

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 113—Louisiana's Reading and Language Competencies for Teachers (LAC 28:XCV.111)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 113—Louisiana's Reading and Language Competencies for New Teachers*. The changes more clearly define the reading competencies to be addressed in the courses required by BESE for certification, including but not limited to the reading courses required in R.S. 17:7.1.

The current Chapter 1, Foundational Concepts—Strand A is being moved to Chapter 2 to allow for placement of new introductory text. These changes align Louisiana's reading instruction more closely with principles of Scientifically Based Reading Research as required by Title I—Improving the Academic Achievement of the Disadvantaged: Section 1001.Statement of Purpose.

"The purpose of this title is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and state academic assessments. This purpose can be accomplished by-

"(1). Ensuring that high-quality academic assessments, accountability systems, teacher preparation and training, curriculum, and instructional materials are aligned with challenging State academic standards so that students, teachers, parents, and administrators can measure progress against common expectations for student academic achievement.

"(9). Promoting schoolwide reform and ensuring that access of children to effective, scientifically based instructional strategies and challenging academic content."

Title 28

EDUCATION

Part XCV. Bulletin 113—Louisiana's Reading and Language Competencies for Teachers

NOTE: The current Chapter 1, Foundational Concepts—Strand A is being moved to Chapter 2 to allow for placement of new introductory text.

Chapter 1. Introduction

§111. Reading and Language Competencies

A. During spring 2002, the Governor's Office, Board of Regents, State Board of Elementary and Secondary Education, and Louisiana Department of Education submitted a proposal to the National Governor's Association to participate in a Literacy Institute at Harvard University. Louisiana was one of five states selected to send a team of 20 state, district, and university leaders to participate in a one-week institute during August 2002. In conjunction with the institute, the state made a commitment to have Louisiana's Harvard Literacy Team develop a set of Reading and Language Competencies for use within university

settings when preparing teacher candidates to work with PK-12 students. An awareness existed that it would be difficult to help teachers expand upon their pre-service knowledge and skills for reading and language if consensus did not exist regarding the required knowledge and skills for teachers in the area of reading and language.

B. Louisiana's Harvard Literacy Team met on five occasions during fall 2002 and spring 2003. After extensive discussions pertaining to appropriate competencies, a decision was made to adapt a document developed by Louisa C. Moats entitled *A Blueprint for Professional Development of Teachers of Reading: Knowledge, Skills, and Learning Activities* and combine elements of the document with the NCATE Standards for reading professionals and other state documents. By doing so, the five components of effective reading programs as defined in the National Reading Panel (2000) could be fully addressed as well as expectations for NCATE accreditation, Louisiana's K-12 English Language Arts standards, and Louisiana's K-12 Grade Level Expectations for Reading and Language Arts. Louisiana's Harvard Literacy Team then identified knowledge and disposition statements that would address the following eight strands:

1. Foundational Concepts;
2. Assessment;
3. Phonemic Awareness and Letter Knowledge;
4. Phonics and Word Recognition;
5. Fluent, Automatic Reading of Text;
6. Vocabulary;
7. Text Comprehension;
8. Spelling and Writing.

C. All universities with approved Teacher Preparation Units shall address Louisiana's Reading and Language Competencies for Teachers in each of the teacher preparation programs offered by the university. These competencies shall be addressed in the courses required by BESE for certification, including but not limited to the reading courses required in R.S. 17:7.1. Additionally, in teacher preparation programs that prepare candidates for certification in any grades K-3, teacher candidates shall be instructed in the administration, interpretation, and use of the scientifically-based reading assessments adopted by BESE (e.g.; Dynamic Indicators of Basic Early Literacy Skills).

D. During Spring 2005, the State Board of Elementary and Secondary Education shall require the Louisiana Department of Education to prepare and disseminate to all universities submission guidelines for an alignment study of the degree to which universities are addressing the Reading and Language Competencies contained in this bulletin and assessing their students' attainment of the competencies in each of their teacher preparation programs. Submission requirements shall include an alignment matrix for each teacher preparation program offered, course syllabi, and instructional and assessment materials for each course in which a competency is addressed, as well additional documentation as determined by the Louisiana Department of Education. Universities shall be required to submit the

required alignment matrix for each teacher preparation program offered, showing the alignment of each program to the Reading and Language Competencies and rubrics based on certification levels for the programs in Fall 2005.

E. The Louisiana Department of Education shall oversee a review of the materials submitted to determine the alignment of the courses in these programs to scientifically based reading research as delineated through the Reading and Language Competencies. The department shall produce a report regarding this alignment and shall submit this report to BESE no later than January 2006. Based on this report, BESE shall take action with regard to individual universities and deficiencies regarding alignment to the competencies noted in the report, if any. Such action shall include, but not be limited to, a corrective action plan to address the deficiencies, resubmission of the program for approval of the specific courses in question, or withdrawal of program approval. The report shall also be made public via the Louisiana Department of Education's website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A) (10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3065 (December 2005).

Weegie Peabody
Executive Director

0512#003

RULE

Board of Elementary and Secondary Education Adult Education Services

Bulletin 120—Adult Education Data Quality and Procedures
(LAC 28: CXVII. Chapters 1-7)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted *Bulletin 120—Adult Education Data Quality and Procedures*. Bulletin 120 will be printed in codified format as Part CXVII of the Louisiana Administrative Code. *The Louisiana Adult Education Data Quality and Procedures* has been developed to assist local adult education programs with the processes of gathering, inputting, and reporting data on adult education program performance. The bulletin provides written policies and procedures for the assessment of adult education students by adult education programs funded by the Louisiana Department of Education. The Louisiana Adult Education Data Quality and Procedures has been developed to meet the USDE National Reporting System for Adult Education requirement that all states have written policies and procedures for the assessment of adult education students.

Title 28

EDUCATION

Part CXVII. Bulletin 120—Adult Education Data Quality and Procedures

Chapter 1. General Provisions

§101. Introduction

A. The Louisiana Department of Education, Division of Family, Career and Technical Education developed *Bulletin 120—Adult Education Data Quality and Procedures* to

assist local adult education programs in meeting the reporting requirements of the National Reporting System (NRS) for Adult Education. This bulletin is designed to:

1. assist local adult education programs with the processes of gathering student data;
2. inputting data into the LiteracyPro system;
3. reporting data on program performance; and
4. reviewing data to plan for and facilitate program improvement.

B. This Part CXVII is applicable to all local adult and family literacy programs which are funded through the Louisiana Department of Education. This Part CXVII is in compliance with NRS requirements, which is the official accountability system for federally funded adult education programs. NRS reporting components include:

1. student assessment measures;
2. data collection methodologies;
3. reporting forms; and
4. program procedures.

C. The Louisiana Department of Education, Division of Family, Career and Technical Education and the National Reporting System for Adult Education are committed to assisting local adult education programs in improving the quality and utility of program data. Questions regarding this bulletin or this Part CXVII should be directed to the Louisiana Department of Education, Division of Family, Career and Technical Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3066 (December 2005).

Chapter 3. Assessment and Student Placement

§301. Standardized Assessments

A. NRS policies require local adult education programs to assess and place students at an educational functioning level (EFL) upon intake and at least one other time during the program year. Standardized assessments used to place students or demonstrate educational growth must be both valid and normed for adult students. The initial assessments are to be administered at intake or within a short period thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3066 (December 2005).

§303. Approved Assessments

A. The Louisiana Department of Education has approved certain assessments, which are aligned with educational functioning levels within NRS to measure student level and growth. Only assessments on this list may be used to determine student placement upon intake or demonstrate educational growth: No other assessments are to be used by local programs for placement purposes or to demonstrate educational growth at an educational functioning level.

B. Assessments for Adult Basic Education and Adult Secondary Students:

1. Test of Adult Basic Education (TABE);
2. Adult Measure of Essential Skills (AMES);
3. Comprehensive Adult Student Assessment System (CASAS);

4. WorkKeys (to be used at the Adult Secondary Education educational functioning levels only).

C. Assessments for English-as-a-Second Language Students:

1. Basic English Skills Test (BEST) and BEST Plus;
2. Comprehensive Adult Student Assessment System (CASAS);
3. Student Performance Levels (SPL).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3066 (December 2005).

§305. Placement in an Educational Functioning Level

A. Upon administration of an approved assessment, local programs are to place students at an educational functioning level. Charts developed from the *NRS Implementation Guidelines* are used for determining the appropriate EFL for a student. These charts are included in the instructor manual pertaining to this Part CXVII.

B. A student may be assigned to an EFL based upon the descriptors on the charts in the instructor manual pertaining to this Part CXVII, but growth can only be shown through the administration of an approved pre-test and post-test or by passing the GED test. A student who passes the GED may be given credit for completing the High Adult Secondary (ASE) level. This is the only method to show completion of this level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3067 (December 2005).

§307. Follow-up Assessments

A. NRS reporting policies state that programs use a different form of the same test for the follow-up (post-test) assessment for a student. Both the pre-test and post-test shall be administered and scored according to the test directions provided by the publisher. Post-tests shall be administered after the student has:

1. attended for 50 hours; or
2. been enrolled for 90 days; or
3. has completed an Individualized Prescription of Instruction (IPI) for the area being used for NRS reporting purposes. The subject area (math, reading or language) being used for NRS reporting purposes is the lowest score from the pre-test.

B. The department's goal for the percentage of students tested is 40 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3067 (December 2005).

§309. Special Populations

A. Assessments for special populations are administered with appropriate accommodations as specified by the publisher of the approved assessment. Accommodations for the administration of assessments shall be based on copies of the student's IEP or 504 plan. Placement at an EFL level for special populations may be by the descriptors for each level.

B. Accommodations for approved assessments will likely differ from accommodations for the GED test. There are two types of disabilities, learning and physical, which are

applicable to students registered for the GED test. Disabilities must be documented on an appropriate form, which are available from a GED chief examiner. Although a student may receive accommodations for assessments for placement or to measure growth by a local program, this does not guarantee or imply that the same accommodations will be appropriate or provided for the GED test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3067 (December 2005).

