a positive learning environment, maximize instructional time, and manage learner behavior.	Candidates create a positive learning environment, maximize instructional time, and manage learner behavior, making adjustments as necessary to meet the learning needs of each student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1734 (August 2002), amended LR 30:2457 (November 2004).

§1105. Instruction

A. The teacher education program provides candidates at both the initial and advanced levels with skills for delivering effective instruction, presenting appropriate content, providing for student involvement, and assessing and facilitating student growth.

Unacceptable	Acceptable	Target
Candidates recognize the components of instruction that meet the learning needs of each student.	Candidates demonstrate use of instructional components that meet the learning needs of each student.	Candidates demonstrate effective instruction that results in positive learning outcomes for each student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1734 (August 2002), amended LR 30:2457 (November 2004).

§1107. Curriculum

A. The teacher education curricula provide candidates at both the initial and advanced levels with knowledge and skills to effectively incorporate the Louisiana Content Standards in instructional delivery.

Unacceptable	Acceptable	Target
Candidates understand the basic components of the Louisiana Content Standards.	Candidates demonstrate knowledge of the Louisiana Content Standards in lessons for each content area they are preparing to teach.	Candidates implement instruction and assessment reflective of content standards, local curricula, and each student's needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1734 (August 2002), amended LR 30:2457 (November 2004).

§1109. Curriculum-Reading (Specifically but not Exclusively for K-3 Teachers)

A. The teacher education program provides candidates at both the initial and advanced levels with knowledge and skills in the curriculum process.

Unacceptable	Acceptable	Target
Candidates understand the elements of a balanced approach to reading instruction.	Candidates use a balanced approach to reading instruction and assessment in K-3 classrooms.	Candidates effectively use a balanced approach to reading instruction and assessment in K-3 classrooms to impact learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1734 (August 2002), amended LR 30:2457 (November 2004).

§1111. Curriculum Mathematics (Specifically but not exclusively for K-3 teachers)

A. The teacher education program provides candidates at both the initial and advanced levels with knowledge and skills in the curriculum process.

Unacceptable	Acceptable	Target
Candidates understand the elements of reform mathematics.	Candidates use reform mathematics content and pedagogy in providing instruction.	Candidates effectively use reform mathematics content and pedagogy in instruction and assessment, including the use of manipulatives and/or the application of content to real life situations, resulting in improved student learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1735 (August 2002), amended LR 30:2458 (November 2004).

§1113. Technology

A. The teacher education program provides candidates at both initial and advanced levels with skills to plan and deliver instruction that integrates a variety of software, applications, and related technologies appropriate to the learning needs of each student.

Unacceptable	Acceptable	Target
Candidates understand how to use technology.	Candidates create and use instruction and assessment that integrate technology into the curriculum.	Candidates effectively integrate technology into the curriculum with instruction and assessment that result in improved student learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1735 (August 2002), amended LR 30:2458 (November 2004).

§1115. Professional Development

A. The teacher education program provides candidates at both the initial and advanced levels with information and skills for planning professional self-development.

Unacceptable	Acceptable	Target
No evidence exists that candidates were exposed to the need for ongoing professional development.	Candidates plan and pursue professional development activities required by the university and/or First employing school system.	Candidates develop an individualized professional development plan based upon their self-assessment, reflection, and long term professional goals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1735 (August 2002), amended LR 30:2458 (November 2004).

§1117. School Improvement

A. The teacher education program provides candidates at both the initial and advanced levels with preparatory experiences in school improvement that includes taking an active role in school decision-making and creating relevant partnerships.

Unacceptable	Acceptable	Target
Candidates understand the processes of school improvement.	Candidates review and are familiar with school improvement efforts at the school and district levels.	Candidates participate in school improvement efforts by serving on committees and forming partnerships with community groups.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1735 (August 2002), amended LR 30:2458 (November 2004).

Subchapter B. Standard B Candidates and/or Graduates of Teacher Education Programs Participate in the Accountability and Testing Process

§1119. School and District Accountability System

A. The Teacher Education Program provides candidates at both the initial and advanced levels with knowledge and skills regarding the utilization of the Louisiana School and District Accountability System (LSDAS).

Unacceptable	Acceptable	Target
Candidates understand the basic components of the LSDAS.	Candidates investigate documents, data, and procedures used in LSDAS.	Candidates take an active role in the school growth process as related to the LSDAS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1735 (August 2002), amended LR 30:2458 (November 2004).

§1121. Testing

A. The teacher education program provides candidates at both the initial and advanced levels with information on the Louisiana Educational Assessment Program (LEAP 21) to enhance their testing and measurement practices related to learning and instruction.

Unacceptable	Acceptable	Target
Candidates understand the basic components of the Louisiana Educational Assessment Program (LEAP 21).	Candidates plan and implement instruction that correlates with LEAP 21.	Candidates interpret LEAP 21 test data and apply results to impact student achievement positively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1735 (August 2002), amended LR 30:2458 (November 2004).

Chapter 13. Identifications of Acronyms

§1301. Acronyms

A. Listed below are the full identifications of acronyms used in this publication:

- ACT American College Test;
- AFT American Federation of Teachers;
- BOE Board of Examiners;
- BOR Board of Regents;
- CEO Chief Executive Officer;
- K-3 Kindergarten through 3rd grade;
- LEAP 21 Louisiana Educational Assessment Program for the 21st century;
- LSBESE Louisiana State Board of Elementary and Secondary Education;
- LSDAS Louisiana School and District Accountability System. LSDAS's intent is to establish a systematic approach to assessing instructional effectiveness of schools and districts based primarily upon student achievement;
- LSDE Louisiana State Department of Education;
- LUAB Louisiana Unit Accreditation Board;
- NCATE National Council for the Accreditation of Teacher Education;
- NEA National Education Association;
- P-12 Pre-kindergarten through 12th grades;
- UAB Unit Accrediting Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1736 (August 2002), amended LR 30:2459 (November 2004).

Weegie Peabody
Executive Director

0411#009

RULE

Board of Elementary and Secondary Education

Bulletin 1179 Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools (LAC 28:XXXI.511)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 1179 Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools* (LAC 28:XXXI). H.B. 129, Act 312, requires that at least 30 minutes of instruction relative to organ and tissue donation be added to the Drivers Education Curriculum.

Title 28 EDUCATION

Part XXXI. Bulletin 1179 Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools Chapter 5. Administrative Policies

§511. SBESE Regulations Governing Driver Education

A. - A.1.b. ...

c. The Driver Education and/or Training Course(s) must be comprised of classroom and laboratory instructional phases meeting the following standards.

i. Classroom Instruction. This phase of instruction:

(a). must be offered for a minimum of 30.5 clock hours (with no more than five clock hours of instruction to be given during any 24 hour period);

A.1.c.i.(b). - A.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1221 (July 1999), amended LR 30:2459 (November 2004).

Weegie Peabody
Executive Director

0411#010

RULE

Board of Elementary and Secondary Education

Bulletin 1196 Louisiana Food and Nutrition Programs, Policies of Operation (LAC 28:XLIX.1105, 1503, 1509, 1511, and 1517)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 1196 Louisiana Food and Nutrition Programs, Policies of Operation* (LAC 28:XLIX). Bulletin 1196 is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. This is an update of Federal and State policies.

Title 28 EDUCATION

Part XLIX. Bulletin 1196 Louisiana Food and Nutrition Programs, Policies of Operation

Chapter 11. Personnel

§1105. Provisional Child Nutrition Program Director/Supervisor

A. A special provisional certificate, which went into effect January 1, 1977, may be issued to an individual employed as acting CNP director or supervisor. This certificate will be 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 CNP director/supervisor.

B. Special provisional certificates shall be issued only to persons with a baccalaureate or master's degree in Family and Consumer Science (Home Economics), Institutional Management, Nutrition, Dietetics, Business Administration, Food Technology, Public Health Nutrition, or other health related fields from a regionally accredited institution of higher education. This certificate does not authorize the holder to perform any services in the school system of Louisiana other than to act as a CNP director/supervisor. Payment from school food service funds shall be made only for CNP directors/supervisors and acting supervisors who meet all of the foregoing certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2163 (December 2001), amended LR 30:2459 (November 2004).

Chapter 15. Procurement

§1503. Procurement Systems

A. Competitive Sealed Bids (Formal)

1. All purchases of materials and supplies exceeding the aggregate sum of \$20,000 must be formally bid. Aggregate is defined as the dollar value of items purchased from a single source for a bid period: for example, quotations are obtained on a food item for a two-month period, but the foods are ordered weekly during that period. No weekly invoices total \$20,000, but the total invoices during the two-month period are over \$20,000. In this example, the aggregate amount is the value of all items purchased during the two-month period, so the item must be formally bid.

2. Breaking up purchases with the intent of circumventing formal advertising procedures is contrary to federal procurement regulations. Any change in the SFAs normal purchasing practices resulting in the aggregate amount purchased becoming less than \$20,000 must be documented for review and audit purposes.

3. SFAs may divide schools into districts, but assigning each district to a local vendor is prohibited. This practice would not allow open and free competition. Schools may be divided into districts to organize deliveries efficiently, but an adequate number of vendors must be allowed to submit price quotations for any or all of the districts.

4. Act No. 349, 1974 of state law requires every SFA to follow formal bid procedures for the purchase of milk and milk products for use in its schools regardless of dollar value.

5. Formal bid procedure requires formal advertising with adequate purchasing descriptions, sealed bids and public bid openings. The SFA desiring to let a contract for the purchase of materials or supplies shall in its resolution providing for the contract or purchase and for the advertisement of bids designate the time and place that the bids will be received and shall at that time and place publicly open the bids and read them aloud.

a. - e.iii. ...

f. Awarding Other than Low Bid

i. Causes for selecting a bid higher than the lowest bid might be the following.

(a). The item or service bid is not responsive to the specifications, to the invitation to bid, or to the general instructions.

(b). The bidder is not responsible. Vendor integrity has been documented by the vendor's record of past performance.

(c). The financial and technical resources of the bidder are not adequate.

(d). There is evidence of noncompliance with public policy (EEO, EPA, etc.).

ii. A SFA should document on the bid evaluation sheet the reason the lowest bid was not accepted. If the bid is not responsive, the SFA should document what requirement it did not meet. If the SFA knows that a vendor is not responsible, every effort should be made to disqualify the vendor prior to the issuing of invitations to bid. This action would prevent the possibility of having to decline a low bid.

5.g. - 6.d. ...

B. Small Purchase Procedures (price quotes)

1. Small purchase procedures may be used when:

a. the aggregate amount does not exceed \$20,000.00; and/or

b. the purchases are for highly perishable materials.

2. Purchases of materials and supplies for which the aggregate amount does not exceed \$20,000 shall be made by obtaining an adequate number of price quotations. The adequate number of price quotations for any items purchased under small purchase procedures that must be obtained is determined by local market conditions. Regardless of dollar value, the SFA must have open and free competition. If in a small rural parish there are only two produce vendors that provide service to the area, two quotes may be sufficient. However, in a larger metropolitan area where there are six produce vendors, all six should be given an opportunity to submit price quotations.

3. Price quotes can be oral or written. At least three telephone, handwritten or facsimile quotations must be obtained for materials and supplies costing less than \$20,000. A written confirmation of the accepted offer shall be obtained and made part of the purchase file. If quotations lower than the accepted quotations are received, the reasons for their rejection shall be recorded in the purchase file. All written documentation must be maintained on file for three years after final payments have been made for the federal fiscal year to which they pertain.

3.a. - 4....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2183 (December 2001), amended LR 29:2032 (October 2003), LR 30:2460 (November 2004).

§1509. Other Procurement Methods

A. - D.1.a. ...

E. Purchasing from a Sole Source/Single Source

1. Several methods can be used when purchasing from a sole or single source. A SFA can use small purchase procedures by soliciting quotes when the aggregate amount is under \$20,000. Documentation of contacts must be maintained. Competitive sealed bids (formal advertising) must be used when the aggregate amount is over \$20,000. If the aggregate amount of a purchase exceeds \$20,000, a SFA must go through the regular bidding process even if only one source is known. If only one bid was received, documentation would be available from the single source. If no bids were received, the SFA must re-bid or consider cooperative (piggyback) purchasing, or state bid contract. Non-competitive negotiation may also be used if the other methods have failed. The decision to use non-competitive negotiation must be adequately justified in writing and available for audit and review.

E.2. - G.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2186 (December 2001), amended LR 29:2033 (October 2003), LR 30:2460 (November 2004).

§1511. Diversion of Commodities for Processing

A. Federal and state procurement regulations must be followed when contracting for the processing of commodities. All contracts exceeding the sum of \$20,000

shall be advertised and awarded to the lowest responsible bidder. Purchases less than \$20,000 shall be made by obtaining no fewer than three telephone, facsimile or hand written quotations. Bids shall be accepted only from approved USDA commodity processors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2187 (December 2001), amended LR 29:2033 (October 2003), LR 30:2460 (November 2004).

§1517. Contract Provisions

A. - E.3. ...

F. Multi-Year Contract

1. The multi-year method of contracting is used when a special production of definite quantities of supplies for more than one fiscal period is necessary to meet needs most effectively, but funds are available only for the initial fiscal period. A multi-year contract is also appropriate when it is in the best interest of the SFA to obtain uninterrupted services extending over more than one fiscal period, when the performance of such services involves high start-up costs, or when a changeover of service contractors involves high phase in/phase out costs during a transition period.

2. When a multi-year contract is used by the SFA, the contract shall include a clause stating that the multi-year contract will be cancelled if funds are not appropriated or otherwise made available to support the continuation of performance in any fiscal period following the first year.

G. Extending a Contract

1. Extension of a contract into the next bid period can be granted only under special circumstances. Since extending a bid period is a modification of the contract, the SFA must perform some form of cost or price analysis. Because circumstances that would justify a bid extension are unlikely, it is required that the SFA contact the state agency for permission should a need for a contract extension arise.

H. Energy Conservation Provision

1. Contracts will recognize mandatory standards and policies relating to energy efficiency contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act P.L. 94-163.

I. Termination Provisions for Contracts over \$20,000

1. All contracts over \$20,000 must contain suitable provisions for termination by the grantee including the manner that the termination will be effected and the basis for settlement. In addition, such contracts shall describe the conditions under which the contract may be terminated for default because of circumstances beyond the control of the contractor.

J. Equal Opportunity Provision for Contracts over \$20,000

1. All contracts over \$20,000 must contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations 40 CFR Part 60.

K. Clean Air and Water Provisions for Contracts over \$100,000

1. All contracts over \$100,000 shall contain a provision that requires compliance with all applicable standards, orders, or requirements issued under §306 of the Clean Air Act 42 USC 1857(h), §508 of the Clean Water Act

33 USC 1368, Executive Order 11738, and Environmental Protection Agency regulations 40 CFR Part 15 that prohibit the use under nonexempt federal contracts, grants, or loans of facilities included on the EPA list of Violating Facilities. The provision shall require reporting of violations to USDA and to the USEPA Assistant Administrator for Enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education. LR 27:2188 (December 2001), amended LR 30:2461 (November 2004).

Weegie Peabody
Executive Director

0411#011

RULE

Board of Elementary and Secondary Education

Bulletin 1196 **C**Louisiana Food and Nutrition Programs,
Policies of Operation (LAC 28:XLIX.3301)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 1196 Louisiana Food and Nutrition Programs, Policies of Operation* (LAC 28:XLIX). Bulletin 1196 is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. This is an update of Federal and State policies.

This action will repeal §944.A from LAC 28:I and incorporate it into Bulletin 1196, §3301. Purpose.

Title 28

EDUCATION

Part XLIX. Bulletin 1196 **C**Louisiana Food and Nutrition Programs, Policies of Operation Chapter 33. Financial Management and Accounting for Child and Adult Care Food Program Family Day Care Homes (FDCH)

§3301. Purpose

A. Child Care Registration for Participants in the Child and Adult Care Food Program. In compliance with R.S. 46:1441.4.B, the following rules and regulations are hereby established to carry out the provisions of this Chapter for those family child day care homes and group child day care homes which participate in the federal Child and Adult Care Food Program.

1. Definitions. As established by R.S. 1441.1 and as used in these rules and regulations, the following definitions shall apply unless the context clearly states otherwise.

Child **C**a person who has not reached the age of 13 years. The words *child* and *children* are used interchangeably in this Chapter.

Child and Adult Care Food Program **C**the federal nutrition reimbursement program as funded by the federal Department of Agriculture through the Department of Education.

Department **C**the Department of Health and Hospitals or the Department of Social Services or the Department of Education in accordance with 7 CFR Part 226, as indicated by the context.

Family Child Day Care Home—Any place, facility, or home operated by any institution, society, agency, corporation, person or persons, or any other group for the primary purpose of providing care, supervision, and/or guidance of six or fewer children.

Group Child Day Care Home—Any place, facility, or home operated by any institution, society, agency, corporation, person or persons, or any other group for the primary purpose of providing care, supervision, and/or guidance of seven but not more than 12 children.

Sponsoring Agency—Any private, public, for profit or nonprofit corporation, society, agency, or any other group approved by or contracted with the Department of Education to coordinate family child day care homes and group child day care homes participating in the federal Child and Adult Care Food Program.

2. All Group Child Day Care Homes which participate in the Child and Adult Care Food Program (CACFP) shall be licensed through the Department of Social Services in accordance with the provisions of R.S. 46:1401-1424.

3. All Family Child Day Care Homes which participate in the Child and Adult Care Food Program (CACFP) shall be registered through the Department of Education according to the following criteria:

- a. the facility shall be the private residence of the child care provider;
- b. the provider shall enter into the required program agreement with a Department of Education-approved CACFP sponsor;
- c. the provider shall attend a minimum of one sponsor-conducted training session per year;
- d. no more than six children shall be in attendance at the facility;
- e. the facility shall be inspected and approved in accordance with R.S. 46:1441. Inspection criteria shall be as follows:
 - i. matches, lighters and other sources of ignition shall be kept out of reach of children;
 - ii. portable electric heaters shall be of an approved type, shall be equipped with a tilt switch and shall be located away from combustibles;
 - iii. at least one smoke detector shall be properly installed, located and maintained;
 - iv. protective receptacle covers shall be installed in all areas occupied by children under five years of age;
 - v. every room used for sleeping, living, or dining purposes shall have at least two means of escape, at least one which is a door or stairway providing a means of unobstructed travel to the outside of the building. If the home has burglar bars, the burglar bars shall have either release latches or keys in the locks during all hours of child care. If the home has doors with dead bolt locks, the dead bolt locks shall have keys inserted in the locks during all hours of child care. If the home has jalousie windows which do not meet size requirements, the rooms shall not be used for sleeping during any hours of child care;
 - vi. stairways shall be maintained free of storage items;

vii. every closet door shall be designed to permit the opening of the locked door from inside the closet;

viii. every bathroom door lock must be designed to permit the opening of the locked door from the outside in an emergency. The opening device must be readily accessible;

ix. a properly charged portable fire extinguisher (minimum 2A) must be readily accessible;

x. the hot water heater shall be properly installed;

xi. the facility shall have adequate lighting and ventilation;

xii. unvented fuel-fired room heaters shall be used only in rooms in which a window is raised;

xiii. flammable liquids shall be properly stored;

xiv. combustibles shall be stored away from heating units or water heaters;

xv. wiring, fixtures and appliances in the facility shall be safe;

xvi. the facility shall have an adequate water supply and a working sewerage system;

xvii. the facility shall be clean and free of insect and rodent infestation;

xviii. garbage shall be disposed of properly; and

xix. the temperature of the refrigerator shall be maintained at or below 45°F. (A thermometer shall be left in the refrigerator for at least 10 minutes to achieve an accurate reading); and

f. The facility inspection as referenced in §3301.A.3.e above shall be conducted annually. However, facilities which are complying with applicable procedures to renew registration may participate in the CACFP during the renewal process unless the Department of Education has information which indicates that renewal will be denied.

B. Federal Child and Adult Care Food Program (CACFP) funds are provided to assist state agencies through grants and other means to initiate, maintain, and expand nonprofit food service programs for children or adult participants in nonresidential institutions that provide care. The CACFP home-based program is called the Family Day Care Home (FDCH) Program.