Chapter 5. Adult Education Core Measures

§501. NRS Core and Secondary Measures

A. NRS measures include both core measures and secondary measures. NRS core measures apply to all adult education students. There are three types of core measures:

1. outcome measures, which include:
 - a. educational gain;
 - b. entered employment;
 - c. retained employment;
 - d. receipt of secondary school diploma or GED; and
 - e. placement in postsecondary education or training;
2. descriptive measures, including:
 - a. student demographics;
 - b. reasons for attending and student status; and
3. participation measures of contact hours received and enrollment in instructional programs for special populations or topics (such as family literacy or workplace literacy).

B. NRS secondary measures include additional outcome measures related to employment, family and community that adult education stakeholders believe are important to understanding and evaluating adult education programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3067 (December 2005).

§503. Reporting Core Measures

A. NRS policies mandate that all local adult education programs must report core measures. Educational gains are calculated on all learners in the program year, July 1–June 30. Core measures which must be reported include:

1. Educational Gains that are in relation to the student's EFL in reading, writing, speaking and listening, and functional areas. This measure applies to all students;
2. *Entered Employment*—students who obtain a job by the end of the first quarter after exit quarter. This measure applies to students who have set this as a goal*;
3. *Retained Employment*—students who remain employed in the third quarter after program exit. This measure applies to students who have set this as a goal*;
4. *Receipt of Secondary School Diploma or GED*—students who obtain a GED, secondary school diploma or recognized equivalent. This measure applies to students who have set this as a goal*;
5. *Placement in Postsecondary Education or Training*—a learner who enrolls in a postsecondary educational or occupational skills program, building on prior services or training received. This measure applies to students who have set this as a goal.*

*Data-matching is used for these goals to measure program outcome.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3067 (December 2005).

§505. Student Goal Setting for Core Measures

A. Adult learners enter adult education programs for any number of reasons, which are reflective of the student' educational, vocational, and personals goals. The goal setting process occurs at intake and is intended to define the areas to focus instruction and learning. Student goals serve to provide a basis to measure student and program performance, and thus it is imperative that goals be both attainable and measurable.

B. NRS policies state that goals set by learners will be measured at the end of the program year and that goals must be attainable within that program year. If the goal is not attainable within the year, it shall not be entered as the NRS goal but as a long-term goal of the learner. When the student's skills have improved to a level at which attainment of the goal would be feasible within the fiscal year, the long-term goal shall be entered as a goal for that year.

C. Goals will be reviewed upon reassessment of the student and updated accordingly. It is the role of the adult education instructor or coordinator to provide students with guidance on how to set and work toward meeting learning goals. Adult education instructors and coordinators will discuss with students the time frame to meet goals and discuss accessible resources for working toward the goal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3068 (December 2005).

§507. Data Matching

A. The state of Louisiana uses data matching as the methodology to follow up on NRS core measures. The Social Security Number (SSN) of the learner will be used to match data with Louisiana Department of Labor (LDOL) employment records and other records used in developing the WIA scorecard by the Department of Labor.

B. The SSN of the individual student is used by the LDOL only to search records and is not released by LDOL to any other third party individual or agency. Data is reported in aggregate format without any individual identifiable information. Accurate Social Security Numbers are critical to the success of the data matching process. Local programs are responsible for checking enrollment forms for missing or invalid SSNs and are prohibited from "making up" a SSN for a student. If a student fails to provide his/her SSN, local programs should follow up with the student to obtain the SSN. A student may refuse to provide his/her SSN to a local program; however, local program personnel will explain how this information is used and its importance in demonstrating program performance.

C. Upon completion of the data-matching process, LDOL provides the Department of Education with a list of students who achieved the specified outcomes and these outcomes are reported back to local programs. The data-matching process specifically tracks those students who set employment as a goal, but also matches all students in the database for the core measures. This process allows

programs to know which students met their specified goal(s) and those who have achieved other outcomes while enrolled in the program. These outcomes are to be entered as an achievement in the LiteracyPro System, not as a goal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3068 (December 2005).

Chapter 7. Data Reporting

§701. Data Accuracy and Entry

A. The following data must be entered by local programs in order to ensure that the National Reporting System provides valid and accurate data. Data entry errors, which go uncorrected, often do not reflect the progress of the student or the program, and often affect funding for local programs. Timely review of data assists in ensuring its accuracy and adherence to programmatic guidelines. The following represents Louisiana Department of Education data collection and entry policies as well as common data entry errors.

Data	Entry Guidelines
Social Security Number	1. Enter the learner's real Social Security Number. 2. Enter the alien identification number if ESL students do not have a Social Security Number.
Contact Information	1. Enter as many phone numbers that are available for the student (e.g., home, work, etc.). 2. Enter a complete mailing address including a number, street, apartment (if applicable), town and zip code. 3. Use the learner's parish of residence (not where the program is located).
Enrollment Status	1. Enter the learner's status: enrolled, active, or left. *A learner shall be separated and his/her status changed to left after nonattendance for 90 days according to NRS policies.
Attendance	1. Attendance must be recorded daily on sign-in sheets. It is recommended that attendance be entered on a weekly basis. *Attendance hours are counted for instruction or instructional activities. Instructional activities include classroom instruction, assessment, tutoring or participation in a learning lab. Virtual or on-line attendance hours may be recorded only if the center can provide authentic documentation of the hours of instruction.
Test Scores	1. Enter test results (pre-test or post-test) upon completion of approved assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3068 (December 2005).

§703. Quarterly Reporting

A. The Louisiana Department of Education, Division of Family, Career and Technical Education requires that local programs submit data for each quarter during a program year. City or parish supervisors or program directors are responsible for timely submission of local program data and ensuring its accuracy. Department of Education staff will review data for errors and contact supervisors or program directors to discuss needed corrections to local program data.

Local program data is reported quarterly on the twenty-sixth day of January, April, July, and October.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3068 (December 2005).

§705. LiteracyPro Data System

A. The Louisiana Department of Education mandates that adult education programs, which it funds, must use the LiteracyPro System, Inc.—Adult Education Data System. Local programs are responsible for covering the costs of implementing and maintaining the LiteracyPro System with a portion of their local grant funds. Staff from the Louisiana Department of Education and staff from LiteracyPro are committed to improving data quality by providing professional development workshops each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3069 (December 2005).

§707. Resolving Data Analysis Problems and Deviations

A. Upon receipt of data submitted by local programs, the Louisiana Department of Education, Division of Family, Career and Technical Education staff review program data quarterly for errors. It is the responsibility of the local program supervisor or director to conduct the initial review of the data, using the diagnostic features of the LiteracyPro System and other instructions provided by department staff. The initial review of data shall be conducted prior to the quarterly submission of data to the Louisiana Department of Education.

B. Upon receipt of local program data, department staff shall run the diagnostic features of the Literacy Pro System to search again for common and obvious data errors, such as invalid attendance dates, birthdates, and/or Social Security Numbers. Staff further reviews data using other searches to determine if additional data analysis problems and deviations exist. Department staff shall send a report to local program supervisors or directors detailing any data analysis problems or deviations. It is the responsibility of local program supervisors and directors to correct any data analysis problems or deviations within two weeks of notification of such problems by department staff.

C. Data analysis problems or deviations must be corrected to accurately reflect student progress, evaluate program success and determine future funding. Local program supervisors or directors must sign the data extract each quarter upon submission and acceptance of data by department staff. The signed program extract confirms that the local program supervisor or director states that the data is correct to the best of his/her knowledge, the local program has adhered to Department of Education data guidelines, and data has been reviewed for errors prior to quarterly submission. The data reflected in the signed extract is used to determine subsequent year funding and serves as the record of program performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3069 (December 2005).

Weegie Peabody
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0512#004

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Course Code Changes for Carnegie Units (LAC 28: CXV.2333, 2355, 2364 and 2369)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 741—Louisiana Handbook for School Administrators* (LAC 28, Part Number CXV). The proposed special education course codes will allow students with disabilities and gifted and talented students to earn Carnegie units and it will allow districts to track the courses in which the students are enrolled. Based on an expressed need from the Local Education Agencies and an analysis of the special education course codes, revisions were needed to provide an appropriate curriculum for students with exceptionalities.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

§2333. Art

A. Art course offerings shall be as follows.

Course Title(s)	Units
Art I, II, III, IV	1 each
Talented Art I, II, III, IV	1 each

B. Art I is a prerequisite to Art II and Art III.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3069 (December 2005).

§2355. Music

A. The music course offerings shall be as follows.

Course Title(s)	Units
Applied Music	1
Beginning Band	1
Beginning Choir	1
Sectional Rehearsal	1
Studio Piano I, II, III	1 each
Advanced Band	1
Advanced Choir	1
Advanced Orchestra	1
Small Vocal Ensemble	1
Wind Ensemble	1
Jazz Ensemble	1
Talented Music I, II, III, IV	1 each

B. Advanced Choir, Advanced Band, Advanced Orchestra, Small Vocal Ensemble, Wind Ensemble, Applied Music, Jazz Ensemble, and Studio Piano III are performance classes with new literature each year; they may be repeated more than once.

C. Approval by DOE is required before private piano and studio strings instruction can be given for credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3069 (December 2005).

§2364. Special Education

A. The special education course offerings shall be as follows.

Course Title(s)	Units
Study Skills I, II, III, IV	1 each
Transition I, II, III, IV	1 each
Gifted Independent Research I, II, III, IV	1 each
Gifted College and Career Choices	1 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3070 (December 2005).

§2369. Theatre Arts

A. The theatre arts course offerings shall be as follows.

Course Title(s)	Units
Theatre I	1
Advanced Theatre	1
Talented Theater I, II, III, IV	1 each

B. Advanced Theatre is a performance class with new literature each year; it may be repeated more than once.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3070 (December 2005)

Weegie Peabody
Executive Director

0512#005

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Curriculum Standards (LAC 28: CXV.2301)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 741—Louisiana Handbook for School Administrators* (LAC 28: CXV). R.S. 17:24.4 requires BESE and the Department of Education to develop statewide curriculum standards for required subjects. The recent approval of the Grade-Level Expectations marks the first major revision to Louisiana content standards documents since 1997. This policy change revision to Bulletin 741 establishes a timeline for the revision of content

standards. This revision to the BESE policy will ensure that content standards are reviewed and revised on a regular basis.

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Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

**Chapter 23. Curriculum and Instruction
§2301. Standards and Curriculum**

A. - B. ...

C. The Louisiana content standards shall be subject to regular review and revision to maintain rigor and high expectations for teaching and learning. Such review of each content area shall occur at least once every seven years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 31:3070 (December 2005).

Weegie Peabody
Executive Director

0512#006

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—High School Graduation Requirements (LAC 28: CXV.2319)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 741—Louisiana Handbook for School Administrators* (LAC Part Number CXV). The addition of Chapter 23. Curriculum and Instruction, §2319. High School Graduation Requirements, is to meet established guidelines for a waiver for students with disabilities who have earned the required 23 Carnegie units and have passed two of the three required components of the GEE in order to earn a high school diploma. Many students with disabilities were able to earn the required 23 Carnegie units needed for a high school diploma. These students were able to pass two, but not all three, components of the GEE due to their disability. In many instances it was the disability that significantly impacted the students' ability to pass the final required GEE component, thus denying the students a high school diploma. The waiver of the final component of the GEE will allow the students with disabilities to earn a high school diploma.

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Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

**Chapter 23. Curriculum and Instruction.
§2319. High School Graduation Requirements.**

A. - A.1. ...

B. In addition to completing a minimum of 23 Carnegie credits, students must pass the English language arts and mathematics components of the GEE and either the science or social studies portions of the GEE to earn a standard high school diploma. For students with disabilities who have

passed two of the three required components of the GEE and have exhausted all opportunities available through the end of the 12th grade to pass the remaining required GEE component, that GEE component may be waived by the Superintendent of Education if the Department of Education determines the student's disability significantly impacts their ability to pass the final required GEE component.

B.1. - J. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:3070 (December 2005).

Weegie Peabody
Executive Director

0512#007

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Private Summer School Providers (LAC 28: CXV.2504)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 741—Louisiana Handbook for School Administrators* (LAC Title 28, Part Number CXV). These revisions will allow districts to let students attend summer school from private providers if the summer school applications from the private provider are approved by the district. Districts must ensure that the private provider meets the policy requirements and send the application to the department. The requirements in policy are similar to the requirements for public elementary and secondary summer school programs. Some districts are not able to offer regular summer school due to the commitment of teachers and resources to summer programs for LEAP and GEE remediation. Students needing summer school for the removal of deficiencies have had to find summer schools in neighboring districts or nonpublic schools.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 25. Summer Schools, Special Ed Extended School Year Programs

§2504. Private Summer School Providers

A. Any LEA may approve private summer school providers if the provider and the LEA adhere to the standards listed below.

B. The LEA shall submit an application to the DOE for the summer school administered by the private provider.

1. An application for each summer school's offering shall be filed no later than the end of the first week after the summer session begins.

2. The application forms provided by the DOE shall be submitted to the Director of Student Standards and Assessments.

3. The application shall be approved by the superintendent of the LEA.

4. The DOE shall verify that the information in the application meets the standards listed below.

5. An on-site evaluation of each summer school program shall be made by personnel from the DOE to verify information submitted on the report, to evaluate the quality of the instructional program, and to approve its acceptance by the LEA.

C. Summer school programs shall have a certified principal.

D. Teachers employed to teach summer school shall hold a standard A, B, or C teaching certificate in the subject area or areas of teaching.

E. The library/media center or library books as well as all regular teaching aids and equipment shall be available for summer school use.

F. Textbooks, supplementary materials, and supplies adequate for effective instruction shall be provided.

1. Textbooks used during the summer school shall be chosen from the DOE-approved list.

G. Elementary Summer School Programs

1. The purpose of summer school shall be to enable students who have failed in subjects to remove deficiencies and be considered for promotion to the next grade.

2. Each teacher shall teach only one subject for removal of deficiencies during a single period.

3. A student attending summer school for promotional purposes shall not enroll for more than two subjects.

4. The minimum attendance for all elementary students to receive credit or pass a subject shall be 60 hours for one subject unless the LEA imposes a stricter attendance policy.

5. Elementary summer schools shall offer a minimum of 70 hours of instruction per subject for removal of deficiencies.

6. Students attending summer school for promotional purposes shall have written consent by the principal of the last school they attended.

7. The class size shall not exceed 20 students per teacher, per subject in a regular summer school.

H. Secondary Summer School Programs

1. The purpose of summer school shall be to enable students to schedule courses to enrich their experiences or take new subjects and to enable students who have failed in subjects to remove deficiencies.

2. No teacher shall be allowed to teach more than two subjects during one period of time.

3. Summer schools shall offer 90 hours of instruction for 1/2 unit of new credit, 180 hours for one unit of new credit, 60 hours of instruction for 1/2 unit of repeat credit, and 120 hours for one unit of repeat credit.

4. In order to be eligible to receive credit, summer school students shall be in attendance a minimum of 70 hours for 1/2 unit of new credit, 140 hours for 1 unit of new credit, 47 hours for 1/2 unit of repeat credit, and 94 hours for one unit of repeat credit.

5. The teaching load and class size shall not exceed that of a regular school session.

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 31:3071 (December 2005).

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0512#008

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Social Studies Graduation Requirement (LAC 28: CXV.2319 and 2363)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 741—Louisiana Handbook for School Administrators* (LAC Title 28, Part Number CXV). The Advanced Placement Program (AP), sponsored by the College Board, allows high school students to take college-level courses and exams, and to earn college credit or placement while still in high school. These policy revisions will allow two AP courses to meet graduation requirements. The revisions will add AP European History to the list of courses meeting graduation requirements in Social Studies and will allow AP American Government to meet the Civics requirement for graduation. AP American Government is a one-credit course and Civics is a one-half credit course.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

§2319. High School Graduation Requirements

A. - D. ...

E. Minimum Course Requirements for High School Graduation

Social Studies	3 units
Shall be American History, one-half unit of Civics or one unit of AP American Government, one-half unit of Free Enterprise; and one of the following: World History, World Geography, Western Civilization, or AP European History	

F. - J. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:3072 (December 2005).

§2363. Social Studies

A. Three units of Social Studies shall be required for graduation. They shall be American History; 1/2 unit of Civics or one unit of AP American Government, and 1/2 unit of Free Enterprise; and one of the following: World History, World Geography, Western Civilization, or AP European History.

B. The Social Studies course offerings shall be as follows.

Course Title(s)	Units
American Government	1
American History	1
Civics	1
Economics	1
Free Enterprise	1/2
Law Studies	1
Psychology	1
Sociology	1
AP European History	1

C. Economics may be taught by a teacher certified in business education.

D. Free Enterprise shall include instruction in personal finance. Such instruction shall included but shall not be limited to the following components:

1. income;
2. money management;
3. spending and credit;
4. savings and investing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:274-274.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 31:3072 (December 2005).

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0512#010

RULE

Board of Elementary and Secondary Education

Bulletin 741(Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—Programs of Study (LAC 28:LXXIX.Chapters 1-31)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators*. These changes include additions to Programs of Study, revisions based on legislation, and revisions to summer school policy. These changes are intended to correct numbering errors in the previous revision and to align the bulletin with recent changes in public school policy.

Title 28

EDUCATION

Part LXXIX. Louisiana Handbook for Nonpublic School Administrators

Chapter 1. Operation and Administration

§101. General Authority

A. The nonpublic school board or governing body shall pass a resolution establishing the nonpublic school and setting forth its goals and objectives.

B. Nonpublic schools are designed to meet the needs of a specific group of students. Each nonpublic school will evaluate itself on the basis of its stated goals and objectives.

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 29:2342 (November 2003), amended LR 31:3072 (December 2005).

§103. School Administration

A. The educational program shall be designed to implement the stated goals and objectives and shall be directly related to the unique educational requirements of its student body.

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 29:2342 (November 2003), amended LR 31:3073 (December 2005).

§105. Philosophy and Purposes of School

A. Each nonpublic school shall develop and maintain a written statement of its philosophy and/or mission statement and the major purposes to be served by its program. The statement shall reflect the individual character of the school and the characteristics and needs of the students it serves.

B. The statement of philosophy and/or mission statement shall be reviewed annually and shall be revised as necessary.

C. Written evidence that these requirements are being met shall be on file.

D. Copies of the philosophy and/or mission statement shall be furnished to all staff members and made available to interested persons on request.

E. Each school shall maintain on the file the following:

1. written statement of philosophy and/or mission statement;
2. goals and objectives for the current year; and
3. plan for implementation of these goals and objectives.

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 29:2342 (November 2003), amended LR 31:3073 (December 2005).

§107. School Approval

A. In order to benefit from state and federal funds, each school shall have a state approval classification and shall be in compliance with *Brumfield vs. Dodd*.

B. Each state-approved nonpublic school receiving state and/or federal funds shall permit all colleges, universities and branches of the military to have equal access to the schools for the purpose of college recruitment.

C. When applying to the State Department of Education for a classification category, all nonpublic schools seeking state approval shall include all grades/programs taught at the school.

1. Classification Categories. Schools shall be classified according to the following categories.

a. Approved (A)—school meets all standards specified in Standards for Approval of Nonpublic Schools.

b. Provisionally Approved (PA)—school has some deficiencies in standards, such as: class size and number(s) of the faculty teaching in an area of which qualifications specified are not met, etc.

c. Probationally Approved (P)—school has one or more of the following deviations from standards:

- i. principal does not hold a master's degree or principalship certification;

ii. non-degreed teacher with fewer than five years teaching experience is employed;

iii. school has been on provisional approval for the previous two years for the same deficiency.

d. Unapproved (U)—school maintains any of the above-mentioned deviations from standards which placed it in the probationally approved category the preceding year. A school may not maintain a probationally approved category for two consecutive years. A school which loses annual school approval shall become ineligible for state and federal funding.