C. This Chapter summarizes the most frequently referenced elements of the federal regulations that govern the FDCH program financial management, and stipulates the state agency's financial management policies. This Chapter exists to assure that costs charged to nonprofit food service provided principally to enrolled participants; and where applicable, to assure that costs claimed for reimbursement under the CACFP are allowable, necessary, and reasonable for effective and efficient operation of the program; and to assist institutions in developing the accounting information needed to comply with the requirements of the CACFP.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2208 (December 2001), amended LR 30:2461 (November 2004).

Weegie Peabody
Executive Director

0411#012

RULE

Department of Environmental Quality Office of Environmental Assessment

Accident Prevention Regulations Incorporation by Reference (LAC 33:III.5901)(AQ245*)

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.5901 (Log #AQ245*).

This Rule is identical to federal regulations found in 69 FR 18819-18832, April 9, 2004, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule change incorporates by reference amendments published in the *Federal Register* to "Accidental Release Prevention Requirements: Risk Management Program Requirements Under Clean Air Act Section 112(r)(7)"; Amendments to the Submission Schedule and Data Requirements. EPA made several changes to the reporting requirements of the accident prevention regulations. Provisions of these changes may be operative before the department proceeds with its annual incorporation by reference in 2005. This action is required to keep the federal and state rules consistent with one another. The basis and rationale for this Rule are to mirror the federal regulations.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A. General Provisions

§5901. Incorporation by Reference of Federal Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68, July 1, 2003. Also incorporated by reference are amendments to EPA rule entitled "Accidental Release Prevention Requirements: Risk Management Program Requirements Under Clean Air Act Section 112(r)(7)"; Amendments to the Submission Schedule and Data Requirements, promulgated on April 9, 2004, in the *Federal Register*, 69 FR 18819-18832.

B. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212

(December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004).

Wilbert F. Jordan, Jr.
Assistant Secretary

0411#030

RULE

Department of Environmental Quality Office of Environmental Assessment

Hazardous Waste Delisting (LAC 33:V.105 and 4999)(HW086)

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 Hazardous Waste regulations, LAC 33:V.105 and 4999.Appendix E (Log #HW086).

Departmental policies regarding petitions for exclusion from the hazardous waste regulations (hazardous waste delistings) are being codified. Petitioners are required to use an independent laboratory and an independent data validator. Analyses of dioxins and furans are included in all four sampling rounds. Certain laboratory data are specified for submittal to the department. The sections titled Data Submittal, Reopener Language, and Notification Requirements in LAC 33:V.4999.Appendix E are being standardized for all conditional hazardous waste exclusions under LAC 33:V.105.M. This action establishes a consistency in the requirements for hazardous waste exclusion petitioners. The basis and rationale for this Rule are to codify current departmental policy and to make necessary provisions enforceable and consistent among all the hazardous waste rulemakings.

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 V. Hazardous Waste and Hazardous Materials Subpart 1. Department of Environmental Quality— Hazardous Waste

Chapter 1. General Provisions and Definitions §105. Program Scope

These Rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these Rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

A. - M.6. ...

7. Each petition must include, in addition to the information required by LAC 33:I.Chapter 9:

a. the name and address of the independent laboratory facility, accredited by the state of Louisiana in accordance with LAC 33:I.Subpart 3, performing the sampling or tests of the waste;

b. - i. ...

j. a description of the tests performed (including results):

i. during the first sampling round, these tests must include the Toxicity Characteristic Leaching Procedure (TCLP) analysis of all the groundwater monitoring constituents listed in LAC 33:V.3325.Table 4 and analysis of total volatiles, semi-volatiles, and metals;

ii. all four sampling rounds must include analyses of dioxins and furans;

iii. all lab data, including instrument tuning, method blanks, field blanks, trip blanks, calibration data, chromatograms, duplicates, matrix spikes, and matrix spike duplicates, must be included;

k. the names and model numbers of the instruments used in performing the tests;

l. a report indicating that the data was reviewed by an independent data validator before being submitted to the department; and

m. the following statement signed by the generator of the waste or his authorized representative:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

M.8. - O.2.c.vi....

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564 (May 1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687 (September 1998), LR 24:1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003),

LR 30:1680 (August 2004), amended by the Office of Environmental Assessment LR 30:2463 (November 2004).

Chapter 49. Lists of Hazardous Wastes

§4999. Appendices A, B, C, D, E

Appendix A. - Appendix D. ...

Appendix E. Wastes Excluded Under LAC 33:V.105.M

A. Each facility granted a conditional exclusion must comply with the specific conditions for the waste exclusion as listed in Table 1 of this Appendix. Each waste exclusion listed in Table 1 shall begin with a waste description and include details for the following conditions:

1. testing, including organic and/or inorganic constituents, dioxins, furans, etc.;

2. waste holding and handling;

3. delisting levels, including organic and/or inorganic constituents, dioxins, furans, etc.; and

4. changes in operating conditions or feed streams.

B. Each facility granted a conditional exclusion must comply with the following general conditions pertaining to the waste exclusion listed in Table 1 of this Appendix.

1. Data Submittal

a. The facility must notify the department, in writing, at least two weeks prior to initiating the specific testing required for the waste exclusion.

b. All data obtained to fulfill the required testing must be submitted to the Office of Environmental Assessment within 60 days after each sampling event.

c. Records of operating conditions and analytical data from the required testing must be compiled, summarized, and maintained on-site for a minimum of three years. These records and data must be furnished upon request of the department and made available for inspection.

d. Failure to submit the required data within the specified time period or failure to maintain the required records on-site for the specified time shall be considered by the department, at its discretion, sufficient basis to revoke the exclusion.

e. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted.

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. In the event that any of this information is determined by the department, in its sole discretion, to be false, inaccurate, or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had been in effect, or to the extent directed by the department, and that the company will be liable for any actions taken in contravention of the company's environmental obligations under the Louisiana Environmental Quality Act premised upon the company's reliance on the void exclusion."

2. Reopener Language

a. If, at any time after disposal of the delisted waste, the facility possesses or is otherwise made aware of any environmental data (including, but not limited to, leachate data or groundwater monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified in the delisting verification testing is at a level higher than the delisting level allowed by the department in

granting the petition, the facility must report the data, in writing, to the department within 10 days of first possessing or being made aware of that data.

b. If the testing of the waste, as required by the waste exclusion, does not meet the specific delisting requirements of the waste exclusion, the facility must report the data, in writing, to the department within 10 days of first possessing or being made aware of that data.

c. Based on the information described herein and any other information received from any source, the department will make a preliminary determination as to whether the reported information requires that the department take action to protect human health or the environment. Further action may include suspending or revoking the exclusion, or such other appropriate response as may be necessary to protect human health and the environment.

d. If the department determines that the reported information does require departmental action, the department will notify the facility, in writing, of the action believed necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed action is not necessary. The facility shall have 10 days from the date of the department's notice to present such information.

e. Following the receipt of information from the facility, or if no such information is received within 10 days, the department will issue a final written determination describing the departmental actions that are necessary to protect human health or the environment.

f. Any required action described in the department's determination shall become effective immediately, unless the department provides otherwise.

3. Notification Requirements

a. The facility must provide a one-time written notification to any state regulatory agency in a state to which or through which the delisted waste will be transported, at least 60 days prior to the commencement of such activities.

b. Failure to provide notification will result in a violation of the delisting conditions and a possible revocation of the decision to delist.

Table 1 - Wastes Excluded
DuPont Dow Elastomers LLC, LaPlace, LA
<p>(1)(A). Inorganic Testing During the first 12 months of this exclusion, DuPont Dow must collect and analyze a monthly grab sample of the Dynawave Scrubber Effluent. DuPont Dow must report to the department the unit operating conditions and analytical data (reported in milligrams per liter) for chromium, nickel, and zinc, including quality control information. If the department and DuPont Dow concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(A), then DuPont Dow may replace the inorganic testing required in condition (1)(A) with the inorganic testing required in condition (1)(B). Condition (1)(A) shall remain effective until this concurrence is reached.</p>
<p>(1)(B). Subsequent Inorganic Testing Following concurrence by the department, DuPont Dow may substitute the following testing conditions for those in condition (1)(A). DuPont Dow must continue to monitor operating conditions and analyze samples representative of each year of operation. The samples must be grab samples from a randomly chosen operating day during the same month of operation as the previous year's sampling event. These annual representative grab samples must be analyzed for chromium, nickel, and zinc. DuPont Dow may, at its discretion, analyze any samples gathered more frequently to demonstrate that smaller batches of waste are nonhazardous.</p>
<p>(1)(C). Organic Testing During the first 30 days of this exclusion, DuPont Dow must collect a grab sample of the Dynawave Scrubber Effluent and analyze it for the organic constituents listed in condition (3)(B) below. After completing this initial sampling, DuPont Dow shall sample and analyze for the organic constituents listed in condition (3)(B) on an annual basis.</p>
<p>(1)(D). Dioxins and Furans Testing During the first 30 days of this exclusion, DuPont Dow must collect a grab sample of the Dynawave Scrubber Effluent and analyze it for the dioxins and furans in condition (3)(C) below. After completing this initial sampling, DuPont Dow shall sample and analyze for the dioxins and furans in condition (3)(C) once every three years to commence three years after the initial sampling.</p>
<p>(2). Waste Holding and Handling Consequent to this exclusion, the Dynawave Scrubber Effluent becomes, on generation, nonhazardous solid waste and may be managed and disposed of on the DuPont Dow plant site in any one of three permitted underground deep injection wells. With prior written authorization from the department, alternative disposal methods may be either a Louisiana Pollution Discharge Elimination System/National Pollution Discharge Elimination System (LPDES/NPDES) permitted outfall or a permitted commercial underground deep injection well. This newly delisted waste must always be managed and disposed of in accordance with all applicable solid waste regulations. If constituent levels in any representative sample equal or exceed any of the delisting levels set in condition (3), the Dynawave Scrubber Effluent must be immediately resampled and reanalyzed for the constituent(s) that exceeded the delisting levels. If the repeat analysis is less than the delisting levels, then DuPont Dow shall resume the normal sampling and analysis schedule as described in condition (1). If the results of the reanalysis equal or exceed any of the delisting levels, then within 45 days DuPont Dow shall submit a report to the department that outlines the probable causes for exceeding the constituent level and recommends corrective action measures. The department shall determine the necessary corrective action and shall notify DuPont Dow of the corrective action needed. DuPont Dow shall implement the corrective action and resume sampling and analysis for the constituent per the schedule in condition (1). Within 30 days after receiving written notification, DuPont Dow may appeal the corrective action determined by the department. During the full period of corrective action determination and implementation, the exclusion of the Dynawave Scrubber Effluent shall remain in force unless the department notifies DuPont Dow in writing of a temporary rescission of the exclusion. Normal sampling and analysis shall continue through this period as long as the exclusion remains in force.</p>
<p>(3). Delisting Levels The following delisting levels have been determined safe by taking into account health-based criteria and limits of detection. Concentrations in conditions (3)(A) and (3)(B) must be measured in the extract from the samples by the method specified in LAC 33:V. 4903.E. Concentrations in the extract must be less than the following levels (all units are milligrams</p>

Table 1 - Wastes Excluded
DuPont Dow Elastomers LLC, LaPlace, LA
<p>Dynawave Scrubber Effluent is generated through the combustion of organic waste feed streams carrying the listed EPA Hazardous Waste Numbers F001, F002, F003, and F005. The specific hazardous waste streams being combusted and their EPA Hazardous Waste Numbers are: HCl Feed - D001, D002, and D007; Ponchartrain CD Heels - D001 and F005; Waste Organics - D001, D007, and F005; Catalyst Sludge Receiver (CSR) Sludge - D001, D007, and F005; Isom Purge - D001, D002, and F005; and Louisville CD Heels - D001, D007, D039, F001, F002, F003, and F005. DuPont Dow Elastomers must implement a sampling program that meets the following conditions for the exclusion to be valid.</p>
<p>(1). Testing Sample collections and analyses, including quality control (QC) procedures, must be performed according to methodologies described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication Number SW-846, as incorporated by reference in LAC 33:V.110.</p>

Table 1 - Wastes Excluded

per liter).

(3)(A). Inorganic Constituents
Chromium - 2.0; Nickel - 2.0; Zinc - 200.

(3)(B). Organic Constituents
Acetone - 80; Chlorobenzene - 2.0; Chloroform - 0.2; Chloroprene - 14;
Ethylbenzene - 14; Methylene Chloride - 0.1; Styrene - 2.0; Toluene - 20;
Xylenes - 200.

(3)(C). Dioxins and Furans
The 15 congeners listed in Section 1.1 of EPA Publication Number SW-846 Method 8290 - Monitor only.

(4). Changes in Operating Conditions or Feed Streams
If DuPont Dow either significantly changes the operating conditions specified in the petition or adds any previously unspecified feed streams and either of these actions would justify a Class 3 modification to its combustion permit, DuPont Dow must notify the department in writing. Following receipt of written acknowledgement by the department, DuPont Dow must collect a grab sample and analyze it for the full universe of constituents found in 40 CFR Part 264, Appendix IX - Ground Water Monitoring List (LAC 33:V.3325). If the results of the Appendix IX analyses identify no new hazardous constituents, then DuPont Dow must reinstitute the testing required in condition (1)(A) for a minimum of 12 monthly operating periods. During the full period described in this condition, the delisting of the Dynawave Scrubber Effluent shall remain in force unless a new hazardous constituent is identified or the waste volume exceeds 25,000 cubic yards per year; at this time the delisting petition shall be reopened. DuPont Dow may eliminate feeding any stream to the combustion unit at any time without affecting the delisting of the Dynawave Scrubber Effluent or the sampling schedule.

Marathon Oil Co., Garyville, LA

Residual solids are generated from the thermal desorption treatment of the following wastes: EPA Hazardous Waste Number K048, dissolved air flotation (DAF) float; K049, slop oil emulsion solids; K050, heat exchanger bundle cleaning sludge; K051, American Petroleum Institute (API) separator sludge; F037, primary oil/water/solids separation sludge; and F038, secondary emulsified oil/water/solids separation sludge. The constituents of concern for K048-K051 wastes are listed as hexavalent chromium and lead (see LAC 33:V. 4901). The constituents of concern for F037 and F038 wastes are listed as hexavalent chromium, lead, benzene, benzo(a)pyrene, and chrysene (see LAC 33:V.4901). Marathon must implement a testing program that meets the following conditions for the exclusion to be valid.

(1). Testing
Sample collection and analyses, including quality control (QC) procedures, must be performed according to methodologies described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication Number SW-846, as incorporated by reference in LAC 33:V.110. If the department judges the desorption process to be effective under the operating conditions used during the initial verification testing, Marathon may replace the testing required in condition (1)(A) with the testing required in condition (1)(B). Marathon must continue to test as specified in condition (1)(A) until and unless notified by the department in writing that testing in condition (1)(A) may be replaced by condition (1)(B), or that testing requirements may be reduced or terminated as described in conditions (1)(C) and (1)(D) to the extent directed by the department.

(1)(A). Initial Verification Testing
During at least the first four weekly operating periods of full-scale operation of the thermal desorption unit, Marathon must monitor the operating conditions of the thermal desorption unit to maintain a minimum residual solids temperature throughout the high temperature unit of 870°F. The residual solids must be analyzed as weekly composites. The weekly composites must be composed of a minimum of two representative grab samples from each operating day during each weekly period of operation. The samples must be analyzed for the constituents listed in condition (3) prior to disposal of the residual solids. Marathon must report the operational and analytical test data, including quality control information, obtained during this initial period, no later than 90 days after initiating full-scale processing.

Table 1 - Wastes Excluded

(1)(B). Subsequent Verification Testing
Following notification of approval by the department, Marathon may substitute the following testing conditions for those in condition (1)(A). Marathon must continue to monitor operating conditions and analyze samples representative of each month of operation. The samples must be composed of eight representative samples from randomly chosen operating days during the four-week period of operation of each month. These monthly representative composite samples must be analyzed for the constituents listed in condition (3) prior to the disposal of the residual solids. Marathon may, at its discretion, analyze composite samples gathered more frequently to demonstrate that smaller batches of waste are nonhazardous.

(1)(C). Termination of Monthly Organic Testing
Marathon must continue to monitor unit operating conditions and perform testing as required under condition (1)(B), for the constituents listed in condition (3)(B), until the analyses submitted under condition (1)(B) show a minimum of three consecutive monthly representative samples with levels of constituents significantly below delisting levels listed in condition (3)(B). Following notification of approval by the department, Marathon may terminate monthly testing for the organic constituents found in condition (3)(B). Following termination of monthly testing for organic constituents, Marathon must test a representative composite sample, composited over a one-week time period, for all constituents listed in condition (3)(B) on a quarterly basis. If delisting levels for any organic constituents listed in condition (3)(B) are exceeded in the quarterly sample, Marathon must re-institute testing as required in condition (1)(B).

(1)(D). Termination of Monthly Inorganic Testing
Marathon must continue to monitor unit operating conditions and perform testing as required under condition (1)(B), for the constituents listed in condition (3)(A), until the analyses submitted under condition (1)(B) show a minimum of three consecutive monthly representative samples with levels of constituents significantly below delisting levels listed in condition (3)(A). Following notification of approval by the department, Marathon may terminate monthly testing for the inorganic constituents found in condition (3)(A). Following termination of monthly testing for inorganic constituents, Marathon must test a representative composite sample, composited over a one-week time period, for all constituents listed in condition (3)(A) on a quarterly basis. If delisting levels for any inorganic constituents listed in condition (3)(A) are exceeded in the quarterly sample, Marathon must re-institute testing as required in condition (1)(B).

(2). Waste Holding and Handling
Marathon must store as hazardous wastes all residual solids generated until each batch has completed verification testing, as specified in conditions (1)(A)-(1)(D), and has satisfied the delisting criteria, as specified in condition (3). If the levels of constituents in the samples of residual solids are below all of the applicable levels set forth in condition (3), then the residual solids thereby become nonhazardous solid wastes and may be managed and disposed of in accordance with all applicable solid waste regulations. If constituent levels in any weekly composite or other representative sample equal or exceed any of the delisting levels set in condition (3), the residual solids generated during the corresponding period must be retreated to meet the delisting levels or managed and disposed of in accordance with subtitle C of RCRA.

(3). Delisting Levels
The following delisting levels have been determined safe by taking into account health-based criteria and limits of detection. Concentrations in conditions (3)(A) and (3)(B) must be measured in the extract from the samples by the method specified in LAC 33:V.4903.E. Concentrations in the extract must be less than the following levels (all units are milligrams per liter).

(3)(A). Inorganic Constituents
Antimony - 0.22; Arsenic - 0.40; Barium - 72; Beryllium - 0.14; Cadmium - 0.18; Chromium - 3.6; Lead - 0.54; Mercury - 0.072; Nickel - 3.6; Selenium - 1.0; Silver - 5.0; Vanadium - 7.2.

(3)(B). Organic Constituents
Acenaphthene - 72; Benzene - 0.18; Benzo(a)anthracene - 0.050; Benzo(a)pyrene - 0.050; Benzo(b)fluoranthrene - 0.050; Bis(2-ethylhexyl)phthalate - 0.22; Chrysene - 0.05; Ethylbenzene - 25; Fluoranthrene - 72; Fluorene - 72; Naphthalene - 36; Pyrene - 72; Toluene - 36.

Table 1 - Wastes Excluded

(4). Changes in Operating Conditions
After completing the initial verification test period in condition (1)(A), if Marathon significantly changes the operating conditions specified in the petition, Marathon must notify the department in writing. Following receipt of written approval by the department, Marathon must re-institute the testing required in condition (1)(A) for a minimum of four weekly operating periods. Marathon must report unit operating conditions and test data required by condition (1)(A), including quality control data, obtained during this period no later than 60 days after the changes take place. Following written notification by the department, Marathon may replace testing condition (1)(A) with (1)(B), or reduce or terminate testing requirements as described in conditions (1)(C) and (1)(D) to the extent directed by the department. Marathon must fulfill all other requirements in condition (1).