D. The Department of Education shall submit to the SBESE a yearly report recommending the classification status of the nonpublic schools in accordance with the nonpublic school standards.

E. After the Annual School Reports are submitted by the State Department of Education to the State Board of Elementary and Secondary Education (SBESE) for approval, all nonpublic schools seeking to change their classification category must submit their request to the SBESE.

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 29:2342 (November 2003), amended LR 31:3073 (December 2005).

§109. Initial Classification

A. Schools seeking initial approval must be qualified to be classified as either approved or provisionally approved.

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 29:2343 (November 2003), amended LR 31:3073 (December 2005).

§111. Re-Applying for State Approval

A. An unapproved school reapplying for state approval must qualify as either approved or provisionally approved.

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 29:2343 (November 2003), amended LR 31:3073 (December 2005).

§113. School Self-Evaluation

A. School self-evaluation shall be used to effect improvement in the purposes of the school and in the understanding of pupils, instructional methods, and educational outcomes.

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 29:2343 (November 2003), amended LR 31:3073 (December 2005).

§115. Pre-Kindergarten/Kindergarten

A. The local educational governing authority shall have the option of establishing a pre-kindergarten and/or kindergarten program on a half-day or full-day schedule.

B. The pre-kindergarten program shall be listed on the annual school report when operated as a developmental program within the total school program.

C. Any other program which operates in a school as a childcare program shall follow the day care standards as

prescribed by the appropriate state agency and is not to be listed on the annual school report.

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 29:2343 (November 2003), amended LR 31:3073 (December 2005).

§117. Minimum Session/Instructional Day

A. Each school shall adopt a calendar for a minimum session of 180 days, of which at least 175 days consisting of 330 minutes of instructional time, or the equivalent, shall be scheduled.

1. If a daily schedule must be abbreviated, the class schedule must be abbreviated in such a manner to ensure that all classes are taught during partial days, except in self-contained classrooms.

2. Each school may include in its calendar a provision for dismissal of senior students prior to the end of the school year. This provision is not to exceed 10 days of instructional time.

B. If a local school does not meet at least 175 school days, the State Board of Elementary and Secondary Education (SBESE) shall require the school to adjust its calendar to meet the minimum days of required instructional time by such means as Saturday classes, reduced holidays, expanded calendar length, etc.

1. A school system and/or independent school shall notify the State Board of Elementary and Secondary Education (SBESE) immediately when the minimum number of days of required instructional time cannot be met in crises such as fire, natural disasters, and so forth.

2. An alternate proposal to the original school calendar which meets the minimum number of 175 days or annual instructional minutes shall also be provided by the school.

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 29:2343 (November 2003), amended LR 31:3074 (December 2005).

§119. Written Policies

A. Each school system and/or independent school shall have written policies and/or regulations governing the general operation of the school.

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 29:2343 (November 2003), amended LR 31:3074 (December 2005).

§121. Emergency Planning and Procedures

A. Each school system and/or independent school shall have written plans and procedures that address the immediate response to emergency situations that may develop in the school.

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 29:2343 (November 2003), amended LR 31:3074 (December 2005).

§123. Personnel

A. Each school shall request in writing that the Louisiana Bureau of Criminal Identification and Information supply information to ascertain whether an applicant for employment as a teacher, substitute teacher, bus driver, substitute bus driver, janitor, or any other school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children, has been convicted of, or pled *nolo contendere* to, any one or more of the crimes enumerated in R.S. 15:5871.1.

1. The request must be on a form prepared by the bureau and signed by a responsible officer or official of the school making the request.

2. It must include a statement signed by the person about whom the request is made which gives his or her permission for such information to be released and must include the person's fingerprints in a form acceptable to the bureau.

3. A person who has submitted his or her fingerprints to the bureau may be temporarily hired pending the report from the bureau as to any convictions of, or pleas of *nolo contendere* to, by the person to a crime listed in R.S. 15:5871.1. The request must be on a form prepared by the bureau and signed by a responsible officer or official of the school making the request.

B. No person who has been convicted of or has pled *nolo contendere* to a crime listed in R.S. 15:5871.1 shall be hired by an elementary or secondary school as a teacher, substitute teacher, bus driver, substitute bus driver, janitor, or as any school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children unless approved in writing by a district judge of the parish and the parish district attorney.

1. This statement of approval shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer.

2. Not later than thirty days after its being placed on file by the school, the school principal shall submit a copy of the statement of approval to the State Superintendent of Education.

C. The school shall dismiss any permanent teacher or any other school employee having supervisory or disciplinary authority over school children, if such teacher or other employee is convicted of, or pled *nolo contendere* to, any crime listed in R.S. 15:L587.1(c) except R.S. 14:74.

D. A school may reemploy a teacher or other school employee who has been convicted of, or pled *nolo contendere* to, a crime listed in R.S. 15:L587.1(c), except R.S. 14:74, only upon written approval of the district judge of the parish and the district attorney or upon written documentation from the court in which the conviction occurred stating that the conviction has been reversed, set aside, or vacated.

1. Any such statement of approval of the judge and the district attorney and any such written documentation from the court shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer.

2. Not later than 30 days after its being placed on file by the school, the school principal shall submit a copy of any such statement of approval or written documentation from the court to the state superintendent of education.

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. 17:15; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411; R.S. 17:587.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2344 (November 2003), amended LR 31:3074 (December 2005).

Chapter 3. Certification of Personnel

§301. Principal

A. A nonpublic school principal, assistant principal, or headmaster must hold a master's degree in any area from an accredited institution or have principalship on his Louisiana teaching certificate. The principal is to be a full-time, on-site employee. (The principal may be a teacher as well as the educational administrator of the school.)

B. Assistant principals who do not meet minimum qualifications may be retained in a school provided they were employed in that school during the 1992-93 school year as an assistant principal.

C. A list of these assistant principals is to be maintained on file in the State Department of Education. Upon their retirement or replacement, these assistant principals must be replaced with properly qualified personnel under the nonpublic school standards. These individuals may not be transferred or employed by another school unless they meet the requirements stated in the above standard.

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 29:2344 (November 2003), amended LR 31:3075 (December 2005).

§303. Instructional Staff

A.1. All members of the instructional staff teaching secular subjects, pre-kindergarten through 12, shall have received a bachelor's degree from a regionally accredited institution.

2. They shall also have completed a minimum of 12 semester hours of professional education courses. A beginning teacher shall have a two-year period in which to meet this 12-semester hour standard. The teacher shall be required to have a certificate or college major in the field of work for which the teacher is responsible during one half or more of the school day or shall have earned credits in the required specific specialized academic courses as described in Bulletin 746, *Louisiana Standards for State Certification of School Personnel*. A teacher may work in areas other than the major field for a period of time that is less than one-half of the school day provided that he has earned at least 12 semester hours in each such area. (Exception may be made for teachers in Trade and Industrial Education classes.)

a. Teachers of the pre-kindergarten class shall be minimally qualified in either elementary, kindergarten, or nursery school or have earned 12 hours in child growth and development. The 12 hours in child growth and development may be earned through the College of Education or the Department/School of Family and Consumer Sciences.

b. Teachers of the kindergarten class shall be minimally qualified in either elementary or kindergarten or have earned 12 hours in child growth and development. The 12 hours in child growth and development may be earned through the College of Education or the Department/School of Family and Consumer Sciences.

c. The term *minimally qualified* is defined as having a college major or other documentation showing course completion in elementary, kindergarten or nursery school.

B. Staff members teaching religion at the high school level (9-12) for Carnegie units must have a minimum of a bachelor's degree. Staff members teaching religion that do not meet minimum qualifications may be retained in a school provided they were employed during the 1995-96 school year as teachers of religion.

C. Professional and/or technical personnel—e.g., C.P.A.s, doctors, college or university professors, lab technicians, lawyers, and so forth, may teach less than one-half of a school day in their area of expertise.

D. Non-degreed teachers having taught for a period of at least five years prior to September 1, 1977, may be rehired in a school provided their teaching performance was satisfactory; however, these teachers are eligible to teach only in the subject areas as listed prior to September 1, 1977. Upon retirement or replacement, these teachers must be replaced with degreed teachers eligible under the nonpublic school standards.

E. Credentials for graduates of foreign universities or colleges may be accepted by the local administrator, as qualified to teach in nonpublic schools subject to the review by the Nonpublic School Commission.

1. Applicants with foreign credentials seeking state certification should follow procedures as outlined by the State Department.

F. Teachers in nonpublic schools seeking state certification shall follow the approved procedure.

1. Secondary and elementary personnel may teach grades pre K-12 in their qualified areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2344 (November 2003), amended LR 31:3075 (December 2005).

§305. Professional Staff Development

A. Regular and planned faculty meetings on professional issues shall be held.

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 29:2344 (November 2003), amended LR 31:3075 (December 2005).

Chapter 5. Records and Reports

Subchapter A. Maintenance and Use of School Records and Reports

§501. General

A. The school shall maintain accurate and current information on students, personnel, instructional programs, facilities, and finances.

B. There shall be procedures in place to ensure confidentiality and parental access to records, in accordance with applicable law.

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 29:2345 (November 2003), amended LR 31:3075 (December 2005).

§503. School Records

A. Each school shall maintain necessary records for the effective operation of the school.

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 29:2345 (November 2003), amended LR 31:3076 (December 2005).

§505. Student Records

A. Each school shall keep records which shall provide for the registration and attendance of students and shall maintain an up-to-date permanent record of individual students showing personal data and progress through school.

B. Schools shall not reveal a student's confidential records, except by his or her parents/guardian consent, or for the purpose of the state's conduct of other activities, e.g., Department of Health and Human Resources surveying and monitoring of personnel, or use by other educational institutions and law enforcement officials, or by the order of a court, or pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, et seq., and 34 CFR, et seq.

C. If a school discontinues its operation, it must provide the parent or receiving school with an up-to-date copy of the permanent student record, if requested.