(4)(A). Processing Equipment
Marathon may elect to change thermal desorption processing equipment based on operational performance and economic considerations. In the event that Marathon changes operating equipment, i.e., generic thermal desorption units, Marathon must re-institute processing and initiate testing required in condition (1)(A) for a minimum of four weekly operating periods. Marathon must report unit operating conditions and test data required in condition (1)(A), including quality control data, obtained during this period no later than 60 days after the changes take place. Following written notification by the department, Marathon may replace testing condition (1)(A) with (1)(B), or reduce or terminate testing requirements as described in conditions (1)(C) and (1)(D) to the extent directed by the department. Marathon must fulfill all other requirements in condition (1).

(4)(B). Batch Processing
Marathon may periodically elect to change operating conditions to accommodate batch processing of single-event waste generations. In the event that Marathon initiates batch processing and changes the operating conditions established under condition (1), Marathon must re-institute the testing required in condition (1)(A) during such batch processing events and monitor unit operating conditions and perform testing required by condition (1)(A), as appropriate. Following the completion of batch processing operations, Marathon must return to the operating conditions applicable prior to initiation of the batch processing and may return to the testing conditions that were applicable prior to the initiation of the batch processing activities.

Motiva Enterprises LLC, Norco, LA

Residual solids, at a maximum annual generation rate of 10,000 cubic yards per year (7,500 tons/year), are generated from the thermal desorption recycling of oil-bearing secondary materials resulting from petroleum processing operations, which are classified as newly generated EPA Hazardous Waste Number F037, petroleum refinery primary oil/water/solids separation sludge (effective February 8, 1999, per the updated definition promulgated on August 6, 1998, and the corrected definition dated June 8, 2000). For the purpose of this exclusion, oil-bearing hazardous secondary materials resulting from petroleum refining operations include EPA Hazardous Waste Numbers K048-K052, K169-K170, F037, and F038. The constituents of concern for F037 waste are listed as hexavalent chromium, lead, benzene, benzo(a)pyrene, and chrysene (see LAC 33:V.4901). Motiva must implement a testing and management program that meets the following conditions for the exclusion to be valid.

(1). Testing
Sample collection and analyses, including quality control (QC) procedures, must be performed according to methodologies described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication Number SW-846, as incorporated by reference in LAC 33:V.110.

(1)(A). Inorganic Testing
During the first 12 months of this exclusion, Motiva must collect and analyze a monthly composite sample of the residual solids. Composite samples must be composed of a minimum of two representative grab samples from each operating day during a representative week of operation. The samples must be analyzed for the constituents listed in condition (3)(A) prior to disposal of the residual solids. Motiva must report to the department the unit operating conditions and analytical data (reported in milligrams per liter) for antimony, arsenic, barium, chromium, lead, mercury, nickel, selenium, silver, vanadium, and zinc, including

Table 1 - Wastes Excluded

quality control information. If the department and Motiva concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(A), then Motiva may replace the inorganic testing required in condition (1)(A) with the inorganic testing required in condition (1)(B). Condition (1)(A) shall remain effective until this concurrence is reached.

(1)(B). Subsequent Inorganic Testing
Following concurrence by the department, Motiva may substitute the following testing conditions for those in condition (1)(A). Motiva must continue to monitor operating conditions and analyze quarterly composite samples representative of normal operations. The samples must be composed of representative grab samples from each operating day during a representative week of operation, during the first month of each quarterly period. These quarterly representative composite samples must be analyzed for the constituents listed in condition (3)(A) prior to disposal of the residual solids. If delisting levels for any inorganic constituents listed in condition (3)(A) are exceeded in the quarterly sample, Motiva must re-institute testing as required in condition (1)(A). Motiva may, at its discretion, analyze composite samples gathered more frequently to demonstrate that smaller batches of waste are nonhazardous.

(1)(C). Organic Testing
During the first 12 months of this exclusion, Motiva must collect and analyze two monthly grab samples of the residual solids. These two representative grab samples should be collected on different operating days during a representative week of operation. The samples must be analyzed for the constituents listed in condition (3)(B) prior to disposal of the residual solids. Motiva must report to the department the unit operating conditions and analytical data (reported in milligrams per liter) for anthracene, benzene, toluene, xylenes, carbon disulfide, chrysene, naphthalene, and pyrene, including quality control information. If the department and Motiva concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(B), then Motiva may replace the organic testing required in condition (1)(C) with the organic testing required in condition (1)(D). Condition (1)(C) shall remain effective until this concurrence is reached.

(1)(D). Subsequent Organic Testing
Following concurrence by the department, Motiva may substitute the following testing conditions for those in condition (1)(C). Motiva must continue to monitor operating conditions and analyze two annual grab samples representative of normal operations. The samples must be representative grab samples from different operating days during a representative week of operation, during the first month of each annual period. These annual representative grab samples must be analyzed for the constituents listed in condition (3)(B) prior to disposal of the residual solids. If delisting levels for any organic constituents listed in condition (3)(B) are exceeded in the annual sample, Motiva must re-institute testing as required in condition (1)(C). Motiva may, at its discretion, analyze grab samples gathered more frequently to demonstrate that smaller batches of waste are nonhazardous.

(2). Waste Holding and Handling
Motiva must store as hazardous wastes all residual solids generated until each batch has completed verification testing, as specified in conditions (1)(A) - (1)(D), and has satisfied the delisting criteria, as specified in condition (3). If the levels of constituents in the samples of residual solids are below all of the applicable levels set forth in condition (3), then the residual solids thereby become nonhazardous solid wastes and may be managed and disposed of in accordance with all applicable solid waste regulations. If hazardous constituent levels in any monthly composite or other representative sample equal or exceed any of the delisting levels set in condition (3), the residual solids generated during the corresponding period must be retreated and/or stabilized as allowed below until the residual solids meet the delisting levels, or managed and disposed of in accordance with Subtitle C of RCRA. If the residual solids contain leachable inorganic concentrations at or above the delisting levels set forth in condition (3)(A), then Motiva may stabilize the material with Type 1 portland cement and/or hydrated lime, as demonstrated in the petition, to immobilize the metals. Following stabilization, Motiva must repeat analyses in condition (3)(A) prior to disposal.

(3). Delisting Levels
Concentrations in conditions (3)(A) and (3)(B) must be measured in the

Table 1 - Wastes Excluded

extract from the samples by the method specified in LAC 33:V.4903.E. All leachable concentrations in the extract must be less than the following levels (all units are milligrams per liter).

(3)(A). Inorganic Constituents

Antimony - 0.50; Arsenic - 0.50; Barium - 50.0; Chromium - 0.50; Lead - 0.50; Mercury - 0.05; Nickel - 5.0; Selenium - 1.0; Silver - 0.5; Vanadium - 1.6; Zinc - 50.0.

(3)(B). Organic Constituents

Anthracene - 0.20; Benzene - 0.10; Carbon disulfide - 4.8; Chrysene - 0.05; Naphthalene - 0.05; Pyrene - 0.05; Toluene - 0.10; Xylenes - 0.10.

(4). Changes in Operating Conditions

If Motiva significantly changes the operating conditions specified in the petition, Motiva must notify the department in writing. Following receipt of written approval by the department, Motiva must re-institute the testing required in conditions (1)(A) and (1)(C) for a minimum of four months. Motiva must report unit operating conditions and test data required by conditions (1)(A) and (1)(C), including quality control data, obtained during this period no later than 60 days after the changes take place. Following written notification by the department, Motiva may replace testing conditions (1)(A) and (1)(C) with (1)(B) and (1)(D). Motiva must fulfill all other requirements in condition (1).

(4)(A). Processing Equipment

Motiva may elect to change thermal desorption processing equipment based on operational performance and economic considerations. In the event that Motiva changes operating equipment, i.e., generic thermal desorption units, Motiva must re-institute processing and initiate testing required in conditions (1)(A) and (1)(C) for a minimum of four months. Motiva must report unit operating conditions and test data required in conditions (1)(A) and (1)(C), including quality control data, obtained during this period, no later than 60 days after the changes take place. Following written notification by the department, Motiva may replace testing conditions (1)(A) and (1)(C) with (1)(B) and (1)(D). Motiva must fulfill all other requirements in condition (1).

(4)(B). Batch Processing

Motiva may periodically elect to change operating conditions to accommodate batch processing of single-event waste generations. In the event that Motiva initiates batch processing and changes the operating conditions established under condition (1), Motiva must re-institute the testing required in conditions (1)(A) and (1)(C) during such batch processing events, monitor unit operating conditions, and perform testing required by conditions (1)(A) and (1)(C), as appropriate. Following the completion of batch processing operations, Motiva must return to the operating conditions applicable prior to initiation of the batch processing and may return to the testing conditions that were applicable prior to the initiation of the batch processing activities.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:2509 (November 2000), LR 29:1084 (July 2003), repromulgated LR 29:1475 (August 2003), amended by the Office of Environmental Assessment LR 30:2464 (November 2004).

Wilbert F. Jordan, Jr.
Assistant Secretary

0411#031

RULE

**Department of Environmental Quality
Office of Environmental Assessment**

**Surface Water Quality Standards Reclassification of New Iberia Southern Drainage Canal and Its Ancillary Waters
(LAC 33:IX.1123)(WQ056)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.1123.Table 3 (Log #WQ056).

This Rule reclassifies the New Iberia Southern Drainage Canal and its ancillary waters, Rodere Canal, Port Canal, and Commercial Canal, (Subsegment 060904) as man-made water bodies in accordance with LAC 33:IX.1105 and 1109.C.2. Site-specific criteria have been developed for dissolved oxygen (DO) and bacteria (BAC) to support the reclassification. Revised designated uses are listed in LAC 33:IX.1123.Table 3. The appropriate dissolved oxygen criteria for this subsegment are 3.0 mg/L November through April, and 2.0 mg/L May through October. General and numerical criteria not specifically excepted in LAC 33:IX.1123.Table 3 shall apply. This action is required to establish appropriate and protective criteria for Subsegment 060904. A site-specific Use Attainability Analysis (UAA) was conducted in accordance with state and federal water quality regulations, policies, and guidance to develop the appropriate uses and site-specific criteria for these water bodies.

UAAs are conducted by the department to determine the uses and criteria an individual water body can attain. According to the regulations, a UAA is defined as a structured scientific assessment of the factors (chemical, physical, biological, and economic) affecting the attainment of designated uses in a water body. (See 40 CFR 131.3(g) and LAC 33:IX.1105.) The UAA process is described in 40 CFR 131.10 and LAC 33:IX.1109.B.3. It entails the methodical collection of data that is then scientifically analyzed and summarized and used to establish site-specific uses and criteria. The basis and rationale for this Rule are to establish site-specific uses for Subsegment 060904 and site-specific criteria for dissolved oxygen (DO) and bacteria (BAC) supportive of the uses.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 1. Water Pollution Control

**Chapter 11. Surface Water Quality Standards
§1123. Numerical Criteria and Designated Uses**

A. - C.2. ...

3. Designated Uses. The following are the category definitions of designated uses that are used in Table 3 under the subheading "Designated Uses."

A Primary Contact Recreation
 B Secondary Contact Recreation
 C Fish and Wildlife Propagation
 L Limited Aquatic Life and Wildlife Use
 D Drinking Water Supply

E Oyster Propagation
 F Agriculture
 G Outstanding Natural Resource Waters
 Numbers in brackets, e.g. [1], refer to endnotes listed at the end of the table.

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish and Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Criteria						
* * *									
[See Prior Text in 010101-050901]									
Vermillion-Teche River Basin (06)									
* * *									
[See Prior Text in 060101-060903]									
060904	New Iberia Southern Drainage Canal-Origen to Weeks Bay, including Rodere Canal, Commercial Canal, and Port Canal (Estuarine)	A B L [24]	N/A	N/A	[24]	6.5 - 9.0	[24]	35	N/A
* * *									
[See Prior Text in 060906-120806]									

ENDNOTES:

[1] - [23] ...
 [24] Designated Man-Made Water Bodies; Seasonal DO Criteria: 3.0 mg/L November-April, 2.0 mg/L May-October; Rodere Canal and Commercial Canal have BAC 2; Port Canal and New Iberia Southern Drainage Canal have BAC 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment LR 30:2468 (November 2004).

Wilbert F. Jordan, Jr.
 Assistant Secretary

0411#032

RULE

**Office of the Governor
 Board of Architectural Examiners**

Informal Procedures for Violations (LAC 46:I.1903)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners ("board") amended LAC 46:I.1903 pertaining to the procedures which it will use to receive, investigate, process, and dispose of possible violations of the architects=licensing law (R.S. 37:141 et seq.) and its rules, including the implementation of an informal procedure for resolving possible violations without a full board hearing. The existing Rule does not contain an informal procedure for resolving possible violations. The amendments have no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 46
 PROFESSIONAL AND OCCUPATIONAL
 STANDARDS**

Part I. Architects

Chapter 19. Rules of Conduct: Violations

§1903. Violations

A.1. When the board receives a complaint, report, or other information which, if established as being true, would constitute just cause under the law for revocation, suspension, denial of license, or other form of discipline or punishment specified in R.S. 37:153 or R.S. 37:154, the board may:

- a. conduct its own investigation or inquiry;
- b. refer the matter to an investigator for an investigation;
- c. refer the matter to its Complaint Review Committee ("CRC"); and/or
- d. file its own complaint against the architect or the other person (hereinafter in this Section the "respondent") who may have violated the law or rules.

2. In accordance with R.S. 37:153.F, a complaint (whether made by the board or other person) shall be in the form of a sworn affidavit. If a complaint, report, or other such information is received by the executive director, the director will, within her discretion, forward same to either the board (for action consistent with this Section) or to the CRC.

B. The CRC is a committee of the board appointed by the president consisting of at least two board members. The CRC may review complaints and other information concerning possible violations of law or rules, make or have made whatever investigation it deems appropriate concerning such possible violations, file complaints, decide whether an attempt should be made to resolve alleged violations informally (without a full board hearing), discuss or confer with a respondent concerning the alleged violations and/or a possible resolution thereof, make recommendations to the full board concerning a possible resolution of the alleged violations (if the respondent consents to such recommendations), present and explain any recommendations made to the full board, and generally perform whatever other actions it deems necessary or

appropriate in the receipt, investigation, handling, and/or disposition of complaints or information concerning possible violations of the law or rules.

C. The board, investigator, and/or CRC shall conduct such investigation or make whatever other inquiry deemed appropriate to determine whether the matter should be dismissed or pursued further. To assist in the investigation, the board may issue, as necessary, such subpoenas as may be required to obtain documents and compel the appearance of witnesses.

D. The executive director may, but shall not be required, to provide written notice to the respondent that an investigation has been initiated. In determining whether to provide notice to the respondent, the director shall consider whether such notice may prejudice the investigation. Any notice shall describe the nature or basis of the complaint or the other information giving rise to the investigation, contain a preliminary statement of the possible violations of law or rules that may be involved, and provide the respondent with an opportunity to respond in writing and provide information relating to the investigation.

E. The executive director will provide a copy of the complaint to the respondent. The executive director will normally provide the complaint immediately, unless in the judgment of the executive director, the board or the CRC doing so may prejudice the investigation. In determining whether providing a complaint to the respondent immediately may prejudice the investigation, the executive director may consult with the president and/or the CRC. The respondent shall be allowed a reasonable opportunity to respond in writing to the complaint and provide whatever information that the respondent would like the board to consider.

F. The board may at any time dispose of any complaint or other matter informally. Such informal resolution may take the form of any informal disposition recognized in R.S. 49:955(D) or any other form of agreement or disposition which adequately addresses the complaint or the matter under investigation.

G. For the purpose of resolving a complaint or other matter without a full board hearing, the board, CRC, or the respondent may suggest that an informal conference be held. If the board or the CRC suggests such a conference, attendance by the respondent at this conference shall be purely voluntary, and no inferences or negative presumptions shall result if a respondent declines to attend or otherwise participate in such a conference.

H. The persons who will normally attend an informal conference are one or both of the board members comprising the CRC, the executive director, the board attorney, and the respondent. The CRC may request that other persons, such as the investigator, also attend, if such attendance would facilitate the discussion and potentially resolve the complaint or other matter at issue. The respondent may bring his or her attorney to the conference, although such legal representation is not necessary.

I. At the start of an informal conference, the CRC, executive director, or board attorney will explain the purpose of the informal conference; discuss the specific charges that may be presented to the board if it becomes necessary to schedule a formal hearing; and present some or all of the evidence that the board might introduce at a formal hearing

to substantiate the charges. The respondent will be provided an opportunity to discuss the board's evidence, present his or her own evidence, and show that no violation of the law or rules has occurred. Statements made at the informal conference may not be introduced at a formal hearing unless all parties consent. No transcript of the informal conference will be made.

J. The respondent has the right to terminate an informal conference at any time and to request a formal hearing called for the purpose of adjudicating any alleged violation of the law or rules.

K. If at the end of the informal conference it appears that no violation of the law or the rules has occurred, no further action will be taken, and the CRC will recommend to the board that the complaint be dismissed or, if no complaint has been filed, that no further action be taken concerning the matter being considered.

L. If at the end of the informal conference it appears that a violation may propose of the law or the rules has occurred, the CRC a stipulation, settlement agreement, or consent order to the respondent. If the proposal for resolving the matter is agreeable to the respondent, the CRC will then submit the proposed stipulation, settlement agreement, or consent order to the board and recommend that the board accept its recommendation.

M. If the respondent does not consent to the proposal made by the CRC for resolving the matter at the end of the informal conference, the CRC will advise the board that an informal conference was unsuccessful in resolving the matter and that the complaint, if one has been filed, may be scheduled for a formal hearing. If no complaint has been filed, the CRC will advise the respondent of whatever action it intends to take concerning the matter being considered. The CRC may file its own complaint against the respondent and, if so, that complaint may be scheduled for a formal hearing before the full board.

N. The CRC will present and explain its recommendations for the proposed stipulation, settlement agreement, or consent order at a board meeting. The members of the CRC may vote on whether the recommendations should be accepted by the board. If CRC's recommendations are not accepted by the board, the members of the CRC will not be allowed to deliberate concerning or vote on anything further concerning the matter which the CRC has considered.

O. The board may accept or reject the recommendations proposed by the CRC. If the recommendations are accepted by the board, the recommendations will be reduced to writing, signed by the board president and the respondent, and entered as a stipulation, written settlement, or consent order by the board. No further disciplinary action on the matters covered may be undertaken by the board.

P. If CRC's recommendations are not accepted by the board, the board may schedule the complaint for a full hearing or take whatever other action it deems appropriate.

Q. The results of any proposed informal disposition (stipulation, agreed settlement, or consent order recommended by the CRC) or formal disposition (stipulation, agreed settlement, or consent order entered as a result of a hearing) are public information. Formal dispositions are published in the board newsletter and sent to the NCARB.

R. Hearings before the board shall be in accordance with R.S. 37:141 et seq. and the Administrative Procedure Act, R.S. 49:951 et seq.

S. The board may obtain the services of a reporter to make a record of the hearing. The respondent may contact the executive director to determine whether a reporter will be provided by the board.

T. In all cases the board's executive director stands instructed to support and cooperate with counsel and the courts in any manner possible, and to keep the board advised of relevant matters as the case develops.

U. In the board office there shall be maintained a current file of all complaints alleging violations, reflecting all information and action pertinent thereto.

V. Upon its own motion, the board may reopen any such case on record and direct a reinvestigation of the respondent's actions subsequent to resolution to the original complaint.

AUTHORITY NOTE: Promulgated and amended in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:575 (April 2003), amended LR 30:2469 (November 2004).

Mary "Teeny" Simmons
Executive Director

0411#026

RULE

**Office of the Governor
Board of Examiners for New Orleans and
Baton Rouge Steamship Pilots**

General Provisions; Qualifications and Examination;
Standards of Conduct; Investigations and Enforcement
(LAC 46:LXX.Chapters 61, 64, 66, and 67)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots for the Mississippi River (hereinafter "board") it has adopted Rules and Regulations. Chapter 61 regarding the general operation of the board of examiners is intended to replace the former Chapter 61, which was entitled New Orleans and Baton Rouge Port Pilots. Chapter 64 pertains to the general qualifications necessary to become an apprentice candidate and the examination of pilots. Chapter 66 outlines standards of conduct, standards of proper and safe pilotage, standards of competency and recency of service, along with continuing education requirements. Chapter 67 establishes procedures for the investigation and enforcement of board rules, together with penalties associated therewith.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXX. Pilots

**Subpart 7. Board of Examiners for the New Orleans and
Baton Rouge Steamship Pilots**

Chapter 61. General Provisions

§6101. Authority

A. As mandated by R.S. 34:1041, these Rules and Regulations are issued by the Board of Examiners for New

Orleans and Baton Rouge Steamship Pilots in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., for the purpose of adopting Rules, regulations and requirements regarding the general operation of the board of examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2471 (November 2004).

§6103. Definitions

Association or Pilot Association The New Orleans-Baton Rouge Steamship Pilots Association.

Board of Examiners or Board The Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, as designated in R.S. 34:1042.

Examiner(s) Those individuals appointed, as per law, to be members of the Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots.

Pilot(s) New Orleans and Baton Rouge Steamship Pilot(s), as designated in R.S. 34:1043.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2471 (November 2004).

§6104. Appointment

A. When there is a need for new examiners, the board of examiners shall make recommendations to the governor for replacement(s) to fill any vacancies.

B. When this need arises, the board of examiners shall take into consideration the following in making their recommendations:

1. ability to serve;
2. qualification;
3. length of service as a commissioned pilot.

C. Examiners in the performance of their statutory duties have the exclusive and complete authority to determine their work schedule. Further, Examiners shall not suffer any loss of benefits or compensation while they are performing their duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2471 (November 2004).

§6105. Expenses

A. All ordinary and necessary operating and administrative costs and expenses of the board of examiners, including, but not limited to, the cost of administrative offices, furniture and fixtures, communications, transportation, office supplies and equipment, publications, travel, examiners' reimbursement, attorney fees, expert fees, costs, expenses of litigation or any other expenses whatsoever incurred by the commission while performing its duties shall be provided by the pilots and paid through their pilot association.

B. The examiners shall maintain an office and conduct business as is necessary to fulfill its legislative mandate and/or as may be required by the rules herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2471 (November 2004).

§6106. Rules, Records, Meetings, Application

A. All board rules must be adopted by a majority of the Examiners. The board of examiners shall maintain records in accordance with R.S. 44:1 et seq., and all other state laws. The board of examiners shall file an annual report of investigations, findings, actions and accident data in accordance with state laws. The board of examiners shall conduct its meeting in accordance with R.S. 42:4.1 et seq., and any other state laws.

B. The examiners shall hold quarterly meetings on the call of the president. The president has the prerogative of calling additional meetings as needed to conduct business upon giving proper notice, as required by law.

C. These Rules shall apply to all New Orleans and Baton Rouge steamship pilots engaged in their calling within the operating territory defined in R.S. 34:1043.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004).

§6107. Association of Pilots

A. The pilots may form themselves into an association or associations, as they see fit, not in conflict with the rules and regulations of the board of examiners.

B. The formation of any association incorporated or non-incorporated which is for the purpose of providing pilotage service under the law, including but not limited to R.S. 34:1047, must be submitted to the commission for approval. Such applications must meet all legal requirements, provide for a stable pilotage system, serve the best interest of the majority of pilots and protect the life and property of the region.

C. The board of examiners hereby recognizes the fact that the New Orleans and Baton Rouge steamship pilots have formed themselves into a legal registered corporation known as the New Orleans and Baton Rouge Steamship Pilots Association; further, let it be recognized by the board of examiners that the said pilot association has operated, and is now operating, within all state laws and is not known to be in conflict with the Rules and Regulations of the board of examiners.

D. No pilot association, incorporated or non-incorporated, has any authority to impose or legislate any Rules, bylaws or charter provisions affecting the board of examiners; further, any attempt to exercise any authority over or affecting the board of examiners is a violation of these Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004).

§6108. Severability

A. It is understood that any provision and/or requirement herein that is deemed invalid or unenforceable, for any reason whatsoever, may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004).

Chapter 64. Qualifications and Examination of Pilots

§6401. Statement of Purpose

A. The purposes of these Rules and Regulations is to establish standards for recommendation by the Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots to the governor of the state of Louisiana for appointment as a New Orleans-Baton Rouge steamship pilot, pursuant to R.S. 34:1043.

B. The Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots is charged by the Louisiana Legislature with the responsibility of promoting and maintaining safety of maritime commerce along the Mississippi River. To this end, the board of examiners has set the requisite qualifications to become a NOBRA pilot at a high level, in order to attract applicants who have earned, among other qualifications, a maritime degree. The maritime related degree is of special importance to the pilot in that it imparts necessary knowledge in this highly specialized field and is a required supplement for the non-maritime related bachelor's degree. It is the opinion of the board that this combination of education, licensing and experience will foster the type of conscientious pilots who will conduct themselves in a professional manner and continue the excellent tradition of safety set by NORA pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004).

§6403. Authority

A. As mandated by R.S. 34:1041, these Rules and Regulations are issued by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., for the purpose of adopting Rules, regulations and requirements regarding the general qualifications and examination of pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004).

§6407. Definitions

A. As used in this Chapter, the following terms, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings:

Accredited Institution of Higher Learning Can institution that is accredited by the Commission of Colleges of the Southern Association of Colleges and Schools, the Louisiana Community and Technical College System, or is part of the Louisiana State University System or one whose credits are honored by any of these systems.

Administrative Procedure Act (APA) The Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

Applicant/Candidate Any person who has submitted an application for a pilot commission as a New Orleans - Baton Rouge Steamship Pilot.

Application The written application supplied by the board of examiners to an applicant who desires to become a

state commissioned New Orleans - Baton Rouge Steamship Pilot, along with all supporting documentation.

Apprentice Any person duly elected by the members of the NOBRA Association, but not yet commissioned, who is serving in an orientation program, as directed by the board of examiners.

Apprenticeship Program A period of orientation performed by an apprentice and/or restricted pilot, in order to become an unrestricted pilot, as set forth by the board of examiners.

Association or **NOBRA** New Orleans-Baton Rouge Steamship Pilot Association.

Board of Examiners or **Board** The Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, as established in R.S. 34:1041 et seq.

Experience on a License Experience on a vessel of at least 50 gross tons with any USCG Merchant Marine Deck Officer license of 1600 Ton Master of Inland or Rivers, First Class pilot license or equivalent, where performance of duties encumbers the license. One year experience is calculated as being at least 150 days of service on vessels underway in a 365-day period.

Gender The terms "his" and "her" are to be used interchangeably, as are any references to that which may be masculine or feminine.

Maritime Studies An accredited course of study resulting in a degree offered by certain Colleges in the Louisiana State University and Community and Technical College Systems, which includes nautical science, marine operations or other similar courses of study involving marine navigation. A comparable degree from an accredited institution of higher learning is also acceptable.

NOBRA Pilot or **Pilot** A state commissioned New Orleans-Baton Rouge Steamship pilot, as designated in R.S. 34:1041, et seq.

Restricted Pilot A state commissioned pilot who is subject to restricted service, under the supervision of the board of examiners.

Restricted Service A period of time set by the board of examiners during which a restricted pilot performs limited job assignments and fulfills other requirements, as enumerated by the board, until such time as the restricted pilot has exhibited sufficient knowledge and expertise.

Unrestricted Pilot A state commissioned pilot who has successfully completed the apprenticeship program and restricted period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004).

§6409. Application

A. Any person wishing to submit an application to become an apprentice candidate may obtain an application from the office of the board of examiners, said person may request an application by mail or may download an application from the board of examiners' website. The board of examiners current address is:

Board of Examiners for New Orleans and Baton Rouge
Steamship Pilots
3900 River Road, Suite 5
Jefferson, Louisiana 70121
(504) 832-8943
www.nobraexaminers.louisiana.gov

B. All applications must be in writing, must be signed by the applicant and presented to a member of the board of examiners. All persons wishing to submit an application may make an appointment with an examiner by calling the board's office. All applications must be accompanied by satisfactory evidence of compliance with the board's requirements. Upon submission of an application, all applicants will receive a stamped copy of their application indicating the date of submission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2473 (November 2004).

§6411. General Requirements

A. Applicant must be of good moral character. In addition, all applicants will be required to submit to a criminal background check conducted at the Louisiana State Police headquarters.

B. Applicant must have been a registered voter of the State of Louisiana for at least one year prior to submitting an application to become an apprentice candidate.

C. All applicants must submit proof of a current satisfactory United States Coast Guard approved physical.

D. Applicant must submit evidence of satisfactory completion from United States Coast Guard approved training programs for the following courses of instruction within five years prior to a NOBRA apprentice election:

1. Bridge Resource Management;
2. Basic Ship Handling (5 day);
3. Radar Observer;
4. Advanced firefighting;
5. CPR, as approved by the American Red Cross

E. All applicants must submit certification that they have passed a DOT approved drug screen test within six months prior to a NORA apprentice election. An applicant may satisfy this requirement by submission of proof that the applicant is currently employed by an employer who administers a DOT approved random drug testing program and that applicant is subject to random testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2473 (November 2004).

§6413. Licenses/Education/Experience

A. In addition to the above, all applicants must submit proof of satisfaction of the following licensing, education and experience criteria.

1. All applicants must hold at least a current First Class Pilots License, Any Gross Tons, Upon the Lower Mississippi River from Chalmette, Louisiana to Baton Rouge Railroad and Highway Bridge at Baton Rouge, Louisiana, including physical, and, at least, either a Master of Inland Steam or Motor Vessel of not more than 1600 Gross Tons or Master of Rivers Steam or Motor Vessel of not more than 1600 Gross Tons or a Third Mate Oceans any Gross Tons license.

2. Additionally, all Applicants must hold a degree from an accredited institution of higher learning, as well as maritime experience and current, valid licenses as follows:

a. A graduate of a maritime academy and at least a Third Mate Oceans any Gross Tons license with three years

experience on a license or a Second Mate Oceans any Gross Tons license with one year experience on a license or a Chief Mate or Master Oceans any Gross Tons license; or

b. A bachelors degree in maritime studies or a related maritime field and at least a Master of Inland Steam or Motor Vessel of not more than 1600 Gross Tons or Master of Rivers Steam or Motor Vessel of not more than 1600 Gross Tons with 3 years experience on a license or a Third Mate Oceans any Gross Tons license with 3 years experience on a license or a Second Mate Oceans any Gross Tons license with 1 year experience on a license or a Chief Mate or Master Oceans any Gross Tons license; or

c. A bachelors degree in a non-maritime field and 15 credit hours of additional accredited maritime courses and at least a Master of Inland Steam or Motor Vessel of not more than 1600 Gross Tons or Master of Rivers Steam or Motor Vessel of not more than 1600 Gross Tons with 2 years experience on a license; or

d. An associate degree in maritime studies or a related maritime field and at least a Master of Inland Steam or Motor Vessel of not more than 1600 Gross Tons or Master of Rivers Steam or Motor Vessel of not more than 1600 Gross Tons with 6 years experience on a license.

3. Effective January 1, 2014, all applicants must hold a minimum of a bachelor degree in maritime studies or a bachelor degree in a non-maritime field as well as an associate degree in maritime studies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2473 (November 2004).

§6415. Application Screening

A. At least 120 days prior to an apprentice election, NOBRA must inform the board of examiners, in writing, that an election will be held and the date of the election.

B. At least 100 days prior to the NOBRA apprentice election, the board of examiners will advertise the date of the NOBRA apprentice election, as well as the deadline for submission of application materials, in at least 2 periodicals, one of which shall have a circulation of the greater New Orleans area and one of which shall have a circulation of the greater Baton Rouge area. The advertisements shall run for at least 10 days during a 3-week period. In addition, all relevant dates will be posted on the board of examiners website.

C. At least 75 days prior to the NOBRA apprentice election, the board of examiners will give notice, via U.S. Mail, to all applicants of the date of the election and the deadline for submitting documentation in support of their application. Further, this notice will also contain a list of any deficiencies in the applicant's application.

D. The deadline for submitting an application, and supporting documentation, for a particular NOBRA apprentice election shall be 45 days prior to the NOBRA apprentice election.

E. At least 30 days prior to the NOBRA apprentice election, the board of examiners will forward to NOBRA the applications, and supporting documentation, of all applicants who meet the criteria for election, as enumerated in the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2474 (November 2004).

§6416. Expiration

A. Following a NORA Apprentice election, all applications on file with the board of examiners will be deemed expired and will be discarded. Any person wishing to apply for a subsequent NORA apprentice election will be required to submit a new application, along with supporting documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2474 (November 2004).

§6417. Apprenticeship

A. All apprentices must successfully complete an apprenticeship program designed and administered by the board of examiners. The apprenticeship shall be over the NOBRA route and last for a period of not less than three years. This apprentice program shall include the following:

1. not less than one year of orientation, prior to commissioning, during which the apprentice accompanies state commissioned pilots on their duties;
2. not less than two years of restrictive service, following commissioning, during which the restricted pilot shall be observed, from time to time by unrestricted pilots;
3. advanced qualification testing;
4. any necessary license preparation and upgrades;
5. any other industry related professional development that the board of examiners may deem relevant and necessary.

B. The orientation period may be extended up to one additional year as determined by the board of examiners. If, after the one year extension period, the apprentice fails to meet the criteria and standards set by the board, said apprentice shall be released from the apprenticeship program and will not be recommended to the governor for commissioning as a pilot. Grounds for release from the apprenticeship program include, but are not limited to:

1. recklessness and/or display of lack of judgment;
2. disregard of state rules, laws, and regulations;
3. disregard of United States Coast Guard rules and regulations;
4. lack of fitness for the position and job of pilot;
5. lack of moral integrity, veracity, ability or capability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2474 (November 2004).

§6419. Examination by the Board of Examiners; Recommendation to Governor

A. In addition to the above requirement, in order to be recommended to the governor for commissioning as a pilot, all apprentices must complete an oral and/or written examination to be conducted by the board of examiners. This examination shall test the apprentice's knowledge of pilotage and demonstrate the apprentice's proficiency and capability to serve as a commissioned pilot.

B. The board of examiners shall certify to the governor for his/her consideration for commissioning as a NOBRA

pilot those apprentices who satisfactorily complete all requirements established by state law and these rules and who complete and pass the examination(s) given by the board of examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2474 (November 2004).

§6420. Restrictive Service Period

A. The restrictive service period shall be at least two years in duration, during which the restricted pilot will only be assigned to vessels of limited size and draft, to be set and determined by the board of examiners. After each eight-month period, the restricted pilot may graduate to piloting larger size and draft vessels, all to be determined by the board of examiners.

B. The restricted service period may be extended up to one additional year as determined by the board of examiners. If, after the one year extension period, the restricted pilot fails to meet the criteria and standards set by the board, said restricted pilot shall be released from the apprenticeship program and a recommendation will be made to the governor to have the restricted pilot's state commission revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004).

Chapter 66. Standards of Conduct

§6601. Purpose/Statement of Policy

A. Due to the safety sensitive nature of the duties performed by NOBRA pilots, this board has always had a strong commitment to the general public and maritime industry, including but not limited to apprentices, candidates and the pilot members of NOBRA, to provide a safe work place and to establish programs promoting the highest standards of pilot health, safety and welfare. In accordance with state law, and in order to further enhance the safety and well being of the citizens of Louisiana, as well as to prevent any imminent peril to public health, safety, and welfare, and to achieve and maintain reliable, safe and efficient pilotage services, the board proposes to adopt the following rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004).

§6603. Application

A. The board hereby adopts the following Rules and Regulations relating to all applicants, apprentices, and state commissioned NOBRA pilots, pursuant to the provisions of R.S. 34:1041 et seq. These Rules and Regulations are not intended to replace those Rules and Regulations in existence. Current Rules and Regulations are not superceded nor replaced. Where applicable, what follows is intended only to enhance and/or clarify existing Rules and Regulations. Where applicable, any conflict is to be construed and resolved in the stricter sense. To that end, all current Rules and Regulations are adopted and incorporated herein in extenso.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004).

§6607. Authority

A. As mandated by R.S. 34:1041, these Rules and Regulations are promulgated by the board of examiners for New Orleans and Baton Rouge Steamship Pilots, in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., for the purpose of adopting rules, regulations and requirements for pilot oversight for NOBRA pilots, apprentices and candidates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004).

§6609. Definitions

A. As used in this Chapter, the following terms, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Procedure Act (APA) The Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

Applicant/Candidate Any person who has submitted an application for a pilot commission as a New Orleans-Baton Rouge Steamship Pilot.

Application The written application supplied by the board of examiners to an applicant who desires to become a state commissioned New Orleans-Baton Rouge Steamship Pilot, along with all supporting documentation.

Apprentice Any person duly elected by the members of the NOBRA Association, but not yet commissioned, who is serving in an orientation program, as directed by the board of examiners.

Association or NOBRA New Orleans-Baton Rouge Steamship Pilot Association.

Board of Examiners or Board The Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, as established in R.S. 34:1041 et seq.

Gender The terms "his" and "her" are to be used interchangeably, as are any references to that which may be masculine or feminine.

NOBRA Pilot or Pilot A New Orleans-Baton Rouge Steamship pilot, as designated in R.S. 34:1041 et seq.

Services of a Pilot Any advice or assistance with respect to pilotage by the commissioned pilot, including but not limited to advice concerning weather, channel conditions, or other navigational conditions.

Turn The overall time-period necessary to complete the designated scope of work to be performed, including but not limited to a vessel, drug testing, continuing education or at the VTC.

VTC Vessel Traffic Center, or any other similarly related United States Coast Guard or governmental facility, institution, or program whatsoever.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004).

§6611. Severability

A. If any provision of these Rules and Regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without

the invalid provision or application, and to this end, provisions of these Rules and Regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004).

§6615. Violations of the Policy

A. This board may take such action as is necessary for any violation of its policies, rules and regulations by any pilot, apprentice, or candidate or the board may refer such person to the Office of the Governor, if required by law, for reprimand, fine, suspension and/or pilot commission revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004).

§6617. Standards of Conduct for Proper and Safe Pilotage

A. This board may in its discretion recommend to the Office of the Governor of Louisiana reprimand revocation and/or suspension of a NOBRA pilot, apprentice, and/or candidate for the following non-exclusive list of particulars:

1. failure to maintain, in good, valid and current standing a U.S. Coast Guard First Class Pilot License of any gross tons from Chalmette, Louisiana to Baton Rouge Railroad and Highway Bridge at Baton Rouge, Louisiana
2. conviction of any felony from any jurisdiction whatsoever;
3. neglect of duty;
4. neglect of duty while performing services at VTC (Vessel Traffic Center) or other similar governmental facility;
5. failure to remain a qualified and registered voter of the state of Louisiana;
6. not successfully passing any physical examination as mandated by the Board of Examiners;
7. any violation of the board's drug and alcohol rules and regulations;
8. failure to successfully complete continuing professional education requirements;
9. any violation of these Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004).

§6623. Absolute Insurer

A. A pilot is the absolute insurer of his or her own competency, state of mind, physical abilities, and overall well-being.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004).

§6625. Adoption of Navigational Rules

A. The board shall use a standard of navigation which adheres to common, local practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004).

§6627. Duty of a Pilot

A. A NOBRA pilot shall remain on duty until properly relieved and/or has completed one's pilot assignment and/or is released by the ship master or his representative/agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004).

§6629. Pilot's Duty to Remain on Duty at the Vessel Traffic Center (VTC)

A. A NOBRA pilot shall remain on site and on duty at VTC (or similar facility) until properly relieved and shall adhere to normal watchkeeping practices of a prudent seaman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004).

§6647. Recency Requirement

A. If an otherwise state-commissioned NOBRA pilot does not pilot or has not piloted a vessel or ship, as assigned by the NOBRA Pilot Association during the normal course of dispatching of pilotage services, on a turn for a distance of at least 20 miles, during any period of 6 consecutive months, then before that pilot is eligible and authorized to pilot any such vessel along the NOBRA route, said pilot shall be required to successfully complete, to the exclusive and unilateral satisfaction of the Board, each of the following non-exclusive list of particulars:

1. A minimum of 5 turns along the NOBRA route, with a commissioned NOBRA pilot, from the general area of the Baton Rouge harbor to New Orleans General Anchorage:
 - a. these 5 turns, combined, shall cover the entire area between Baton Rouge Harbor and New Orleans General Anchorage;
 - b. two (2) trips of these five (5) trips shall be during the hours of darkness.