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 29:2345 (November 2003), amended LR 31:3076 (December 2005).

§507. Use of School Records

A. Student records shall be reviewed regularly, and results shall be used for instructional planning, student guidance, and placement.

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 29:2345 (November 2003), amended LR 31:3076 (December 2005).

§509. Transfer of Student Records from Approved Schools

A. A student transferred from a state-approved school, in- or out-of-state, will be allowed credit for work completed in the former school. When a student transfers from one school to another, a properly certified transcript, showing the student's record of attendance, achievement, and the units of credit earned are required.

B. Every nonpublic school, approved or nonapproved, shall provide written notification directly to the public school in which the student was previously enrolled. This notification shall take place within 10 days of enrollment.

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 29:2345 (November 2003), amended LR 31:3076 (December 2005).

§511. Transfer of Student Records from Schools that are not State Approved

A. Local school principals from any state-approved school receiving a student from an unapproved school, in- or

out-of-state, will determine the placement and/or credits for the student. The principal and/or superintendent may require the student to take an entrance examination on any subject matter for which credit is claimed. The school issuing the high school diploma shall account for all the credit required for graduation, and its records will show when and where the credit was earned.

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 29:2345 (November 2003), amended LR 31:3076 (December 2005).

§513. Students Transferring from Home Study

A. The school shall adhere to the policies and procedures established by the school system/school for students entering the system from an approved home study program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2345 (November 2003), amended LR 31:3076 (December 2005).

§515. Students Transferring from Foreign Schools

A. The school shall determine placement of students transferring from foreign schools. This determination shall be accepted by the State Department of Education (SDE).

B. Credits earned by students in American schools in foreign countries shall be accepted at face value.

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 29:2345 (November 2003), amended LR 31:3076 (December 2005).

§517. Textbook Records

A. A record of all state-purchased textbooks shall be kept. This shall include textbooks on hand at the beginning of the session, those added, and those lost or worn-out.

B. State funds allocated for buying textbooks shall be used to buy books on the state-adopted textbook lists and academically related ancillary materials according to the state guidelines.

1. Local schools may use state textbook dollars for the purchase of non-adopted instructional materials, when they are purchasing instructional materials for grades K-3 that are manipulative concrete materials, or gross motor materials; or when they do not exceed 10 percent of the total state textbook allocation.

2. Schools may petition in writing the State Department of Education for permission to spend in excess of the 10 percent allowance.

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 29:2345 (November 2003), amended LR 31:3076 (December 2005).

§519. Health Records

A. A health record shall be maintained on each student from pre-kindergarten through grade 12.

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 29:2346 (November 2003), amended LR 31:3076 (December 2005).

Subchapter B. School Reports

§525. General

A. Reports required by the State Department of Education and BESE shall be made on appropriate forms, shall contain accurate information, and shall be returned by the specified date.

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 29:2346 (November 2003), amended LR 31:3077 (December 2005).

§527. Annual School Report

A. Each nonpublic school shall submit an annual school report to the appropriate division within the State Department of Education, according to the established time line.

B. By October 15, the principal shall forward a report through the nonpublic superintendent's or administrator's office, to the State Department of Education, on forms provided for that purpose. This report shall be authorized by the administrative head of the school. One copy shall be filed with the nonpublic school superintendent's or administrator's office and another copy shall be filed in the principal's office.

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 29:2346 (November 2003), amended LR 31:3077 (December 2005).

§529. Annual Financial and Statistical Report

A. Information required for the completion of the annual financial and statistical report shall be recorded on forms furnished by the State Department of Education.

B. A copy of this report shall be filed in the principal's office and a copy forwarded to the appropriate office in the State Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2346 (November 2003), amended LR 31:3077 (December 2005).

§531. Reports of High School Credits

A. Before a student may graduate from a nonpublic high school, a certificate of high school credits (transcript) shall be submitted to and approved by the State Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2346 (November 2003), amended LR 31:3077 (December 2005).

§533. Reporting Student Progress to Parents

A. Reports covering the students' achievement and progress shall be made to parents or guardians periodically. These reports shall contain an evaluation of the pupil's scholastic achievement and conduct.

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 29:2347 (November 2003), amended LR 31:3077 (December 2005).

§535. Other Reports

A. Any other records and reports applicable to nonpublic schools that may be required by the State Board of Elementary and Secondary Education (SBESE) or the State Department of Education shall be submitted.

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 29:2346 (November 2003), amended LR 31:3077 (December 2005).

Chapter 7. Scheduling

§701. General

A. The purpose of scheduling within available time frames and staff resources shall be to meet educational needs of students.

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 29:2346 (November 2003), amended LR 31:3077 (December 2005).

§703. Secondary Scheduling

A. The minimum length of periods for any high school class in which a Carnegie unit is earned shall be no less than 55 minutes of instructional time in a six-period day and no less than 50 minutes of time in a seven-period day.

B. The minimum length of any high school class in which one-half Carnegie unit of credit is earned shall be no less than one-half of the total minutes required for one full Carnegie unit of credit.

C. Any high school class scheduled for a 90 minute per period block of instructional time must meet for a minimum of one full semester, or the equivalent, in order to earn a Carnegie unit.

D. The schedule of subjects offered in the program of studies may be arranged by school principals in order to reduce or increase the number of class periods per week provided that the yearly aggregate time requirements are met.

E. Significant accommodations and/or modifications may be made for special education students in accordance with the Individualized Education Program (IEP), provided that the integrity of the Carnegie unit is not diminished.

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 29:2346 (November 2003), amended LR 31:3077 (December 2005).

§705. Length of the School Day

A. The minimum instructional day for a full-day kindergarten program shall be 330 minutes and for a one-half day kindergarten program, the minimum instructional day shall be 165 minutes.

B. For grades 1-12, the minimum school day shall include 330 minutes of instructional time exclusive of recess, lunch, and planning periods.

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 29:2347 (November 2003), amended LR 31:3077 (December 2005).

§707. Class Size and Ratio

A. The maximum enrollment allowed in any class or section shall not exceed 35 students except in certain activity classes such as physical education, music, art, etc.

B. The class size for pre-kindergarten developmental programs shall not exceed 20 children for one teacher. Schools that choose to use the assistance of a full-time aide may have a maximum of 30 children per class.

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 29:2347 (November 2003), amended LR 31:3078 (December 2005).

Chapter 9. Student Services

§901. Attendance

A. Students who have attained the age of seven years shall attend a public or private day school or participate in an approved home study program until they reach the age of 17 years; however, a student between the ages of 16 and 17 years of age may withdraw from school with the written consent of his parent, tutor, or legal guardian.

B.1. A student is considered to be in attendance when he or she:

a. is physically present at a school site or is participating in an authorized school activity; and

b. is under the supervision of authorized personnel.

2. This definition for attendance would extend to students who are homebound, assigned to and participating in drug rehabilitation programs that contain a state-approved education component, or participating in school-authorized field trips.

a. Half-Day Attendance. A student is considered to be in attendance for one-half day when he or she:

i. is physically present at a school site or is participating in an authorized school activity; and

ii. is under the supervision of authorized personnel for more than 25 percent but not more than half (26 percent-50 percent) of the student's instructional day.

b. Whole-Day Attendance. A student is considered to be in attendance for a whole day when he or she:

i. is physically present at a school site or is participating in an authorized school activity; and

ii. is under the supervision of authorized personnel for more than 50 percent (51 percent-100 percent) of the student's instructional day.

C. In order to be eligible to receive grades, high school students shall be in attendance a minimum of 80 days per course each semester or 160 days per course during a school year for schools not operating on a semester basis. Elementary students shall be in attendance a minimum of 160 days a school year.

1. Students attending high school classes operating in 90 minute blocks of instructional time shall be in attendance 80 days, or its equivalent, in order to be eligible to receive grades.

D. Each school shall develop and implement a system whereby a student's parent, tutor, or legal guardian is given notice when that student has been excessively absent from school and at intervals thereafter. This notification shall be provided each semester for those high schools operating on a semester basis.

E. Exception to the attendance policy can be made only in the event of extended personal illness, verified by a physician, or at the discretion of the principal.

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 29:2347 (November 2003), amended LR 31:3078 (December 2005).

§903. Entrance Requirements

A. All students, upon entering Louisiana schools for the first time, shall present:

1. an official birth certificate;
2. a record of immunization; and
3. an official Social Security Card.

B. If no official Social Security Card is available, the student shall be assigned an identification number by the school. Other official records may be used for verification upon the discretion of appropriate school officials.

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 29:2347 (November 2003), amended LR 31:3078 (December 2005).

§905. Age Requirements

A. The minimum age for kindergarten shall be one year younger than the age requirement for that child to enter first grade.

B. Each school system and/or independent school may adopt by rule and enforce ages for entrance into first grade in school. It is recommended that a child entering first grade be six years of age on or before September 30 of that school year.

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 29:2348 (November 2003), amended LR 31:3078 (December 2005).

Chapter 11. Health

§1101. Immunization

A. The school principal of each school shall be responsible for checking student records to ensure that immunization requirements are enforced. Refer to R.S. 17:170.

B. After parental notification that a student's immunization schedule is not up-to-date, the student shall be excluded from school until evidence has been presented that the required immunization program is in progress or unless Section E of R.S. 17:170 is invoked. Refer to R.S. 17:170

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 29:2348 (November 2003), amended LR 31:3078 (December 2005).

Chapter 13. Preventive Programs

§1301. Substance Abuse

A. Each school is encouraged to include in the curriculum a program of substance abuse prevention.

B. Each school shall develop a method by which to mark drug free zones, including the use of signs or other markings suitable to the situation. Signs or other markings shall be located in a visible manner on or near each school and on and in each school bus indicating that such area is a drug free zone, that such zone extends to one thousand feet of school property, and that a felony violation of the Uniform Controlled Dangerous Substances Law will subject the offender to severe penalties under law. Refer to R.S. 17:405.

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 29:2348 (November 2003), amended LR 31:3079 (December 2005).