B. Where there has been no pilotage in excess of seven months, a NOBRA pilot shall be subject to and shall be required to successfully complete, to the exclusive and unilateral satisfaction of the board, a specially designed and planned program to reasonably re-orient such pilot to Mississippi River pilotage, under the jurisdiction and supervision of this board.

C. These Sections shall not apply to any assignment or turn at the VTC (Vessel Traffic Center) and shall be excluded from these Rules. Work performed at VTC shall not be considered as a turn or assignment for these purposes only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004).

§6649. Re-Orientation Period

A. Upon commencement of the above re-orientation period, any pilot subject to these minimum requirements shall successfully complete all 5 turns within 30 consecutive days. For good reason shown, and upon timely application,

in writing by the pilot, additional time to complete these trips or turns may be granted by the board. The board shall have the exclusive and unilateral discretion to grant or deny any extension of time.

B. The board of examiners reserves the right to require a pilot to successfully pass a physical approved by the Board of Examiners prior to returning to duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004).

§6651. Continuing Professional Education

A.1. As of January 2, 2005, every pilot seeking to maintain a pilot's commission must successfully complete the following required courses every five years:

- a. an approved Bridge Resource Management course for pilots;
- b. an approved Emergency Ship Handling course for pilots;
- c. a marine technical course, which includes Vessel Traffic Service training.

2. Every pilot must annually and successfully complete 24 hours of professional development courses approved by the board of examiners. The board may, from time to time, adjust these requirements in order to maintain the highest level of professional competency and pilot safety.

B. All professional education classes and programs shall be approved by the board of examiners. The board of examiners will maintain a non-exclusive list of approved professional education classes and programs, which may be periodically updated.

C. Any pilot who fails to successfully complete the required professional education classes or programs will be removed from duty until the pilot complies with the requirements of this section.

D. It is the responsibility of the pilot to attend the necessary professional education classes and to present the board with proof of satisfactory completion.

E. The board may, for good cause shown, grant a waiver or extend the time for a pilot to complete the continuing professional education requirement, upon timely application, in writing, by the pilot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004).

Chapter 67. Investigations and Enforcement

§6701. Purpose/Statement of Policy

A. Due to the safety sensitive nature of the duties performed by NOBRA pilots, this board has always had a strong commitment to provide a safe work place and to establish programs promoting the highest standards of pilot health, safety and welfare. In accordance with state law and in order to further enhance the safety and well being of the citizens of Louisiana, as well as to prevent any imminent peril to public health, safety, and welfare, and to achieve and maintain reliable, safe and efficient pilotage services, the board will maintain and enforce a strict policy of conducting full and complete investigations, and possible subsequent referrals to the Office of the Governor, of any and all violations of board Rules and state and/or federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004).

§6703. Authority

A. As mandated by R.S. 34:1041, these Rules and Regulations are issued by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots in accordance with the Administrative Procedure Act under R.S. 49:950 et seq., for the purpose of adopting Rules, Regulations and requirements for pilot oversight for NOBRA pilots, apprentices and candidates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004).

§6705. Severability

A. If any provision of these Rules and Regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these rules and regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004).

§6707. Duty to Report

A. In any case, where a vessel under pilotage shall go aground, or shall collide with any other object, or shall meet with any casualty, or be injured or damaged in any way, the board of examiners shall conduct an appropriate investigation, as per these Rules. Following such an incident, the pilot shall report the matter as follows:

1. report the casualty by whatever means available to the board of examiners as soon as practical;
2. be available for interview by the board and furnish complete details of the casualty;
3. make a written report to the board of examiners as soon as practical, but no later than 30 days following the incident.

B. Any pilot who neglects or refuses to make a written report to the board as required by these Rules, shall be reported to the governor for possible disciplinary action.

C. Any pilot requested or summoned to testify before the board of examiners shall appear in accordance with said request or summons and answer any questions related to or in any way connected with the pilot's service. The pilot has right to legal counsel at this meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004).

§6709. Removal from Duty

A. When any Examiner has reason to believe that the conduct or actions of a pilot is creating a dangerous or unsafe condition that may jeopardize the interests, safety, health or welfare of fellow pilots, vessels, cargo, property or individuals, the Examiner may immediately relieve that pilot from pilotage duty, without the necessity of formal notice

and hearing, in order to protect the interests of the State of Louisiana. However, at the earliest possible time, the board of examiners must conduct an investigation of the pilot's conduct, as per these Rules, and conduct any necessary hearings in order to protect the due process and equal protection requirements afforded the pilot by the Louisiana and United States constitutions.

B. When any examiner has reason to believe that a pilot is or may be under the influence of alcohol, drugs or any other stimulant or depressant that may effect the pilot's ability to perform his/her duties, the examiner may immediately relieve that pilot from pilotage duty, without the necessity of formal notice and hearing, in order to protect the interests of the state of Louisiana. However, at the earliest possible time, the board of examiners must conduct an investigation of the pilot's conduct, as per these Rules, and conduct any necessary hearings in order to protect the due process and equal protection requirements afforded the pilot by the Louisiana and United States constitutions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004).

§6711. Investigations and Enforcement

A. All complaints reported to the board shall be in writing and will be considered for investigation. A complaint, under the provisions hereinafter, is defined as:

1. any complaint involving a NOBRA pilot.

B. The board shall investigate or appoint an investigating officer to conduct a preliminary investigation of the complaint and report their findings to the board.

C. Following the preliminary investigation, the board shall determine whether the complaint is sufficient to justify further proceedings or may dismiss the complaint.

D. If after the preliminary investigation, the board is of the opinion that the complaint is sufficient to justify a full investigation, the board shall, if so required by law, notify the Office of the Governor and request authority from the governor to conduct a full investigation and/or administrative hearing regarding the complaint. Following receipt of authority from the governor, if so required by law, the board shall authorize its investigating officer to conduct a full investigation of the complaint.

E. Following the full investigation, the investigating officer shall make a report to the board, who, in its exclusive discretion, shall determine whether the complaint is sufficient to justify further proceedings or may dismiss the complaint.

F. Following the full investigation, if the board is of the opinion that an administrative hearing is required, the board shall give notice to the pilot, by registered mail or personal service, of the complaint or allegations made against him/her and offer the pilot an opportunity to show compliance with the laws or regulations allegedly violated. Said notice shall be issued pursuant to R.S. 49:955(B) and shall include:

1. a statement of the time, place, and nature of the hearing;
2. a statement of the legal authority and jurisdiction under which the hearing is being held;
3. a reference to the particular sections of the statutes and rules involved;
4. a short and plain statement of the matters asserted.

G. The board may make informal disposition of any investigation or adjudication/hearing by means of stipulation, agreed settlement, consent order or default. If required by law, approval of such informal disposition must be sought from the Office of the Governor before the informal disposition may be deemed final.

H. Any pilot may be represented in any adjudication/hearing before the board by an attorney at law duly admitted to practice in the state of Louisiana. Following receipt of proper notice of such representation, all further notices, subpoenas or other processes related to the proceedings shall be served on the pilot through his/her designated counsel of record.

I. Any pre-hearing motion shall be referred for decision to the board, who in its discretion, may rule on the motion prior to the hearing date or may defer the matter until the hearing date.

J. All investigations and hearings undertaken as authorized herein above, shall be conducted pursuant to the Administrative Procedure Act, R.S. 49:950 et seq. If any specific provision of this section in any way conflicts with the more general rule of the Administrative Procedure Act, the more specific rule of this section shall govern.

K. Any pre-hearing motion shall be considered by the entire board.

L. Upon request of any party and upon compliance with the requirements of this Section, any board member shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

M. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examination, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the board with reference to the value of time employed and the degree of learning or skill required.

N. Unless otherwise requested by the respondent/pilot, adjudication hearings, shall be conducted in open session, unless the respondent/pilot expressly requests that the matter be conducted in executive session, all as per law.

O. At the hearing, opportunity shall be afforded to all parties to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for full and true disclosure of the facts and disposition of the administrative notice.

P. Unless stipulation is made between the parties, and approved by the board, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings. Witness fees (expert or otherwise) and related hearing costs caused by the respondent/pilot shall be his/her responsibility; in no way

whatsoever shall the board be liable for nor responsible for costs or fees incurred by the respondent/pilot.

Q. During evidentiary hearing, the Board shall rule upon all evidentiary objections and other procedural questions, but in his discretion may consult with the entire panel in or out of executive session, all as per law. At any such hearing, the board may be assisted by legal counsel, who is independent of the prosecutor and who has not participated in the investigation or prosecution of the case.

R. The record in a case of adjudication shall include, but is not limited to:

1. the administrative notice, notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery, and all pleadings, motions, and intermediate rulings;
2. evidence received or considered at the hearing;
3. a statement of matters officially noticed except those so obvious that statement of them would serve no useful purpose;
4. offers of proof, objections, and rulings thereon;
5. proposed findings and exceptions, if any;
6. the decision, opinion, report or other disposition of the case made by the board;
7. findings of fact;
8. conclusions of law.

S.1. In an adjudication hearing, the board may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The board may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written or recorded form.

2. All evidence, including records and documents in the possession of the board which the parties desire the board to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

3. Notice may be taken of judicially cognizable facts and generally recognized technical or scientific facts within the board's knowledge. The board's experience, technical competence and knowledge may be utilized in the evaluation of the evidence.

4. Any member of the board serving as presiding officer in an adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place of continued hearings, fix the time for the filing of briefs and other documents, if they are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

T.1. The final decision of the board in an adjudication proceeding shall be in writing and shall include findings of fact and conclusions of law, and shall be signed by the presiding officer of the hearing panel on behalf and in the name of the board.

2. Upon issuance of a final decision, a copy thereof shall promptly be served upon all parties of record, or upon

respondent personally in the absence of counsel, in the same manner of service prescribed with respect to service of administrative notices.

U.1. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within 10 days from service of the decision on respondent or on its own motion. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed herein above and shall set forth the grounds upon which such motion is based, as provided herein.

2. The board may grant rehearing, reopening, or reconsideration if it is shown that:

- a. the decision is clearly contrary to the law and the evidence;
- b. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;
- c. other issues not previously considered ought to be examined in order to properly dispose of the matter; or
- d. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

V. As per law, the board shall have the specific authority to recommend imposition of a fine on any pilot, to recommend reprimand or removal from duty of any pilot, or to recommend to the governor that the commission of any pilot be suspended or revoked if a pilot is found in violation of any rule or regulation adopted by this board of examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2478 (November 2004).

§6713. Recusal

A. No member of the board of examiners shall participate in the investigation of or vote on any matter to which he/she is a party to or in which he/she has a conflict of interest. In such cases, he/she shall automatically be recused from participating in or voting on such matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2479 (November 2004).

Henry G. Shows
President

0411#052

RULE

Office of the Governor Office of Financial Institutions

Limitations on Investments in Premises and Fixed Assets (LAC 10:I.1101)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:121(B)(1), 6:646(A)(1)(a), and 6:822(3)(e), the Commissioner of the Office of Financial Institutions

promulgates a Rule providing for limitations on investments in premises and fixed assets held by a bank, savings bank, savings and loan association, or credit union.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part I. Financial Institutions

Chapter 11. Premises

§1101. Holding of Property for Premises Purposes

A. Definitions

New Institution Any bank, savings bank, savings and loan association, or credit union that has been chartered by this office for less than three years.

Premises and Fixed Assets The net book value of all land, buildings, leasehold improvements, and furniture, fixtures, and equipment used by the institution to conduct its business or held for future expansion. Additionally, this amount shall include any assets related to a capital lease and shall not include other real estate owned.

Tier 1 Capital As defined in Part 325 of the Federal Deposit Insurance Corporation's Rules and Regulations for banks and savings banks and Part 567 of the Office of Thrift Supervision's Rules and Regulations for savings and loan associations.

Net Worth As defined in Section 702.2(f) of the National Credit Union Administration's rules and regulations for credit unions.

B. Limitation

1. Without the prior approval of the commissioner, no bank, savings bank, or savings and loan association shall invest more than 50 percent of its tier 1 capital plus the allowance for loan and lease losses in premises and fixed assets, and no credit union shall invest more than 50 percent of its net worth plus the allowance for loan and lease losses. For new institutions, the limitation shall be 45 percent.

AUTHORITY NOTE: Promulgated in accordance with R. S. 6:121(B)(1), 6:646(A)(1)(a) and 6:822(3)(e).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:2480 (November 2004).

John Ducrest, CPA
Commissioner

0411#043

RULE

Office of the Governor

Recreational and Used Motor Vehicle Commission

Licensure; Rent with Option-to-Purchase Program;
Repossession; Marine Products; Marine Surveyor
(LAC 46:V.2905, 3001, 3003, 3005, 3101,
3303, 3503, 4801, 4803, and 4901)

In accordance with the provisions of the administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Office of the Governor, Recreational and Used Motor Vehicle Commission, the Recreational and Used Motor Vehicle Commission has amended Rules and Regulations governing Qualifications and Eligibility for Licensure in accordance with R.S. 32:772 (F)(2), R.S. 32:774, R.S. 32:752, R.S.

32:754 and R.S. 32:762; has repealed Rules and Regulations governing Rent With Option-to-Purchase Program; has repealed Provisions Required in all Rental Purchase Agreements in accordance with R.S. 32:773.B; and has repealed Rules and Regulations governing Repossession of Vehicles in accordance with R.S. 32:772E, has amended Automotive Dismantler and Recycler in accordance with R.S. 32:773, and R.S. 32:771(2)(a)(i) and (ii), R.S. 32:773.2.D; and has adopted Rules and Regulations governing Designation of Area of Responsibility for Marine Products and Independent Marine Surveyor in accordance with R.S. 32:773.1 and R.S. 32:773.2.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Recreational and Used Motor Vehicle Commission

Chapter 29. Used Motor Vehicle Dealer

§2905. Qualifications and Eligibility for Licensure

A. - A.3. ...

B. A dealer's license shall consist of a signed certificate bearing the official seal of the commission and the name and address of the dealership and assigned a dealer number, which shall be posted in a conspicuous place in the dealer's place or places of business. The dealer's license number will be prefixed with UD, followed by an electronic number.

C - D. ...

E. Dealers in new and used motor homes, new and used boats, new and used boat motors, new and used motorcycles, new and used all-terrain vehicles, new and used semi-trailers, new and used recreational trailers, new and used boat trailers, and new and used travel trailers, likewise must meet the above qualifications to be eligible and all these types license numbers will be prefixed by NM, followed by an electronic number. Semi-trailers are described in the title law as every single vehicle motive power designed for carrying property and passengers and so designed in conjunction and used with a motor vehicle that some part of its own weight and that of its own load rests or is carried by another vehicle and having one or more load carrying axles. This includes, of course, recreational trailers, boat trailers and travel trailers, but excludes mobile homes. One license shall be due for new and used operators at the same location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission LR 15:258 (April 1989), LR 15:375 (May 1989), LR 24:1682 (September 1998), LR 25:245 (February 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR:30:436 (March 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2480 (November 2004).

Chapter 30. Rent With Option-to-Purchase Program

§3001. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:773.B.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:1587 (July 2002), repealed by the Office of the Governor, Recreational

and Used Motor Vehicle Commission, LR 30:2480 (November 2004).

§3003. Provisions Required in all Rental Purchase

Agreements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:773.B.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:1587 (July 2002), repealed by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004).

§3005. Repossession of Vehicles

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 29:703 (May 2003), repealed by the Office of the Governor, Recreational and Used Motor Vehicle Commission LR 30:2481 (November 2004).

Chapter 31. License for Salesman

§3101. Qualifications and Eligibility for Licensure

A. - A.2 ...

B. A salesman's license shall consist of an identification card bearing the name, address, name of employer, date, signature of the executive director, salesman's license number prefixed with SM, followed by an electronic number. The card shall be carried upon his person at all times when acting as a salesman at license location.

C - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 25:245 (February 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission LR 30:2481 (November 2004).

Chapter 33. Automotive Dismantler and Recycler

§3303. Qualifications and Eligibility for Licensure

A. - A.2 ...

B. An automotive dismantler's license shall consist of a signed certificate bearing the official seal of the commission and the name and address of the business and assigned a dismantler number, which shall be posted in a conspicuous place in the dismantler's place or places of business. The automotive dismantler's license number will be prefixed with AD, followed by an electronic number.

C. ...

D. An automotive dismantler and parts recycler may offer a rebuilt wrecked, abandoned or repairable motor vehicle at wholesale only. If such vehicle is offered for sale at retail, the dismantler will be operating as a used motor vehicle dealer and is subject to licensing requirements and used motor vehicle dealer rules and regulations thereof. However, an automotive dismantler and parts recycler, duly licensed by the commission, shall have the authority to transfer the certificate of title as a dealer under the Louisiana Certificate of Title Law, (i.e., transfer to another dealer without payment of tax). In order to sell a vehicle at retail, an automotive dismantler and parts recycler must be licensed hereunder as a used motor vehicle dealer providing a good and sufficient bond, executed by the applicant as principal

by a surety company qualified to do business as surety in the sum of \$20,000.00.

E. ...

F. No person, firm or corporation may advertise, sell or display for sale used parts without first obtaining a used parts dealer's license to do business in this state. All these types of license numbers will be prefixed by UP, followed by an electronic number.

F.1. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:752, 32:753, 32:754, 32:775 and 32:756, 32:772(E), and R.S. 32:773(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 20:535 (May 1994), repromulgated LR 20:645 (June 1994), LR 24:1683 (September 1998), amended LR 25:245 (February 1999), amended by Office of the Governor, Recreational and Used Motor Vehicle Commission LR 30:2481 (November 2004).

§3503. Qualifications and Eligibility for Buyer Identification Card

A. - A.2. ...

B. The buyer's identification card shall include the name, address, driver's license number, any one of the aforementioned dealers' license numbers, physical description, and signature of the applicant and the name and address of the employer of the applicant. The buyer's identification number to be prefixed with BI, followed by an electronic number. Cards obtained for the buyers will be \$25 each for Louisiana resident and \$200 each for out-of-state resident. Out of state buyers must provide proof that they are a licensed used motor vehicle dealer, auto recycler, auto dismantler or employee thereof. A duplicate identification card will be issued to all buyers that will consist of individual's name, driver's license number, social security number, dealership name, dealer number, salesman number, photograph and the individual's signature. This card must be carried with the individual and produced on demand while conducting the business for which this license has been issued. Applicants may provide a copy of the license. However, if the commission has reasonable cause to suspect that the copy is forgery or inaccurate, then the commission may require the applicant to produce a certified copy of the license.

C. - C.2 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:762.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:259 (April 1989), LR:1058 (December 1989), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:1588 (July 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004).

Chapter 48. Designation of Area of Responsibility for Marine Products

§4801. Procedure of Designation of Area of Responsibility

A. Beginning August 16, 2004, the commission shall notify by certified mail each marine product manufacturer/distributor, who has prior to that date failed to

designate an area of responsibility for each of its existing dealers, that they must designate an area of responsibility for each dealer within thirty days following receipt of the notification. Failure to respond to the commission within 30 days shall constitute an absence of designation thereby mandating the areas of responsibility provided for in R.S. 32:771(2)(a)(i)(ii).

B. Following August 16, 2004, without such notification from the commission, each marine product manufacturer/distributor shall be responsible for designating an area of responsibility for any new dealer which has not had its area previously designated.

C. Thereafter, any marine product manufacturer/distributor which was not licensed with the commission prior to August 16, 2004, shall be notified by the commission by certified mail of their responsibility to designate an area of responsibility for their dealers. Failure to designate an area of responsibility for each dealer within 30 days following receipt of the notification shall constitute an absence of designation thereby mandating the area of responsibility provided for in R.S. 32:771(2)(a)(i) and (ii).

D. Any changes in the area of responsibility once designated must meet criteria as set forth in R.S. 32:773.2(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:773.1 and R.S. 32:773.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004).

§4803. Uniform Procedures to Designate the Territory Assigned to a Marine Dealer

A. On any occasion in which the marine product manufacturer/distributor has designated, an area of responsibility smaller in size to that provided for in R.S. 32:771(2)(a)(i) and (ii), the marine product manufacturer and/or distributor must furnish with the designation the uniform procedure to establish the community or territory that is assigned to a marine dealer. If the manufacturer/distributor fails to furnish a uniform procedure with its designation, the commission shall reject the designation and shall so notify the manufacturer/distributor of the rejection by certified mail. With the notice of rejection, the commission shall provide the manufacturer/distributor the opportunity to appeal the rejection to the commission in a hearing at the commission's monthly meeting.

B. Where the marine product manufacturer/distributor has provided the uniform procedure with its designation, the commission shall review the designation and advise the manufacturer/distributor within 10 days following receipt as to whether the designation has been accepted or rejected. If the designation has been rejected, the manufacturer/distributor shall be so notified by certified mail of the rejection and informed of the opportunity to appeal the rejection in a hearing at the commission's monthly meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:773.1 and R.S. 32:773.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2482 (November 2004).

Chapter 49. Independent Marine Surveyor §4901. Procedure for Appointing Independent Marine Surveyor

A. When a marine product manufacturer/distributor elects to appoint an Independent Marine Surveyor to inspect the marine dealer's inventory to determine whether the product has been altered or damaged to the prejudice of the manufacturer/distributor, the manufacturer/distributor shall notify the commission of the identity of the Independent Marine Surveyor within 15 days prior to the hearing before the commission. However, the manufacturer/distributor may post the identity of any pre-approved Independent Marine Surveyor with the commission.

B. The notice of appointment of Independent Marine Surveyor or the approved list shall contain the resume curriculum vitae, or qualifications of Independent Marine Surveyor.

C. The commission shall then promptly notify the dealer of the identity of the Independent Marine Surveyor as selected by the manufacturer/distributor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:771.

HISTORICAL NOTE: Promulgated by Office of the Governor, Recreational and Used Motor Vehicle Commission LR 30:2482 (November 2004).

John M. Torrance
Executive Director

0411#034

RULE

Department of Health and Hospitals Board of Nursing

Hepatitis B Virus (HBV) Hepatitis C Virus (HCV)
and Human Immunodeficiency Virus (HIV)
(LAC 46:XLVII.Chapter 40)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the Board by R.S. 37:918 adopts rules amending the Professional and Occupational Standards pertaining to the Prevention of Transmission of Hepatitis B Virus (HBV), Hepatitis C Virus (HCV) and Human Immunodeficiency Virus (HIV). The Rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 40. Prevention of Transmission of Hepatitis B Virus (HBV), Hepatitis C Virus (HCV) and Human Immunodeficiency Virus (HIV)

§4001. Definitions

A. For the purpose of this Chapter, the following terms are defined as follows.

AIDS Acquired immune deficiency syndrome, as determined by the Federal Centers for Disease Control (CDC).

Board Louisiana State Board of Nursing.

Body Fluids Amniotic, pericardial, peritoneal, pleural, synovial and cerebrospinal fluids, semen, vaginal secretions and other body fluids, secretions and excretions containing visible blood.

Confidentiality

a. Reports and information furnished to the board pursuant to §4005 of this Chapter and records of the board relative to such information shall not be deemed to constitute public records, but shall be deemed and maintained by the board as confidential and privileged and shall not be subject to disclosure by means of subpoena in any judicial, administrative or investigative proceeding; providing that such reports, information and records may be disclosed by the board as necessary for the board to investigate or prosecute alleged violations of this Chapter.

b. The identity of registered nurses, registered nurse applicants, and nursing students enrolled in a clinical nursing course who have reported their status as carriers of HBV, HCV or HIV to the board's compliance director pursuant to §4005 hereof shall be maintained in confidence by the compliance director and shall not be disclosed to any member, employee, agent, attorney or representative of the board nor to any other person, firm, organization, or entity, government or private, except as may be necessary in the investigation or prosecution of suspected violations of this Chapter.

Exposure-Prone Procedure Can invasive procedure in which there is an increased risk of percutaneous injury to the registered nurse, registered nurse applicant, or a nursing student enrolled in a clinical nursing course by virtue of digital palpations of a needle tip or other sharp instrument in a body cavity or the simultaneous presence of the fingers of a registered nurse, registered nurse applicant, or a nursing student enrolled in a clinical nursing course and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomic site, or any other invasive procedure in which there is a significant risk of contact between the blood or body fluids of the registered nurse, registered nurse applicant, or a nursing student enrolled in a clinical nursing course and the blood or body fluids of the patient. According to the Federal Centers for Disease Control exposure-prone procedures should be identified by medical/surgical/dental organizations and institutions at which the procedures are performed. Examples of exposure-prone procedures: cardiothoracic surgical procedures, including sternal opening and closure, and major gynecological surgical procedures, e.g. caesarian section, hysterectomy. The majority of dentistry procedures are exposure-prone. Invasive procedures where the hands and fingertips of the worker are visible and outside the patient's body at all times, and internal examinations or procedures that do not involve possible injury to the worker's gloved hands from sharp instruments and/or tissues, are considered not to be exposure-prone. These may include: taking blood (venipuncture), setting up and maintaining IV lines or central lines (provided any skin tunneling procedure used for the latter is performed in a non-exposure-prone manner), minor surface suturing, incision of abscesses, routine vaginal or rectal examinations, and simple endoscopic procedures.

HBV The hepatitis B virus.

HBsAg Seropositive with respect to a registered nurse, registered nurse applicant, or a nursing student enrolled in a clinical nursing course, that a blood test under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors has confirmed the presence of hepatitis B e antigen.

HBsAg Seropositive with respect to a registered nurse, registered nurse applicant, or a nursing student enrolled in a clinical nursing course, that a blood test under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors has confirmed the presence of hepatitis B surface antigens and that no subsequent test has confirmed that hepatitis B surface antigens are no longer present.

HCV The Hepatitis C virus.

HCV Seronegative A condition where one has been HCV seropositive but is no longer infectious under the criteria of the Federal Centers for Disease Control or the Association of a State and Territorial Public Health Laboratory Directors, or where one has never been infected with HCV.

HCV Seropositive A condition where one has developed antibodies sufficient to diagnose seropositivity to HCV under the criteria of the Federal Centers for Disease Control or the Association of State and Territorial Public Health Laboratory Disease.

HIV The human immunodeficiency virus, whether HIV-1 or HIV-2.

HIV Seropositive with respect to a registered nurse, registered nurse applicant, or a nursing student enrolled in a clinical nursing course, that a test under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors has confirmed the presence of HIV antibodies.

Invasive Procedures Any procedure involving manual or instrumental contact with, or entry into, any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane or percutaneous wound of the human body.

Participating in an Exposure-prone Procedure The preparation, processing, handling of blood, fluids, tissue or instruments which may be introduced into or come into contact with any body cavity, internal organ, subcutaneous tissue, submucosal tissue, mucous membrane or percutaneous wound of the human body in connection with the performance of an exposure-prone invasive procedure.

Registered Nurse Can individual licensed as a registered nurse in Louisiana, or an individual licensed as a registered nurse in another state and holding a 90-day permit to practice nursing in Louisiana in accordance with R.S. 37:920.D and LAC 46:XLVII.3329.B or a nursing student enrolled in a clinical nursing course.

Registered Nurse Applicant A graduate of an approved school of nursing who has been issued a temporary working permit, as provided for in R.S. 37:920. D and LAC 46:XLVII.3329.A.

Standard Precautions Those generally accepted infection control practices, principles, procedures, techniques and programs as recommended by the Federal Centers for Disease Control to minimize the risk of transmission of HBV, HCV or HIV from a registered nurse or a registered nurse applicant to a patient, from a patient to a registered nurse or registered nurse applicant, or from a

patient to a patient, as such recommendations may be amended or supplemented from time to time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1746-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1150 (September 1993), amended LR 24:1293 (July 1998), amended LR 30:2482 (November 2004).

§4003. Standard Precautions

A. All registered nurses, registered nurse applicants, and nursing students enrolled in a clinical nursing course shall adhere to standard precautions for the prevention of transmission of infectious diseases as recommended by the Federal Centers for Disease Control for infection-control programs. These precautions include the appropriate use of hand washing, protective barriers, and care in the use and disposal of needles and other sharp instruments.

B. Registered nurses, registered nurse applicants, and nursing students enrolled in a clinical nursing course who have exudative lesions or weeping dermatitis shall refrain from all direct patient care and from handling patient-care equipment and devices used in performing invasive procedures until the condition resolves.

C. Registered nurses, registered nurse applicants, and nursing students enrolled in a clinical nursing course shall also comply with employing agency's current guidelines for disinfection and sterilization of reusable devices used in invasive procedures.

D. Registered nurses, registered nurse applicants, and nursing students enrolled in a clinical nursing course who perform invasive procedures not identified as exposure-prone, and who are or become infected with HIV, HCV or HBV, shall practice standard surgical or dental technique and comply with standard precautions and current standards for sterilization/disinfection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1746-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1151 (September 1993), amended LR 24:1293 (July 1998), amended LR 30:2484 (November 2004).

§4005. Self-Reporting

A. Within 90 days of the effective date of this Chapter, registered nurses, registered nurse applicants, and nursing students enrolled in a clinical nursing course who perform, or participate in, exposure-prone procedures and have been previously diagnosed as HBV, (seropositive), HCV and/or HIV seropositive shall give notice of such diagnosis to the board on a reporting form supplied by the board. Such notice shall be mailed to the compliance director, marked "Personal and Confidential" by registered or certified mail. This report shall be confidential as provided in §4001 of this Chapter, definition of confidentiality.

B. Registered nurses, registered nurse applicants, and nursing students enrolled in a clinical nursing course who know or should know that they carry and are capable of transmitting HBV, HCV or HIV and who perform or participate in exposure-prone procedures shall report their status to the Board of Nursing within 30 days from the date of the performance of the diagnostic test. They shall give notice of such diagnosis to the board on a reporting form supplied by the board which shall be mailed to the compliance director, marked "Personal and Confidential," by

registered or certified mail. This report shall be confidential as provided in Act 1009 of the 1991 Louisiana Legislature.

C. Provided that the identity of the self-reporting registered nurse, registered nurse applicant or nursing student enrolled in a clinical nursing course is not disclosed, either directly or indirectly, the provisions of this Section shall not be deemed to prevent disclosure by the compliance director or the board, to governmental public health agencies with a legitimate need therefore, of statistical data derived from such reports, including, without limitation, the number and demographics of registered nurses, registered nurse applicants, and nursing students enrolled in a clinical nursing course having reported themselves as HbsAg, HCV, and/or HIV seropositive and their geographical distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1746-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1151 (September 1993), amended LR 24:1293 (July 1998), amended LR 30:2484 (November 2004).

§4007. Authorization to Perform or Participate in Exposure-Prone Procedures

A. Registered nurses, registered nurse applicants, and nursing students enrolled in a clinical nursing course who perform or participate in exposure-prone procedures shall, in the performance of or participation in any such procedure or function, be familiar with, observe, and rigorously adhere to both general infection control practices and standard blood and body-fluid precautions as then recommended by the Federal Centers for Disease Control to minimize the risk of HBV, HCV or HIV from a registered nurse, registered nurse applicant, or a nursing student enrolled in a clinical nursing course to a patient, from a patient to a registered nurse or registered nurse applicant or a nursing student enrolled in a clinical nursing course, or from a patient to a patient.

B. Registered nurses, registered nurse applicants, and nursing students enrolled in a clinical nursing course who perform or participate in exposure-prone procedures and who do not have serologic evidence of immunity to HBV from previous infection, and have not been vaccinated against HBV, shall obtain their HBsAg status and, if that is positive, shall also obtain their HBeAg status.

C. Registered nurses, registered nurse applicants, and nursing students enrolled in a clinical nursing course who are infected with HIV, HCV or HBV (and are HBeAg positive) shall not perform exposure-prone procedures unless they have sought periodic counsel from an expert review panel, as determined by the expert panel, and have been advised under what circumstances, if any, they may continue to perform these procedures.

D. An expert review panel, appointed by the Board of Nursing, shall be constituted of the compliance director, and at least four members representing a balanced perspective, such as one or more of each of the following: a licensed psychiatrist or psychologist, the licensee's personal physician, a member of the agency's infection control committee (if agency has such committee), a registered nurse who is an infectious disease specialist with expertise in the procedures performed by the infected licensee, a state or local public health official.

E. Patients of the seropositive registered nurse, registered nurse applicant, or a nursing student enrolled in a clinical nursing course shall be notified of the registered

nurse's, registered nurse applicant's, or a nursing student's, enrolled in a clinical nursing course, seropositivity before they undergo exposure-prone invasive procedures in which the nurse will participate or perform. If the nurse will perform the procedure, an informed consent shall be obtained from the patient or a lawfully authorized representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1746-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1152 (September 1993), amended LR 24:1293 (July 1998), amended LR 30:2484 (November 2004).

Barbara L. Morvant
Executive Director

0411#041

RULE

Department of Health and Hospitals Board of Pharmacy

Pharmacy Technicians (LAC 46:LIII.Chapters 8 and 9)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has adopted the following Rule, which shall become effective January 1, 2005.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 8. Repealed.

Chapter 9. Pharmacy Technicians

§901. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

ACPE Accreditation Council for Pharmacy Education.

Pharmacist Preceptor An individual who is currently licensed as a pharmacist by the board, meets certain qualifications as established by the board, and is responsible for the instructional training of pharmacy technician candidates.

CPE Continuing pharmaceutical education, as part of a postgraduate educational program to enhance professional competence.

CPE unit A standard of measurement adopted by the ACPE for the purpose of accreditation of CPE programs. One CPE unit is equivalent to 10 credit hours.

Pharmacy Technician An individual, certified by the board, who assists in the practice of pharmacy under the direct and immediate supervision of a Louisiana-licensed pharmacist.

Pharmacy Technician Candidate An individual not yet certified as a pharmacy technician by the board who is:

a. an individual who possesses a valid registration, is satisfactorily progressing in a board-approved structured program, and is working under the supervision of a pharmacist preceptor for the purpose of obtaining practical experience for certification as a pharmacy technician by the board; or

b. an individual who possesses a valid registration, has successfully completed a board-approved structured program, and is awaiting examination.

Structured Program Systematic instruction in pharmacy related functions in a board-approved pharmacy technician training program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:2485 (November 2004).

§903. Pharmacy Technician Candidates

A. Registration

1. Qualifications

a. All pharmacy technician candidates shall register with the board; failure to do so may result in disciplinary action by the board.

b. The candidate shall be at least 18 years of age, as evidenced by a valid and legible copy of a birth certificate or other appropriate credential.

c. The candidate shall be of good moral character and non-impaired.

d. The candidate shall be a graduate from a high school approved by a state department of education, or shall possess an equivalent degree of education, as evidenced by a valid and legible copy of a diploma, transcript, or other appropriate credential.

e. Exceptions

i. A pharmacist or pharmacist intern whose board credential has been denied, suspended, revoked, or restricted for disciplinary reasons by any board of pharmacy shall not be a pharmacy technician candidate or pharmacy technician.

ii. A pharmacist or pharmacist intern whose board credential is lapsed shall not be a pharmacy technician candidate or pharmacy technician until such lapsed credential is recalled through non-disciplinary board action.

2. Issuance and Maintenance

a. Upon receipt of a properly completed application, appropriate fee, proof of enrollment in a board-approved structured program, and any other documentation required by the board, the board may issue a Pharmacy Technician Candidate Registration to the applicant.

b. The board reserves the right to refuse to issue, recall, or discipline a registration for cause.

c. The registration shall expire 18 months after the date of issuance, and it shall not be renewable.

d. A pharmacy technician candidate shall notify the board, in writing, no later than 10 days following a change of mailing address. The written notice shall include the candidate's name, registration number, and old and new addresses.

e. A pharmacy technician candidate shall notify the board, in writing, no later than 10 days following a change in either training program site or location(s) of employment. The written notice shall include the candidate's name, registration number, and name, address, and permit numbers for old and new training program sites or employers.

B. Structured Program

1. All structured programs shall meet competency standards as established by the board.

2. The curriculum of the structured program shall be composed of the elements contained in the *Pharmacy*

Technician Training Program Minimum Competencies, as approved by the board.

3. The structured program shall notify the board when a pharmacy technician candidate is no longer satisfactorily progressing in the program.

4. The structured program shall provide an appropriate credential to the candidate who has successfully completed the program.

C. Practical Experience

1. The candidate shall possess a registration prior to earning any practical experience in a pharmacy.

2. The candidate's registration shall be conspicuously displayed in the prescription department.

3. The candidate shall wear appropriate attire and be properly identified as to name and candidate status while on duty in the prescription department.

4. A candidate shall not work in a permitted site that is on probation with the board, or with a pharmacist who is on probation with the board.

5. The candidate's registration shall evidence his authority to earn a minimum of 600 hours of practical experience in a pharmacy, under the supervision of a pharmacist preceptor, in satisfaction of the requirements for pharmacy technician certification. Of the required minimum 600 hours, not less than 200 hours shall be earned during and as part of a structured program.

6. A candidate may receive board credit for a maximum of 50 hours per week.

7. Hours of practical experience earned by a candidate shall expire one year after the expiration date of the registration.

D. Examination

1. A board-approved technician examination shall consist of integrated pharmacy subject matter and any other disciplines the board may deem appropriate in order to permit the candidate to demonstrate his competency. The candidate shall achieve a passing score, as determined by the board.

2. Re-examination

a. Following the first or second unsuccessful attempt of an examination, the candidate may be permitted to retake that examination.

b. Following the third unsuccessful attempt of an examination, the candidate shall wait one year after the date of the last examination to retake that examination. If the candidate fails to wait the prescribed one year period, the board may delay any future certification until that one year period has elapsed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), repromulgated LR 19:1025 (August 1993), amended LR 23:1307 (October 1997), LR 30:2485 (November 2004).

§905. Pharmacy Technician Certificate

A. Qualifications

1. An applicant for a pharmacy technician certificate shall be at least 18 years of age, as evidenced by a valid and legible copy of a birth certificate or other appropriate credential.

2. An applicant shall be of good moral character and non-impaired.

3. An applicant shall demonstrate the following educational competencies:

a. shall be a graduate from a high school approved by a state department of education, or shall possess an equivalent degree of education, as evidenced by a valid and legible copy of a diploma, transcript, or other appropriate credential; and

b. shall have successfully completed a board-approved structured program for pharmacy technician education and training, as evidenced by a valid and legible copy of the appropriate credential from that program.

4. An applicant shall demonstrate evidence of at least 600 hours of practical experience under the supervision of a pharmacist preceptor, using a form supplied by the board.

5. An applicant shall demonstrate successful completion of a board-approved technician examination, as evidenced by a valid and legible copy of the appropriate credential.

B. Issuance and Maintenance

1. Upon receipt of a properly completed and notarized application, properly executed preceptor affidavit(s), copies of valid and legible credentials, and the appropriate fee, and following verification that all requirements have been satisfied, the board may issue a pharmacy technician certificate to the applicant for the current renewal period.

2. The board reserves the right to refuse to issue, recall, or discipline a certificate for cause.

3. The annual renewal shall expire and become null and void on June 30 of each year.

a. The board shall mail, no later than May 1 of each year, an application for renewal to all pharmacy technicians to the address of record.

b. The completed application, along with the appropriate fee, shall be submitted to the board by June 30 of each year.

c. A pharmacy technician shall not assist in the practice of pharmacy in Louisiana with an expired renewal.

d. An application for an expired pharmacy technician renewal, along with the appropriate fee, shall be submitted to the board's Reinstatement Committee for consideration.

4. A pharmacy technician shall notify the board, in writing, no later than 10 days following a change of mailing address. The written notice shall include the technician's name, certificate number, and old and new addresses.

5. A pharmacy technician shall notify the board, in writing, no later than 10 days following a change in location(s) of employment. The written notice shall include the technician's name, certificate number, and name, address, and permit numbers for old and new employers.