§1303. Abuse

A. Any school employee having reasonable cause to believe that a student has been mentally, physically, or sexually abused shall report these facts to the appropriate authorities.

B. Any person making a report in good faith regarding child abuse shall have immunity from civil liability that may be otherwise incurred. Refer to R.S. 14:403.

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 29:2348 (November 2003), amended LR 31:3079 (December 2005).

§1305. Weapons

A. Carrying a firearm or dangerous weapon, as defined in R.S. 14:2(3), by a student or non-student on school property, at a school function, or in a firearm-free zone is unlawful and shall be defined as possession of any firearm or dangerous weapon, on one's person, at any time while on a school campus, on school transportation, or at any school-sponsored function in a specific designated area including, but not limited to, athletic competitions, dances, parties, or any extracurricular activities, or within one thousand feet of any school campus. Refer to R.S. 14:95.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:3079 (December 2005).

§1307. Search and Seizure

A. It is recommended that each school shall adopt a policy to provide for reasonable search and seizure by school teachers, by principals, and by other school administrators, of students' desks, lockers, or other school areas for illegal drugs, weapons, alcohol, stolen goods, or other material or objects.

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 29:2348 (November 2003), amended LR 31:3079 (December 2005).

Chapter 15. Building Operation and Maintenance

§1501. Building and Maintenance

A. The school site and building shall include appropriate physical facilities and custodial services to meet the needs of the education program and to safeguard the health and safety of the pupils in each school.

B. Each school system/independent school must be in compliance with any state or local regulations regarding health and safety.

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 29:2348 (November 2003), amended LR 31:3079 (December 2005).

Chapter 17. Instructional Support

§1701. School Libraries/Media Centers

A. It is recommended that all school libraries and media centers provide students access to information through monitored electronic formats.

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 29:2348 (November 2003), amended LR 31:3079 (December 2005).

§1703. Elementary Libraries/Media Centers

A. It is recommended that elementary schools with a centralized library/media center have a trained librarian/media specialist for at least 20 hours per week. This person does not have to be a certified librarian, but should have at least a bachelor's degree from an accredited institution.

B. It is recommended that elementary schools have library books at the ratio of 10 volumes per pupil. Three subscriptions per 100 students are recommended for elementary schools.

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 29:2348 (November 2003), amended LR 31:3079 (December 2005).

§1705. Secondary Libraries/Media Centers

A. Secondary schools with more than 350 students are required to have a full-time librarian with at least 18 hours of library science or certification in library science. Secondary schools with fewer than 350 students are required to have a part-time librarian with at least 12 hours of library science or certification in library science.

B. Secondary schools are recommended to have library books at the ratio of 10 volumes per pupil. Three subscriptions per 100 students are recommended for secondary schools.

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 29:2349 (November 2003), amended LR 31:3079 (December 2005).

Chapter 19. Support Services

§1901. Transportation

A. If transportation is not provided by the public school board, parents of students attending nonpublic schools shall

be reimbursed for transportation, provided funds are appropriated. Refer to R.S. 17: 158.C, D, H.

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 29:2349 (November 2003), amended LR 31:3079 (December 2005).

§1903. School Food Service

A. Any recognized school of high school grade or under shall be eligible to participate in the school food service programs administered by the State Department of Education, provided that requirements set forth in the agreements with the local educational governing authority are met.

B. Reimbursement payments shall be made only to schools operating under an agreement between the school's governing body, called "school food authority" in the agreement and the State Department of Education (SDE). Agreements shall be signed by the designated representative of each school's governing body. Agreements shall be renewed by a signed statement annually unless an amendment is necessary. These agreements may be terminated by either party or may be canceled at any time by the State Department of Education upon evidence that terms of agreements have not been fully met.

C. Participating schools shall adhere to conditions of agreement as stipulated in Louisiana Food and Nutrition Programs, Policies of Operation, Bulletin 1196, and all other applicable State and Federal laws regulations, policies, and requirements established for the school food service program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2349 (November 2003), amended LR 31:3080 (December 2005).

Chapter 21. Curriculum and Instruction

Subchapter A. General

§2101. Curriculum

A. The school shall plan and implement a continuous program of skills, concepts, and instruction in a learning environment designed to promote excellence in order that every individual may be afforded an equal opportunity to develop to his/her potential.

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 29:2349 (November 2003), amended LR 31:3080 (December 2005).

Subchapter B. Elementary Program of Studies

§2103. Minimum Time Requirements

A. Pre-Kindergarten/Kindergarten

1. The pre-kindergarten and/or kindergarten should be planned to meet the developmental needs of young children and should be informal in nature, with teacher-directed and student-initiated activities.

2.a. Suggested time requirements for pre-kindergarten are as follows.

Teacher-directed activities (whole or small group)	35 percent
Student-initiated activities (learning center)	35 percent
Snack and restroom time	10 percent
Lunch, rest period and/or quiet activities	20 percent

b. The above suggested time requirements shall be flexibly scheduled to meet the developmental needs of young students.

3.a. Suggested time requirements for kindergarten are as follows.

Teacher-directed activities (whole or small group)	40 percent
Student-initiated activities (learning center)	35 percent
Snack and restroom time	10 percent
Lunch, rest period and/or quiet activities	15 percent

b. The above minimum suggested time requirements shall be flexibly scheduled to meet the developmental needs of young students.

B. Elementary Schools

1. Nonpublic elementary schools shall devote no less than 50 percent of the school day to the skill subjects: reading, language arts, and mathematics. The remainder of the school day may be devoted to such subjects as social studies, arts, religion, science, physical education, or other electives.

2. The following elementary program of studies will be followed for nonpublic elementary schools.

Program of Studies for Nonpublic Elementary Schools Self-Contained Classrooms	
Subject	Percent of School Day
Reading	50% (minimum)
Language Arts	
Mathematics	
Social Studies	50% (maximum)
Fine Arts	
Science	
Physical Education/Health	
Religion and/or Electives	

3. An articulated elementary foreign language program is recommended for academically able students and optional for all others.

4. The above minimum time requirements shall apply to all students performing at or above grade levels in language arts and mathematics. Subject to review and approval of the principal, teachers may vary the daily schedule for the various subject time requirements as long as the weekly aggregate of time for each subjects is in accordance with the above.

5. For students performing below grade level in language arts or mathematics, teachers may increase the

daily/weekly time in language arts or mathematics by reducing instructional time in other subjects.

Departmental Classes 6-Period Day Option		
	Periods per Week	Minimum
Language Arts	5	55
Mathematics and Introduction to Algebra	5	55
Social Studies (LA Studies & Am. History)	5	55
Science	5	55
Health and Physical Education, Religion and/or Electives	10	10
330 minutes per day		

Departmental Classes 7-Period Day Option		
	Periods per Week	Minimum
Language Arts	5	50
Mathematics and Introduction to Algebra	5	50
Social Studies (LA Studies & Am. History)	5	50
Science	5	50
Health and Physical Education, Religion and/or Electives	15	130
330 minutes per day		

6. Grades 7 and 8 (including grade 6 when grouped with grades 7 and 8) may offer electives from the following:

- a. Reading;
- b. Mathematics;
- c. Writing;
- d. Social Studies;
- e. Exploratory Agriscience;
- f. Exploratory Technology Education Science:
 - i. Construction;
 - ii. Manufacturing;
 - iii. Communication;
 - iv. Transportation;
 - v. Production;
- g. Exploratory Family and Consumer Sciences;
- h. Art;
- i. Foreign Languages;
- j. Instrumental or Vocal Music;
- k. Keyboarding/Typing;
- l. Speech;
- m. Computer Literacy/Computer Science.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2349 (November 2003), amended LR 31:3080 (December 2005).

§2105. Adding Electives to the Program of Studies for Middle Schools

A. A school choosing to add an elective course to its program of studies shall apply to the director of the Division of Student Standards and Assessments, State Department of Education (SDE), at least 30 days prior to the anticipated date of implementation.

B. The application for an elective course shall be signed by the school principal and superintendent, if applicable, and shall contain the following information:

1. detailed outline of course content;
2. time requirements (minutes per day; days per year or semester);
3. detailed course objectives and how they shall be measured;
4. qualifications of the instructor;
5. when the course is to begin;
6. approximate number of students;
7. criteria for enrollment.

C. If the course is to be offered for the succeeding school year, an end-of-the-year evaluation shall be sent, along with the second and third year applications, to the Division of Student Standards and Assessments, for determining its continuation.

D. After an elective course has been in effect for three successive school years and the school wants the course to be a permanent part of its curriculum, the school principal and/or superintendent, if applicable, shall apply by letter to the Director of the Division of Student Standards and Assessments, Department of Education for permission to include it.

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 29:2350 (November 2003), amended LR 31:3081 (December 2005).

Subchapter C. Secondary Schools

§2107. Unit of Credit

A. The basic unit of high school credit shall be the Carnegie unit. One unit of credit shall be equivalent to one Carnegie unit.

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 29:2350 (November 2003), amended LR 31:3081 (December 2005).

§2109. High School Graduation Requirements

A. A student shall complete a minimum of 23 Carnegie units of credit in an individual program which shall be cooperatively planned by the student, the student's parents, and the school to meet high school graduation requirements.

B. The 23 units required for graduation shall include 15 required units and 8 elective units.

C. Minimum Requirements (Effective for Incoming Freshmen 1999-2000 and Thereafter).

1. English—4 units, shall be English I, II, and III, in consecutive order; and English IV or Business English.

2. Mathematics—3 units

a. Effective for incoming freshmen 2005-2006 and beyond, all students must:

- i. complete one of the following:
 - (a.) Algebra I (1 unit); or
 - (b.) Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units);

or

(c.) Integrated Mathematics I (1 unit);

ii. the remaining unit(s) shall come from the following:

- (a.) Integrated Mathematics II;
- (b.) Integrated Mathematics III;
- (c.) Geometry;
- (d.) Algebra II;

- (e). Financial Mathematics;
- (f). Advanced Mathematics I;
- (g). Advanced Mathematics II;
- (h). Pre-Calculus;
- (i). Calculus;
- (j). Probability and Statistics;
- (k). Discrete Mathematics.

b. For incoming freshmen between 1998 and 2004-2005, the three required mathematics units shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

3. Science—3 units, shall be the following:

a. 1 unit of Biology

b. 1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I

c. 1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, an additional course from the physical science cluster, or a locally initiated science elective.

d. Students may not take both Integrated Science and Physical Science

e. Agriscience I is a prerequisite for Agriscience II and is an elective course.

4. Social Studies—3 units, shall be American History; one-half unit of Civics, one-half unit of Free Enterprise or one full unit of Civics or AP American Government; and one of the following: World History, World Geography, Western Civilization, or AP European History.

5. Health and Physical Education—2 units, shall be Health and Physical Education I and Health and Physical Education II, or Adapted Physical Education for eligible special education students.

NOTE: The substitution of JROTC is permissible. A maximum of four units may be used toward graduation.

6. Electives (Including a maximum of four credits in religion)—8 units.

7. Total—23 units.

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 29:2351 (November 2003), amended LR 30:2776 (December 2004), LR 31:3081 (December 2005).

§2111. Graduation Exit Examination

A. Any approved nonpublic school may award a school diploma to any student who meets the state minimum high school graduation requirements.

B.1. Any approved nonpublic school that participates in the state Graduation Exit Examination (GEE 21) shall award a state and/or school diploma to a student who successfully completes the state's minimum graduation requirements and successfully pass English/Language Arts and Mathematics

and either Science or Social Studies components of the examination.

2. A student who attends a school that opts to administer the test but who does not successfully complete the state's minimum graduation requirements and required components of the examination shall not be eligible for either a state or a school diploma.

C.1. Any state-approved nonpublic school that wishes to award the state diploma to its students shall contact the state department for time lines and other administrative guidelines for administering the State Exit Testing Program.

2. Any nonpublic school that opts to give the graduation exit examination shall follow rules and regulations set by the State Board of Elementary and Secondary Education.

D. Any approved nonpublic school that does not choose to administer the state graduation exit examination to its students may grant a school diploma, which shall carry the same privileges as one issued by a state-approved public school.

E. The awarding of high school diplomas shall in no way effect the school approval classifications of any school (see Addendum for The State Test Security Policy).

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 29:2351 (November 2003), amended LR 31:636 (March 2005), LR 31:3082 (December 2005).

§2113. State Diplomas

A. A nonpublic high school choosing to issue a state diploma shall meet state requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2352 (November 2003), amended LR 31:3082 (December 2005).

§2115. Special Requirements

A. Each school shall follow established procedures for special requirements for high school graduation that will allow each school to address individual differences of all students.

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 29:2352 (November 2003), amended LR 31:3082 (December 2005).

§2117. High School Credit for Elementary Students

A.1. An elementary student shall be eligible to receive high school credit in a course listed in the programs of study in mathematics, science, English, social studies, or foreign language; or keyboarding/keyboarding applications, or computer/technology literacy provided that:

a. the time requirement for the awarding of a Carnegie unit is met;

b. the student has mastered the set standards of the course taken; and

c. the teacher is qualified at the secondary level in the course taught; or the student has passed the credit examination in the subject taken, mastering the set standards for the course.

i. The credit examination shall be submitted each year for approval to the Division of Student Standards and Assessments or the Division of Family, Career and Technical Education of the DOE.

ii. School principals may request the state Algebra I credit examination by notifying the Division of Student Standards and Assessments.

2. The school may grant credit on either a letter grade or a pass or fail (P/F) basis. The course title, year taken, P/F (pass or fail) or the letter grade and unit of credit shall be entered on the Certificate of High School Credits (transcript). High School Credit (H.S.C.) must be indicated in the remarks column.

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 29:2352 (November 2003), amended LR 31:3082 (December 2005).

§2119. Proficiency Examination for High School Students

A. High school credit shall be granted to a student following the student's passing of a proficiency examination for the eligible course. Refer to §513 for students transferring from an approved Home Study Program.

1. A proficiency examination shall be made available to a student when a school official believes that a student has mastered eligible subject matter and has reached the same or a higher degree of proficiency as that of a student who successfully completed an equivalent course at the regular high school or college level.

2. The testing instrument and the passing score shall be submitted for approval to the State Department of Education. The course title, year taken, P/F (pass or fail) and unit of credit earned shall be entered on the certificate of high school credits (transcript). Minimum proficiency standards (M.P.S.) must be indicated in the remarks column.

B. Students shall not be allowed to take proficiency examinations in courses previously completed in high school or at a level below that which they have completed.

1. Proficiency examinations may be given in the following subjects: Computer Literacy, Computer Science I-II, English I-IV, Advanced Mathematics I-II, Algebra I-II, Calculus, Geometry, and Keyboarding/Keyboarding Applications.

2. Additionally, credit may be given in all courses listed in the Programs of Study in foreign languages, science and social studies. Exceptions may be made by the Division of Student Standards and Assessment, State Department of Education, upon request of the local superintendent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2352 (November 2003), amended LR 31:3083 (December 2005).

§2121. Advanced Placement Program

A. High school credit shall be granted to a student successfully completing an advanced placement course or a course designated as advanced placement regardless of his test score on the examination provided by the College Board.

B. Procedures and curriculum established by the College Board must be followed.

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 29:2353 (November 2003), amended LR 31:3083 (December 2005).

§2123. Service Credit

A. Two units of elective credit toward high school graduation shall be awarded to any member of the United States Armed Forces, their reserve components, the National Guard, or to any honorably discharged veteran who has completed his/her basic training, upon presentation of a military record attesting to such completion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (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 29:2353 (November 2003), amended LR 31:3083 (December 2005).

§2125. Adding Electives Course to the Program of Studies

A. A school choosing to add an elective course to its program of studies shall apply to the Director of the Division of Student Standards and Assessment, State Department of Education (SDE) through the local superintendent, (if applicable) at least 30 days prior to the anticipated date of implementation.

B. The application for an elective course shall be signed by the school principal and superintendent (if applicable) and shall contain the following:

1. detailed outline of course content;
2. units of credit to be granted;
3. detailed course objectives and how they shall be measured;
4. qualifications of the instructor;
5. when the course is to begin;
6. approximate number of students;
7. criteria for enrollment.

C. If the course is to be offered for the succeeding school year, an end-of-the-year evaluation shall be sent with the second and third year application to the Division of Student Standards and Assessments for determining its continuation.

D. After an elective course has been in effect for three successive school years and if the school/system wants the course to be a permanent part of its curriculum, the school principal through the local superintendent (if applicable) shall apply by letter to the Director of the Division of Student Standards and Assessment for permission to include it.

E. Approved elective courses shall not be used as required courses for meeting graduation requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2360 (November 2003), amended LR 31:3083 (December 2005).

§2127. Approval of Experimental Programs

A. Experimental programs are programs which deviate from established standards. Such programs shall be

approved by the State Department of Education and carried out under controlled conditions.

B. Approval of experimental programs shall be granted on a yearly basis not to exceed three years, after which time permanent approval shall be considered using the following procedures.

1. A letter of intent containing the following information shall be submitted to the Division of Student Standards and Assessments, State Department of Education, at least 90 days prior to the anticipated date of implementation:

- a. proposed title of program;
- b. name and address of school;
- c. name and address of local school system;
- d. name and signature of principal/superintendent;
- e. name, title, address, and telephone number of the person submitting proposal;
- f. units of credit to be granted;
- g. source of funding.

2. A brief narrative report stating the intent of the program and how the program will be conducted and evaluated, and the following:

- a. a statement documenting support for the intended program;
- b. a statement outlining the exact guideline deviations necessary to implement the program;
- c. a statement outlining specific time lines for the planning implementing phases of the program, including intended procedures;
- d. a statement of the evaluation procedures to be used in determining the program's effectiveness (these procedures should spell out specific objectives to be accomplished);
- e. a statement indicating approximate number of students to be involved in the project;
- f. a statement of qualifications or certification of instructional personnel; and
- g. a statement stipulating that applicable local, state, and federal regulations will be followed.

C. An evaluation by the local governing authority shall be submitted annually at the close of the school year to the Division of Student Standards and Assessments until permanent status is granted.

D. Southern Association of Colleges and Schools member schools should comply with appropriate Southern Association Standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2360 (November 2003), amended LR 31:3083 (December 2005).

§2129. Correspondence Study Courses

A. Credit toward high school graduation should be earned through correspondence work from the General Extension Division of Louisiana State University.

B. An application to the General Extension Division for correspondence study courses shall be approved by the local superintendent, (if applicable) and the high school principal.

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 29:2361 (November 2003), amended LR 31:3084 (December 2005).

§2131. High School Credit for College Credit Courses (Applies to Student Attending College Part Time)

A. The principal of the school shall approve the advanced offering to be taken by the student in college.

B. The student shall meet the entrance requirements established by the college.

C. The student shall earn at least two or three college hours of credit per semester. A course consisting of at least two college hours shall be counted as no more than one unit of credit toward high school graduation.

D. The high school administrator shall establish a procedure with the college to receive reports of the student's class attendance and performance at six or nine-week intervals.

E. College courses shall be counted as high school subjects for students to meet eligibility requirements to participate in extracurricular activities governed by voluntary state organizations.

F. Students may participate in college courses and special programs during regular or summer sessions. High school credit for summer courses is subject to §2929.A-E.

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 29:2361 (November 2003), amended LR 31:3084 (December 2005).

§2133. High School Credit for College Courses for Evaluated Gifted Students

A. Secondary students shall be in attendance in at least one high school class while enrolled in college classes.

B. An elementary or secondary student shall have at least a 3.0 cumulative average on a 4.0 scale for all subjects taken during the previous two years.

C. Entry into a college course of credit shall be stated in the student's Individualized Education Program (IEP).

D. The student shall earn at least two or three college hours of credit per semester. A course, consisting of at least two hours, shall be counted as no more than one unit of credit toward high school graduation.