6. Upon written request of any certified pharmacy technician in active military service of the United States or any of its allies, the board may waive the requirement for the annual renewal of the certificate, including fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), repromulgated LR 19:1025 (August 1993), LR 30:2486 (November 2004).

§907. Scope of Practice

A. Pharmacy technician candidates and pharmacy technicians may assist the pharmacist by performing those

duties and functions assigned by the pharmacist while under his direct and immediate supervision.

1. The ratio of candidates to pharmacists on duty shall not exceed one to one at any given time.

2. The ratio of technicians to pharmacists on duty shall not exceed two to one at any given time.

B. Pharmacy technician candidates and pharmacy technicians shall not:

1. receive verbal initial prescription orders;

2. give or receive verbal transfers of prescription orders;

3. interpret prescription orders;

4. compound high-risk sterile preparations, as defined by the United States Pharmacopeia (USP), or its successor;

5. counsel patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:2486 (November 2004).

§909. Continuing Education

A. A minimum of one ACPE or board-approved CPE unit, or 10 credit hours, shall be required each year as a prerequisite for annual renewal of a pharmacy technician certificate. Such CPE units shall be credited in the 12-month period prior to the expiration date of the certificate.

B. Certified pharmacy technicians shall maintain copies of their individual records of personal CPE activities at their primary practice site for at least 2 years, and shall present them when requested by the board.

C. If judged appropriate by the board, some or all of the required number of hours may be mandated on specific subjects. When so deemed, the board shall notify all certified pharmacy technicians prior to the beginning of the renewal year in which the CPE is required.

D. Complete compliance with CPE rules is a prerequisite for renewal of a pharmacy technician certificate.

1. Non-compliance with the CPE requirements shall be considered a violation of R.S. 37:1241(A)(2) and shall constitute a basis for the board to refuse annual renewal.

2. The failure to maintain an individual record of personal CPE activities, or falsifying CPE documents, shall be considered a violation of R.S. 37:1241(A)(22).

3. The inability to comply with CPE requirements shall be substantiated by a written explanation, supported with extraordinary circumstances, and submitted to the board for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:779 (August 1991), repromulgated LR 19:1025 (August 1993), amended LR 23:1308 (October 1997), LR 30:2487 (November 2004).

§911. Impairment

A. Pharmacy technician candidates and pharmacy technicians shall be non-impaired.

B. Pharmacy technician candidates and pharmacy technicians who have knowledge that a pharmacist, pharmacist intern, pharmacy technician candidate, or pharmacy technician is impaired shall notify the board of that fact.

C. Pharmacy technician candidates and pharmacy technicians shall be subject to a medical evaluation for impairment by a board-approved addictionist, as authorized by the Louisiana Pharmacy Practice Act, R.S. 37:1161 *et seq.*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:779 (August 1991), repromulgated LR 19:1025 (August 1993), amended 23:1308 (October 1997), LR 30:2487 (November 2004).

Malcolm J. Broussard
Executive Director

0411#036

RULE

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

Federally Qualified Health Centers
(LAC 50:XI.Chapters 103-105)

Editor's Note: This Rule is being repromulgated to correct non-substantial errors. The original Rule may be viewed on pages 2327-2329 of the October 20, 2004 edition of the *Louisiana Register*.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XI.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.*

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Rule governing federally-qualified health centers under the Medical Assistance Program.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 13. Federally-Qualified Health Centers

Chapter 103. Provider Requirements

§10301. Standards for Participation

A. Federally-qualified health centers (FQHCs) must comply with the applicable licensure, accreditation and program participation standards for all services rendered. If a FQHC wishes to initiate participation, it shall be responsible for meeting all enrollment criteria of the program.

B. The FQHC provider shall:

1. maintain an acceptable fiscal record keeping system that will enable the services provided by the FQHC to be readily distinguished from each other type of service that the facility may provide;

2. retain all records as are necessary to fully disclose the extent of services provided to recipients; furnish information regarding such records and any payments claimed for providing such services as the Medicaid Program, the Secretary, or the Medicaid Fraud Control Unit may request for five years from date of service;

3. abide by and adhere to all federal and state regulations, guidelines, policies, manuals, etc.; and

4. if an FQHC receives approval for a satellite site, the satellite site must enter into a separate provider agreement and obtain its own Medicaid 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 30:2487 (November 2004).

§10303. Service Limits

A. FQHC visits (encounters) are limited to 15 visits per year for services rendered to Medicaid recipients who are 21 years of age or older. FQHC visits for eligibles who are under 21 years of age and for prenatal and postpartum care are excluded from the maximum allowable number of physician visits per year.

AUTHORITY NOTE: Promulgated in 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).

Chapter 105. Reimbursement Methodology

§10501. Prospective Payment System

A. In accordance with Section 1902(aa) of the Social Security Act and the provisions of the Benefits Improvement Act (BIPA) of 2000, payments to federally qualified health centers for Medicaid-covered services will be made under a Prospective Payment System (PPS) and paid on a per visit basis.

B. The PPS per visit rate will be provider specific. To establish the baseline rate for 2001, each FQHC's 1999 and 2000 Medicaid allowable costs, as taken from the FQHC's filed 1999 and 2000 Medicaid cost reports, will be totaled and divided by the total number of Medicaid patient visits for 1999 and 2000. A *visit* is defined as a face-to-face encounter with a licensed practitioner, including:

1. doctors;
2. dentists;
3. clinical psychologists;
4. clinical social workers;
5. nurse practitioners; and
6. physician assistants.

C. For those FQHCs that began operation in 2000 and have only a 2000 cost report available for the determination of the initial PPS per visit rate, the 2000 allowable costs will be divided by the total number of Medicaid patient visits for 2000. Upon receipt of the 2001 cost report, the rate methodology will be applied using 2000 and 2001 costs and Medicaid patient visits to determine a new rate.

D. Upon receipt of the final audited cost reports for 1999 and 2000, the rate will be recalculated using costs and Medicaid patient visits from these reports. Payments will be reconciled against the initial PPS per visit rate with recoupments and lump sum payments issued in accordance with existing state processes for cost report settlement.

E. The baseline calculation will include all Medicaid-covered services provided by the FQHC, regardless of existing methods of reimbursement for said services. This includes, but is not limited to, ambulatory, transportation, laboratory (where applicable), and KidMed and dental

services previously reimbursed on a fee-for-service or other nonencounter basis. The per visit rate will be all inclusive. FQHCs shall not bill separately for any Medicaid-covered services.

F. FQHCs are responsible for apportioning visits and statistical data in the 2001 cost report. The apportionment is for the period from the first day of the 2000 cost reporting period through December 31, 2000. This data is used to calculate cost settlements due from or to providers for the final cost-based reimbursement period in calendar year 2000.

1. Providers with a December 31st fiscal year end do not have to conduct the apportionment cited in Subsection F.

G. Upon completion and implementation of PPS rate determination, the state will reconcile payments back to January 1, 2001 by:

1. calculating a payment amount for eligible patient visits under PPS; and

2. comparing the calculation to payments made for encounters under the previous cost-based reimbursement methodology.

H. No interim or alternate payment methodologies will be developed by the state without prior notification to each enrolled Medicaid FQHC.

I. The FQHC is responsible for notifying the Bureau of Health Services Financing, Rate and Audit Review Section, in writing, of any increases or decreases in the scope of services as defined by the Bureau of Primary Health Care (BPHC) Policy Information Notice 2002-07. If the change is for inclusion of an additional service or deletion of an existing service, the FQHC shall include the following in this notification: the approval by BPHC, the current approved organization budget and a budget for the addition or deletion of services. The notice shall also include a presentation of the impact on total visits and Medicaid visits. A new interim rate will be established based upon the reasonable allowable cost contained in the budget information. Then a final PPS rate will be calculated using the first two years of audited cost reports which include the change in services.

J. If an FQHC receives approval for a satellite site, the PPS per visit rate paid for the services performed at the satellite would be the weighted average cost payment rate per encounter for all FQHCs.

K. The PPS per visit rate for a facility which enrolls and receives approval to operate will be the statewide weighted average payment rate per encounter for all FQHCs.

L. Beginning with federal fiscal year 2002, the PPS per visit rate for each facility will be increased on July 1st of each year by the percentage increase in the published *Medicare Economic Index* (MEI) for primary care services.

M. FQHC 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 30:2328 (October 2004), repromulgated LR 30:2488 (November 2004).

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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0411#071

RULE

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

Medicaid Eligibility
Disregard of In-Kind Support and Maintenance

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions of the May 20, 1996 Rule governing countable income in the determination of Medicaid eligibility for the SSI-related programs.

Utilizing provisions allowed under Section 1902(r)(2) of the Social Security Act, items such as the value of food or shelter provided to a person by a family, considered In-kind Support and Maintenance, will be disregarded and not counted as income in the eligibility determination for the SSI-related programs.

Implementation of this Rule is subject to approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0411#068

RULE

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

Private and Public Non-State Owned and Operated Hospitals
Inpatient Psychiatric Services
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the April 1, 2004 Emergency Rule and increases the reimbursement 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 for costs reported on the cost report ending in SFY 2002. The costs utilized to determine the weighted average shall include all free-standing psychiatric hospitals and distinct part psychiatric units providing services to Medicaid recipients in the state. Costs shall be trended to the midpoint of the rate year using the Medicare PPS Market Basket Index. The application of inflationary adjustments in subsequent years shall be contingent on the appropriation of funds by the legislature.

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 and the governor's signing of the Appropriation Bill with funding for the reimbursement increase for these hospitals.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0411#070

RULE

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

Private Intermediate Care Facilities for the Mentally
Retarded Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement paid to private intermediate care facilities for the mentally retarded by 4 percent of the per diem rates in effect on June 30, 2004, net of the provider fees.

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 and the governor's signing of the Appropriation Bill with funding for the reimbursement increase for these facilities.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0411#069

RULE

Department of Public Safety and Corrections Gaming Control Board

Rules of Play

(LAC 42:IX.Chapter 31 and XIII.Chapter 31)

The Louisiana Gaming Control Board hereby amends LAC 42:IX.3103-3107 and XIII.3101-3107 and to repeal LAC 42:IX.3115-3132 and XIII.3115-3133 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part IX. Landbased Casino Gaming

Subpart 1. Economic Development and Gaming Corporation

Chapter 31. Rules of Play

§3103. Rules of Play

A. As approved by the division in writing, the casino operator shall adopt and make available to all patrons at the casino written and comprehensive rules of play governing wagering transactions with patrons.

B. Without limiting the generality of the foregoing, the casino operator's rules of play must specify the amounts to be paid on winning wagers.

C. The casino may offer side wagers for a bonus or progressive jackpot by receiving various combinations in any authorized game, as long as the rules relating to such wagers are clearly specified in the rules of play pursuant to this chapter and approved by the division in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999), amended LR 30:2490 (November 2004).

§3105. Submission of Rules

A. The casino operator shall submit in writing to the division for review and approval the proposed rules of play prior to the commencement of gaming operations. The casino operator's rules of play shall be attached as an exhibit in the casino operator's internal controls. The casino operator's rules of play shall contain detailed procedures for each game including but not limited to:

1. object of the game and method of play, including what constitutes win, loss or tie bets;
2. physical characteristics of the game, gaming equipment and gaming table;
3. opening and closing of the gaming table;
4. wagers:
 - a. permissible wagers and payout odds;
 - b. manner in which wagers may be made;
 - c. minimum and maximum wagers;
 - d. maximum table payouts as applicable;
5. for each game that uses the following, inspection procedures for:
 - a. cards;
 - b. dice;
 - c. wheels and balls;
 - d. manual and electronic devices used to operate and display progressive games;
6. for each game that uses cards:

- a. shuffling procedures;
- b. card cutting procedures;
- c. procedures for dealing, taking, removing used, damaged and burning cards;
- d. cards, number of decks, number of cards in deck and the valuation of the cards;

7. procedures for the collection of bets and payouts including all requirements for Internal Revenue Service purposes;

8. describe procedures for handling disputes including documenting and reports needed. Include copies of such reports being provided to the Casino Gaming Section;

9. describe procedures for handling suspected cheating or irregularities including the immediate notification to the Casino Gaming Section;

10. describe procedures for dealers/box persons etc. conducting each game including procedures for being relieved;

11. procedures describing irregularities of each game.

B. All table games utilizing cards, for which procedures are described above, shall be dealt from a shoe or shuffling device, except card games which have been approved by the Casino Gaming Section.

C. Any change in the casino's rules of play including permissible rules, wagers and payout odds must be submitted in writing and gain prior written approval by the division before implementation.

D. The casino shall not permit any game to be played other than those specifically named in the act, these regulations, or the casino operator's rules of play in the internal controls as approved by the division. For each game, the casino shall provide a written set of procedures to the division 120 days in advance of commencing the game's operation or within such time period as the division, in its sole discretion, may authorize in writing.

E. Rules of play shall not be considered confidential and copies shall be made available to the public upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999), amended LR 30:2490 (November 2004).

§3107. Wagers

A. All wagers at gaming tables shall be made by placing gaming chips or tokens on the appropriate area of the gaming table layout. In addition, each player shall be responsible for the correct positioning of their wager or wagers on the gaming layout regardless of whether or not they are assisted by the dealer. Each player must ensure that any instructions they give to the dealer regarding the placement of their wager are correctly carried out.

B. Minimum and maximum wagers and maximum table payouts shall be posted on a sign at each table.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999), amended LR 30:2490 (November 2004).

§3115. Blackjack (Twenty-One)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1960 (October 1999), repealed LR 30:2490 (November 2004).

§3116. Royal Match 21

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1961 (October 1999), repealed LR 30:2491 (November 2004).

§3117. Craps

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1962 (October 1999), repealed LR 30:2491 (November 2004).

§3119. Roulette

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1962 (October 1999), repealed LR 30:2491 (November 2004).

§3120. Baccarat

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1962 (October 1999), repealed LR 30:2491 (November 2004).

§3121. Mini-Baccarat

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1963 (October 1999), repealed LR 30:2491 (November 2004).

§3122. Midi-Baccarat

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1963 (October 1999), repealed LR 30:2491 (November 2004).

§3123. Big Six Wheel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1963 (October 1999), repealed LR 30:2491 (November 2004).

§3125. Bourée

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1964 (October 1999), repealed LR 30:2491 (November 2004).

§3127. Poker

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1964 (October 1999), repealed LR 30:2491 (November 2004).

§3128. Caribbean Stud Poker

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1965 (October 1999), repealed LR 30:2491 (November 2004).

§3129. Pai Gow Poker

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1966 (October 1999), repealed LR 30:2491 (November 2004).

§3130. Let It Ride Stud Poker

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1966 (October 1999), repealed LR 30:2491 (November 2004).

§3131. Let It Ride Bonus Stud Poker

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1967 (October 1999), repealed LR 30:2491 (November 2004).

§3132. Casino War

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1968 (October 1999), repealed LR 30:2491 (November 2004).

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming Division

Chapter 31. Rules of Play

§3101. Authority and Applicability

A. ...

B. The games and gaming activities authorized by this Chapter shall be conducted pursuant to rules and procedures contained in the division's rules and the licensee's rules of play as are approved by the division in writing. In the event of a conflict or inconsistency between the division's rules and the licensee's rules of play, the division's rules shall prevail unless the division issues a written order indicating otherwise in that particular case.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 30:2491 (November 2004).

§3103. Rules of Play

A. As approved by the division in writing, each licensee shall adopt and make available to all patrons at its licensed premises written and comprehensive rules of play governing wagering transactions with patrons.

B. Without limiting the generality of the foregoing, the rules of play must specify the amounts to be paid on winning wagers.

C. A licensee may offer side wagers for a bonus or progressive jackpot by receiving various combinations in

any authorized game, as long as the rules relating to such wagers are clearly specified in the rules of play pursuant to this Chapter and approved by the division in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 30:2491 (November 2004).

§3105. Submission of Rules

A. Each licensee shall submit in writing to the division for review and approval the proposed rules of play prior to the commencement of gaming operations. The licensee's rules of play shall be included in the licensee's internal controls. The licensee's rules of play shall contain detailed procedures for each game including but not limited to:

1. object of the game and method of play, including what constitutes win, loss or tie bets;
2. physical characteristics of the game, gaming equipment and gaming table;
3. opening and closing of the gaming table;
4. wagers:
 - a. permissible wagers and payout odds;
 - b. manner in which wagers may be made;
 - c. minimum and maximum wagers;
 - d. maximum table payouts as applicable;
5. for each game that uses the following, inspection procedures for:
 - a. cards;
 - b. dice;
 - c. wheels and balls;
 - d. manual and electronic devices used to operate and display progressive games;
6. for each game that uses cards:
 - a. shuffling procedures;
 - b. card cutting procedures;
 - c. procedures for dealing, taking, removing used, damaged and burning cards;
 - d. cards, number of decks, number of cards in deck and the valuation of the cards;
7. procedures for the collection of bets and payouts including all requirements for Internal Revenue Service purposes;
8. describe procedures for handling disputes including documenting and reports needed. Include copies of such reports being provided to the Casino Gaming Section;
9. describe procedures for handling suspected cheating or irregularities including the immediate notification to the Casino Gaming Section;
10. describe procedures for dealers/box persons etc. conducting each game including procedures for being relieved;
11. procedures describing irregularities of each game.

B. All table games utilizing cards, for which procedures are described above, shall be dealt from a shoe or shuffling device, except card games which have been approved by the Casino Gaming Section.

C. Any change in the licensee's rules of play including permissible rules, wagers and payout odds must be submitted in writing and gain prior written approval by the division before implementation.

D. No licensee shall permit any game to be played other than those specifically named in the act, these rules, or the

licensee's rules of play as approved by the division. For each game, the licensee shall provide a written set of game rules to the division 120 days in advance of commencing the game's operation or within such time period as the division may designate.

E. The rules of play shall not be considered confidential and copies shall be made available to the public upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 30:2492 (November 2004).

§3107. Wagers

A. All wagers at gaming tables shall be made by placing gaming chips or tokens on the appropriate area of the gaming table layout. In addition, each player shall be responsible for the correct positioning of their wager or wagers on the gaming layout regardless of whether or not they are assisted by the dealer. Each player must ensure that any instructions they give to the dealer regarding the placement of their wager are correctly carried out.

B. Minimum and maximum wagers and maximum table payouts shall be posted on a sign at each table.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 30:2492 (November 2004).

§3115. Blackjack

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 30:2492 (November 2004).

§3117. Craps

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 30:2492 (November 2004).

§3119. Roulette

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 30:2492 (November 2004).

§3121. Mini-Baccarat Rules of the Game

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 30:2492 (November 2004).

§3123. Big Six Wheel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 30:2492 (November 2004).

§3125. Bourée

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 30:2493 (November 2004).

§3127. Poker

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 30:2493 (November 2004).

§3129. Variations of Poker

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 30:2493 (November 2004).

§3131. Red Dog

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 30:2493 (November 2004).

§3133. Sic Bo

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 30:2493 (November 2004).

H. Charles Gaudin
Chairman

0411#025

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Self-Exclusion (LAC 42:III.304)

The Louisiana Gaming Control Board hereby amends LAC 42:III.304 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 3. Compulsive and Problem Gambling

§304. Self-Exclusion

A. - D.6. ...

b. Administrative hearings regarding or related to self-excluded persons shall be closed to the public and any record created or evidence introduced in conjunction with such hearings shall be maintained confidential and not made available for public inspection.

E. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:1990 (September 2002), amended LR 30:2493 (November 2004).

H. Charles Gaudin
Chairman

0411#024

RULE

**Department of Public Safety and Corrections
Office of State Police
Safety Enforcement Section**

Motor Vehicle Inspection ~~C~~On-Board Diagnostic Testing
(LAC 55:III.819)

The Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, in accordance with R.S. 49:950 et seq., and R.S. 32:1301 et seq., hereby amends its rules regulating vehicle inspections to exempt certain vehicles designated by the Department of Environmental Quality from on-board diagnostic testing now performed by motor vehicle inspection stations in the five-parish non-attainment area.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 8. Motor Vehicle Inspection

**Subchapter C. Vehicle Emission Inspection and
Maintenance Program**

**§819. Anti-Tampering and Inspection and
Maintenance Parameters**

A. - B. ...

C. Effective January 1, 2002, and in addition to the requirements outlined in Subsections A and B of this Section, the performance of Onboard Diagnostic (OBD II) system checks will be required on all 1996 and newer model year gasoline-fueled passenger cars and gasoline-fueled trucks (10,000 pound gvwr or less) registered in the five parish non-attainment area, except those model year vehicles exempted by the Louisiana Department of Environmental Quality pursuant to R.S. 30:2054(B)(8). These mandatory OBD II checks are to be performed in accordance with the federal Amendments to Vehicle Inspection Maintenance

Program Requirements Incorporating the Onboard Diagnostic Check; Final Rule at 40 CFR Parts 51 and 85 as published in *Federal Register*, Thursday, April 5, 2001 (Volume 66, pages 18156-18179).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2434 (December 1999), amended LR 27:2260 (December 2001), LR 28:345 (February 2002), LR 30:2493 (November 2004).

Stephen J. Hymel
Undersecretary

0411#038

RULE

Department of Natural Resources Office of Conservation

Fees (LAC 43:XIX.703 and 707)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby amends the established fees.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation General Operations

Subpart 2. Statewide Order No. 29-R

Chapter 7. Fees

§703. Fee Schedule for Fiscal Year 2004-2005

A. - E.3. ...

F. Pipeline Safety Inspection Fees

1. Owners/Operators of jurisdictional gas pipeline facilities are required to pay an annual Gas Pipeline Safety Inspection Fee of \$15 per mile, or a minimum of \$265, whichever is greater.

2. Owners/Operators of jurisdictional hazardous liquids pipeline facilities are required to pay an annual Hazardous Liquids Pipeline Safety Inspection Fee of \$15 per mile, or a minimum of \$265, whichever is greater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq., R.S. 30:560 and 706.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:458 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October 2000), LR 27:1920 (November 2001), LR 28:2368 (November 2002), LR 29:350 (March 2003), LR 29:2501 (November 2003), LR 30:2494 (November 2004).

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-04/05 and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This Order (Statewide Order No. 29-R-04/05) supercedes Statewide Order No. 29-R-03/04 and any amendments thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October 2000), LR 27:1921 (November 2001), LR 28:2368 (November 2002), LR 29:2502 (November 2003), LR 30:2494 (November 2004).

James H. Welsh
Commissioner

0411#027

RULE

Department of Revenue Policy Services Division

Net Operating Loss Deduction (LAC 61:I.1124)

Under the authority of R.S. 47:287.86, R.S. 47:287.785, 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, has adopted LAC 61:I.1124 to allow the election to relinquish carryback provided in R.S. 47:287.86(D) to be revocable.

R.S. 47:287.86(D) provides that the election to relinquish the carryback shall be made as prescribed by the secretary. It has been the department's longstanding practice to allow the taxpayer to change its election to relinquish carryback. This regulation will clarify that the election may be changed and inform taxpayers of the necessary procedures.

Title 61

REVENUE AND TAXATION

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

Chapter 11. Corporation Income Tax

§1124. Net Operating Loss Deduction

A. Election to relinquish carryback of a net operating loss. The election to relinquish carryback is made by filing a return carrying the net operating loss to the earliest of the taxable years allowed for carryovers.

B. Changes to Election

1. Except as otherwise provided herein, a taxpayer may change the election to relinquish carryback of a net operating loss or the decision to carryback a net operating loss provided any additional tax and interest due as a result of the change is paid and any refund due as a result of the change has not prescribed.

2. The change in the election is made by filing an amended return for each tax year affected, paying any tax and interest due and showing any refunds due.

C. When a change in election is made during an audit or examination, the taxpayer shall submit to the auditor a written notification of the change in election and provide any additional information the auditor may require.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:287.86, R. S. 47:287.785 and R.S. 47:1511.

Cynthia Bridges
Secretary

0411#035

RULE

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

Alligator Snapping Turtles Recreational and Commercial Harvest; Prohibitions (LAC 76:XV.101)

The Department of Wildlife and Fisheries and Wildlife and Fisheries Commission do hereby place a moratorium on the commercial harvest from the wild of alligator snapping turtles.

Title 76

WILDLIFE AND FISHERIES

Part XV. Reptiles And Amphibians

Chapter 1. Guidelines

§101. Recreational and Commercial Harvests; Prohibitions

A. - F.2. ...

G. Turtle Rules and Regulations

1. - 1.e. ...

2. Alligator Snapping Turtle (*Macrolemys temmincki*)

a. Commercial Take Prohibited. No person shall commercially take, possess, sell, purchase, trade, barter, or exchange alligator snapping turtles, their eggs, or any parts thereof. Except that nothing herein shall prohibit the legal commercial sale, and possession of alligator snapping turtles by licensed turtle farmers as provided in R.S. 56:632 et seq. and R.S. 3:2358.1 et seq. which were legally acquired prior to the effective date of this closure or imported legally into this state which have proper records as provided for in 56:637.

b. Recreational Take and Possession Limit. There shall be no size limit on recreationally taken alligator snapping turtles (*Macrolemys temmincki*). Basic recreational fishing license is required as provided in R.S. 56:632.1. No person shall take or possess an alligator snapping turtle taken with commercial gear. No person shall take or possess in the field more than one alligator snapping turtle (*Macrolemys temmincki*), per boat or vehicle per day. Certified zoos, aquariums, universities, research and nature centers will be exempted from take limits.

H. - J.4.g. ...

K. Whoever violates the provisions of this Rule shall be fined not less than \$25 nor more than \$100, or imprisoned for not less than 30 days, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), (13), (15) and (25), R.S. 56:23, and R.S. 56:632.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 20:1135 (October 1994), amended LR 30:2495 (November 2004).

Dwight Landreneau
Secretary

0411#050

RULE

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

Black Bass Daily Take and Size Limits (LAC 76:VII.149)

Editor's Note: This Rule is being repromulgated to correct a typographical error. The original Rule may be view in the on page 2339 of the October 20, 2004 edition of the *Louisiana Register*.

The Wildlife and Fisheries Commission amends the following Rule on black bass (*Micropterus* spp.) on Poverty Point Reservoir, located north of the town of Delhi in Richland Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§149. Black Bass Regulations Daily Take and Size Limits

A. - B.3. ...

4. Poverty Point Reservoir (Richland Parish)

a. Size limit: 15 inch - 19 inch slot. A 15-19 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 15 inches and 19 inches, both measured inclusive.

b. Daily Take: 8 fish with only one fish over 19 inches per person:

i. on water possession same as daily limit per person.

*Maximum total length the distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with the mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325(C), R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR:14:364 (June 1988), amended LR 17:277 (March 1991), repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:1168 (September 1997), LR 24:505 (March 1998), LR 26:97 (January 2000), LR 28:104 (January 2002), LR 29:373 (March 2003), LR 30:2339 (October 2004), LR 30:2495 (November 2004).

Dwight Landreneau
Secretary

0411#033

RULE

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

Deer Programs (DMAP) and (LADT)
(LAC 76:V.111 and 119)

The Wildlife and Fisheries Commission does hereby amend the regulations for participation in the Deer Management Assistance Program (DMAP) and Landowner Antlerless Deer Tag Program (LADT).

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§111. Rules and Regulations for Participation in the Deer Management Assistance Program

A. The following rules and regulations shall govern the Deer Management Assistance Program.

1. Application Procedure

a. Application for enrollment of a new cooperator in the Deer Management Assistance Program (DMAP) must be submitted to the Department of Wildlife and Fisheries by August 1. Application for the renewal enrollment of an active cooperator must be submitted to the Department of Wildlife and Fisheries annually by September 1.

b. Each application for a new cooperator must be accompanied by a legal description of lands to be enrolled and a map of the property. Renewal applications must be accompanied by a legal description and map only if the boundaries of the enrolled property have changed from records on file from the previous hunting season. This information will remain on file in the appropriate regional office. The applicant must have under lease or otherwise control a minimum of 500 acres of contiguous deer habitat of which up to 250 acres may be agricultural lands, provided the remainder is in forest and/or marsh. Private lands within Wildlife Management Area boundaries shall be enrolled in DMAP regardless of size.

c. Each cooperator will be assessed a \$25 enrollment fee and \$0.05/acre for participation in the program. DMAP fees must be paid by invoice to the Department of Wildlife and Fisheries Fiscal Section prior to September 15.

d. An agreement must be completed and signed by the official representative of the cooperator and submitted to the appropriate regional wildlife office for his approval. This agreement must be completed and signed annually.

e. Boundaries of lands enrolled in DMAP shall be clearly marked and posted with DMAP signs in compliance with R.S. 56:110 and the provisions of R.S. 56:110 are only applicable to property enrolled in DMAP. DMAP signs shall be removed if the land is no longer enrolled in DMAP. Rules and regulations for compliance with R.S. 56:110 are as follows.

i. The color of DMAP signs shall be orange. The words DMAP and Posted shall be printed on the sign in letters no less than 4 inches in height. Signs may be constructed of any material and minimum size is 11 1/4" x 11 1/4".

ii. Signs will be placed at 1000 foot intervals around the entire boundary of the property and at every entry point onto the property.

f. By enrolling in the DMAP, cooperators agree to allow department personnel access to their lands for management surveys, investigation of violations and other inspections deemed appropriate by the department. The person listed on the DMAP application as the contact person will serve as the liaison between the DMAP Cooperator and the department.

g. Each cooperator that enrolls in DMAP is strongly encouraged to provide keys or lock combinations annually to the Enforcement Division of the Department of Wildlife and

Fisheries for access to main entrances of the DMAP property. Provision of keys is voluntary; however, the cooperator's compliance will ensure that DMAP enrolled properties will be properly and regularly patrolled.

2. Tags

a. A fixed number of special tags will be provided by the department to each cooperator in DMAP to affix to deer taken as authorized by the program. These tags shall be used only on DMAP lands for which the tags were issued.

b. All antlerless deer taken shall be tagged, including those taken during archery season, muzzleloader, and on either-sex days of gun season.

c. Each hunter must have a tag in his possession while hunting on DMAP land in order to harvest an antlerless deer. The tag shall be attached through the hock in such a manner that it cannot be removed before the deer is transported. The DMAP tag will remain with the deer so long as the deer is kept in the camp or field, is in route to the domicile of its possessor, or until it has been stored at the domicile of its possessor, or divided at a cold storage facility and has become identifiable as food rather than as wild game. The DMAP number shall be recorded on the possession tag of the deer or any part of the animal when divided and properly tagged.

d. Antlerless deer harvest on property enrolled in DMAP does not count in the season bag limit for hunters.

e. All unused tags shall be returned by March 1 to the regional wildlife office which issued the tags.

3. Records

a. Cooperators are responsible for keeping accurate records on forms provided by the department for all deer harvested on lands enrolled in the program. Mandatory information includes tag number, sex of deer, date of kill, name of person taking the deer, hunting license number (transaction number, authorization number, lifetime number or date of birth for under 16 and over 59 years of age) and biological data (age, weight, antler measurements, lactation) as deemed essential by the Department of Wildlife and Fisheries Deer Section. Biological data collection must meet quality standards established by the Deer Section. Documentation of mandatory information shall be kept daily by the Cooperator. Additional information may be requested depending on management goals of the cooperator.

b. Information on deer harvested shall be submitted by March 1 to the regional wildlife office handling the particular cooperator.

c. The contact person shall provide this documentation of harvested deer to the department upon request. Cooperators who do not have a field camp will be given 48 hours to provide this requested documentation.

B. Suspension and Cancellation of DMAP Cooperators

1. Failure of the cooperator to follow these rules and regulations may result in suspension and cancellation of the program on those lands involved. Failure to make a good faith attempt to follow harvest recommendations may also result in suspension and cancellation of the program.

a. Suspension of Cooperator from DMAP. Suspension of the cooperator from DMAP, including forfeiture of unused tags, will occur immediately for any misuse of tags, failure to tag any antlerless deer, or failure to submit records to the department for examination in a timely fashion. Suspension of the cooperator, including forfeiture of

unused tags, may also occur immediately if other DMAP rules or wildlife regulations are violated. Upon suspension of the cooperator from DMAP, the contact person may request a Department of Wildlife and Fisheries hearing within 10 working days to appeal said suspension. Cooperation by the DMAP Cooperator with the investigation of the violation will be taken into account by the department when considering cancellation of the program following a suspension for any of the above listed reasons. The cooperator may be allowed to continue with the program on a probational status if, in the judgment of the department, the facts relevant to a suspension do not warrant cancellation.

b. Cancellation of Cooperator from DMAP. Cancellation of a cooperator from DMAP may occur following a guilty plea or conviction for a DMAP rule or regulation violation by any individual or member hunting on the land enrolled in DMAP. The cooperator may not be allowed to participate in DMAP for one year following the cancellation for such guilty pleas or conviction. Upon cancellation of the cooperator from DMAP, the contact person may request an administrative hearing within 10 working days to appeal said cancellation.

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 17:204 (February 1991), amended LR 25:1656 (September 1999), LR 26:2011 (September 2000), LR 30:2496 (November 2004).

§119. Rules and Regulations for Participation in the Landowner Antlerless Deer Tag Program

A. The following rules and regulations shall govern the Landowner Antlerless Deer Tag (LADT) Program.

1. Eligibility: The following landowners or lessees are eligible to participate in this program.

a. Licensed Deer Farmers authorized to hunt deer by Department of Agriculture and Forestry and Department of Wildlife and Fisheries (LDWF).

b. Landowners or lessees with less than 500 acres who have verified deer depredation problems and have met all of the requirements of LDWF as stated in the Nuisance Deer Management Program and who are dependent upon this commercial crop as a major source of income.

c. Landowners with 40 acres or more enrolled in the Louisiana Forest Stewardship Program and who have a written wildlife management plan on file with LDWF.

d. Landowners or lessees with 40 or more contiguous acres of forested or marsh land.

2. Application Procedure

a. Application for enrollment in the Landowner Antlerless Deer Tag Program must be submitted to the Regional Office, Deer Program personnel, or Forest Stewardship Program personnel of LDWF prior to September 1. The application will become an official agreement between the applicant and LDWF.

b. Each applicant will be assessed a \$25 administrative processing fee which must be paid prior to October 1. Applicant must identify the enrolled property on a Louisiana road atlas that will be kept on file in the Region Office.

c. By enrollment in this program the applicant agrees to allow LDWF personnel access to their land for

management surveys, investigations of violations and other inspections deemed appropriate by the department.

d. Boundaries of lands enrolled in the LADT program shall be clearly marked and posted with LADT or DMAP signs. Signs will be placed at 1000 foot intervals around the entire boundary of the property and at every point onto the property. Signs shall be removed if the land is no longer enrolled in the program. The color of the LADT sign shall be white, with the words LADT and Posted printed on the sign in letters no less than four inches. The minimum sign size is 11 1/4" x 11 1/4".

3. Tags

a. A fixed number of Landowner Antlerless Deer Tags will be provided by the department to each applicant that must be attached to each antlerless deer harvested during the regular deer season. These tags can be used only on the land for which they were issued and must be attached to all antlerless deer killed during the entire deer season including special either-sex days. Tag allotment for each applicant will be determined by Deer Program personnel.

b. The total harvest of antlerless deer is restricted to that number of antlerless deer for which tags were issued. Once the number of antlerless deer for which tags were issued have been killed, all deer hunting will then be for bucks-only, even though there may be either-sex days later in the season for the Area at large. No additional tags will be issued to the applicant.

c. Each hunter must have the Landowner Antlerless Deer Tag in his possession while hunting on the property for which the tag was issued and immediately upon kill of an antlerless deer, the hunter must tag the animal through the hock. The deer must be tagged before it is transported from the site of kill and the tag will remain with the deer while the hunter is in route to his domicile. The tag number will be recorded on the possession tag for the deer or any part(s) of the animal when divided and properly tagged among other individuals.

d. Antlerless deer harvested on property enrolled in LADT does not count in the season bag limit for hunters.

4. Records

a. Approved applicants will keep daily records for all deer harvested as required by LDWF personnel. This information along with any unused tags will be submitted to the Regional Office, the Deer Program, or Forest Stewardship Program personnel by March 1. Information will include: Date of kill; Name of hunter; Social Security number of hunter; Hunting license # of hunter, if applicable; Sex of animal; Landowner Antlerless Tag Number. Additional biological information from harvested deer may be required of some applicants for management purposes.

b. Approved applicants will provide documentation of harvested deer during the season to Department personnel upon request. Applicants will be given 48 hours to provide this requested information.

5. Cancellation of Program

a. Failure of the approved applicant or other persons permitted to hunt on this property to follow these rules and regulations may result in cancellation of the program.

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 26:2011 (September 2000), amended LR 27:1935 (November 2001), LR 30:2497 (November 2004).

Dwight Landreneau
Secretary

0411#049

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spotted Seatrout Management Measures (LAC 76:VII.341)

The Wildlife and Fisheries Commission does hereby amend a Rule, LAC 76:VII.341, modifying the existing Rule. Authority for adoption of this Rule is included in R.S. 56:6(25)(a) and 56:326.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§341. Spotted Seatrout Management Measures

A. Commercial Season; Quota; Permits

1. The commercial season for spotted seatrout whether taken from within or without Louisiana state waters shall remain closed until January 2 of each year, when it shall open and remain open through July 31 of each year, or until the quota is reached, or on the date projected by the staff of the Department of Wildlife and Fisheries that the quota will be reached, whichever comes first.

2. The commercial quota for spotted seatrout shall be 1,000,000 pounds for each fishing season.

3. Permits

a. The commercial taking of spotted seatrout is prohibited except by special nontransferable Spotted Seatrout Permit issued by the Department of Wildlife and Fisheries at the cost of \$100 for residents of this state and \$400 for those who are nonresidents. This permit, along with other applicable licenses, authorizes the bearer to sell his spotted seatrout catch.

b. No person shall be issued a license or permit for the commercial taking of spotted seatrout unless that person meets all of the following requirements.

i. The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.

ii. The person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant using any of the methods listed below.

(a). Method 1. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (i.e. Schedule C of federal form 1040, form W-2, etc.), which has been certified by the Internal Revenue Service (IRS).

(b). Method 2. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (i.e. Schedule C of federal form 1040, form W-2, etc.), which has been filed and stamped "Received" at a local IRS office accompanied by a signed cover letter acknowledging receipt by the IRS.

(c). Method 3. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a signed copy of his federal tax return including all attachments (i.e. Schedule C of federal form 1040, form W-2, etc.) along with an IRS stamped transcript and IRS signed cover letter. Transcripts are available at local IRS offices.

iii. The Socioeconomic Section of the Department of Wildlife and Fisheries, Office of Management and Finance, will review the submitted tax return information and determine applicant's eligibility as defined by R.S. 56:325.3 D(1)(b).

iv. The person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C).

v. The applicant shall not have been convicted of any fishery-related violations that constitute a class three or greater violation.

c. No person shall receive more than one permit or license to commercially take spotted seatrout.

d. No person shall qualify for a charter boat fishing guide license and a spotted seatrout permit during the same licensure period.

B. General Provisions. The commercial closure shall apply to spotted seatrout taken, landed or possessed on the water whether taken from within or without Louisiana waters. Effective with the closure, no person shall commercially harvest, take, land or possess spotted seatrout in excess of a recreational limit in Louisiana. Effective with the commercial closure no person shall sell, barter, trade, exchange, purchase or attempt to sell, barter, trade, exchange or purchase spotted seatrout. Nothing herein shall prohibit the purchase, sale, barter or exchange of spotted seatrout off the water by licensed commercial dealers taken during any open period or which are legally imported into the state if appropriate records are properly maintained in accordance with R.S. 56:306.5 and R.S. 56:306.6 and those that are required to do so shall be properly licensed in accordance with R.S. 56:303, 56:306 or 56:306.1.

AUTHORITY NOTE: Promulgated in accordance with Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S. 56:6(25)(a), R.S. 56:325.3, R.S. 56:326.3, Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.3, and Act 1164 of the 2003 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:238 (March 1996), LR 24:360 (February 1998), LR 26:2333 (October 2000), LR 30:2498 (November 2004).

Dwight Landreneau
Secretary

0411#051