E. The school administrator shall establish a procedure with the college to receive reports of the student's class attendance and performance at six- or nine-week intervals.

F. College courses shall be counted as high school subjects for students to meet eligibility requirements to participate in extracurricular activities governed by voluntary state organizations.

G. After 12 Carnegie units have been earned, students shall follow §2929.A-E.

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 29:2361 (November 2003), amended LR 31:3084 (December 2005).

§2135. Early College Admissions Policy (Applies Only to High School Students Attending College Full Time)

A. High school students of high ability may be admitted to a college on a full-time basis.

B. A student shall have maintained a "B" or better average on all work pursued during the preceding three years (six semesters) of high school.

C. The student shall have earned a minimum composite score of 25 on the ACT or a SAT score of 1050; this score must be submitted to the college.

D. A student shall be recommended by his high school principal.

E. Upon earning a minimum of 24 semester hours at the college level, the student shall be eligible to receive a high school diploma.

F. The high school principal shall submit to the State Department of Education the following:

1. forms provided by the State Department of Education and completed by the college registrar, certifying that the student has earned 24 semester hours of college credit; and

2. a certificate of high school credits in duplicate.

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 29:2361 (November 2003), amended LR 31:3085 (December 2005).

Chapter 23. High School Program of Studies

§2301. General

A. The high school shall provide a comprehensive college preparatory and/or vocational curriculum.

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 29:2353 (November 2003), amended LR 31:3085 (December 2005).

§2303. General and Academic Course Offerings

A. One-half unit of credit may be awarded by the local school authority for all one-unit courses listed in the academic and vocational course offerings.

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 29:2353 (November 2003), amended LR 31:3085 (December 2005).

§2305. Art

A. Art course offerings shall be as follows.

Course Title	Unit(s)
Art I, II, III, IV	1 each

B. Fine Arts Survey (Art). Fine arts survey shall be taught by a qualified art teacher and the other semester by a qualified music teacher. If one or both of these teachers is not available, the principal is authorized to select the most qualified teacher, preferably one with a strong liberal arts or humanities background.

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 29:2353 (November 2003), amended LR 31:3085 (December 2005).

§2307. Computer Education

A. Computer education/technology course offerings shall be as follows.

Course Title	Unit(s)
Computer Applications	1
Computer Architecture Occupations	1
Computer Science I	1
Computer Science II	1
Computer Systems and Networking	1
Computer Systems and Networking I	1
Computer/Technology Literacy	1/2
Desktop Publishing	1/2
Digital Graphics and Animation	1/2
Multimedia Productions	1
Web Mastering	1/2
Independent Study in Technology Application	1

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 29:2353 (November 2003), amended LR 31:3085 (December 2005).

§2309. Dance

A. Dance course offerings shall be as follows.

Course Title	Unit(s)
Dance I	1
Advanced Dance	1

B. Advanced Dance is a performance class with new literature each year; it may be repeated more than once.

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 31:3085 (December 2005).

§2311. Driver Education

A. Driver Education course offerings shall be as follows.

Course Title	Unit(s)
Driver Education and Traffic Safety	1/2

§2313. English

A. Four units of English shall be required for graduation. They shall be English I, II, and III in consecutive order; and English IV or Business English. The English course offerings shall be as follows.

Course Title	Unit(s)
English I, II, III, IV	1 each
Business English	1
Reading I, II	1 each
English as Second Language (ESL) I, II, III	1 each

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 29:2353 (November 2003), amended LR 31:3085 (December 2005).

§2315. English as a Second Language (ESL)

A. Only students who have limited English proficiency are permitted to enroll in English as a Second Language (ESL) courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003), amended LR 31:3086 (December 2005).

§2317. Foreign Languages

A. The foreign language course offerings shall be as follows.

Course Title	Unit(s)
Chinese I, II, III, IV	1 each
French I, II, III, IV, V	1 each
German I, II, III, IV, V	1 each
Greek I, II, III, IV	1 each
Hebrew I, II, III, IV	1 each
Italian I, II, III, IV, V	1 each
Latin I, II, III, IV, V	1 each
Russian I, II, III, IV, V	1 each
Spanish I, II, III, IV, V	1 each

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 29:2354 (November 2003), amended LR 31:3086 (December 2005).

§2319. Health and Physical Education

A. Two units of Health and Physical Education shall be required for graduation. They shall be Health and Physical Education I and Health and Physical Education II, or Adapted Physical Education for eligible special education students. The Health and Physical Education course offerings shall be as follows.

Course Title	Unit(s)
Adapted Physical	1 each
Health and Physical Education I-IV	1 each

1. It is recommended that Physical Education I and II be taught in the ninth and tenth grades.

2. A minimum of 30 hours of Health Instruction shall be taught in each of the two required Health and Physical Education units.

3. Cardiopulmonary Resuscitation (CPR) is required.

B. No more than four units of Health and Physical Education shall be allowed for meeting high school graduation requirements.

C. In schools having approved Junior Reserve Officer Training Corps (R.O.T.C.) training, credits may, at the option of the local school board, be substituted for the required credits in Health and Physical Education, including required hours in health instruction.

D. Extra- or co-curricular experiences such as intramural, athletics, band, majorettes, drill team, dance team, cheerleaders, or any other kind of extra activities cannot be counted for credit toward the required Health and Physical Education units.

E. Students shall be exempted from the requirements in Health and Physical Education for medical reasons only;

however, the minimum number of credits required for graduation shall remain 23.

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 29:2354 (November 2003), amended LR 31:3086 (December 2005).

§2321. Journalism

A. Journalism course offerings shall be as follows.

Course Title	Unit(s)
Journalism I, II	1 each
Publications I, II (Yearbook)	1 each
Publications I, II (Newspaper)	1 each

1. Teachers must be qualified in journalism to teach journalism.

2. Teachers qualified in the areas of journalism, English, and/or business education are qualified to teach Publications I and II (Yearbook).

3. Teachers qualified in the areas of journalism, and/or English are qualified to teach Publications I and II (Newspaper).

4. Publications I is a prerequisite to Publications II.

5. A maximum of two Carnegie units within the 23 required for graduation may be earned from the six courses listed under journalism.

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 29:2354 (November 2003), amended LR 31:3086 (December 2005).

§2323. Mathematics

A. Three units of mathematics are required for graduation. Effective for incoming freshmen 2005-2006 and beyond, all students must:

1. complete one of the following:

- a. Algebra I (1 unit); or
- b. Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units); or
- c. Integrated Mathematics I (1 unit).

2. The remaining unit(s) shall come from the following:

- a. Integrated Mathematics II;
- b. Integrated Mathematics III;
- c. Geometry;
- d. Algebra II;
- e. Financial Mathematics;
- f. Advanced Mathematics I;
- g. Advanced Mathematics II;
- h. Pre-Calculus;
- i. Calculus;
- j. Probability and Statistics;
- k. Discrete Mathematics.

B. For incoming freshmen between 1998 and 2004-2005, the three required mathematics units shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics 1 (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced

Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

Course Title	Unit(s)
Advanced Mathematics I	1
Advanced Mathematics II	1
Algebra I	1
Algebra I-Part I	1
Algebra I-Part II	1
Algebra II	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics	1
Geometry	1
Integrated Mathematics I	1
Integrated Mathematics II	1
Integrated Mathematics III	1
Pre-Calculus	1
Probability and Statistics	1

C. Financial Mathematics may be taught by the Business Education Department.

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 29:2354 (November 2003), amended LR 30:2776 (December 2004), LR 31:3086 (December 2005).

§2325. Music

A. Music course offerings shall be as follows.

Course Title	Unit(s)
Beginning Band	1
Beginning Choir	1
Beginning Orchestra	1
Composition	1
Conducting	1
General Music	1
Guitar Class	1
Intermediate Band	1
Intermediate Choir	1
Intermediate Orchestra	1
Instrument Technique Class	1
Jazz Ensemble	1
Jazz Improvisation	1
Music Appreciation	1
Music History	1
Music Theory I, II	1 each
Piano class	1
Sectional Rehearsal	1
Studio Piano, I, II, III	1 each
Advanced Band	1
Advanced Choir	1
Advanced Orchestra	1
Applied Music	1
Small Vocal Ensemble	1
Wind Ensemble	1

B. Advanced Choir, Advanced Band, Advanced Orchestra, Small Vocal Ensemble, Wind Ensemble, Applied Music, Jazz Ensemble, and Studio Piano III are performance classes with new literature each year; they may be repeated more than once.

C. Refer to §2741 for credit for private piano and studio strings instruction.

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 29:2355 (November 2003), amended LR 31:3087 (December 2005).

§2327. Reserve Officer Training

A. Reserve Officer Training course offerings shall be as follows.

Course Title	Unit(s)
JROTC I, II, III, IV	1 each

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 29:2355 (November 2003), amended LR 31:3087 (December 2005).

§2329. Science

A. Effective for incoming freshmen 2002-2003 and thereafter, the science graduation requirements shall be as follows:

1. 1 unit of Biology
2. 1 unit from the following physical science cluster:
 - a. Physical Science
 - b. Integrated Science
 - c. Chemistry I
 - d. Physics I
 - e. Physics of Technology I
3. 1 unit from the following courses:
 - a. Aerospace Science
 - b. Biology II
 - c. Chemistry II
 - d. Earth Science
 - e. Environmental Science
 - f. Physics II
 - g. Physics of Technology II
 - h. Agriscience II (See paragraph (C) below.)
 - i. an additional course from the physical science cluster, or
 - j. a locally initiated science elective.

B. Students may not take both Integrated Science and Physical Science.

C. Agriscience I is a prerequisite for Agriscience II and is an elective course.

D. The Science course offerings shall be as follows:

Course Title	Unit(s)
Aerospace Science	1
Agriscience II	1
Biology I, II	1 each
Chemistry I, II	1 each
Earth Science	1
Environmental Science	1
Integrated Science	1
Physical Science	1
Physics I, II	1 each
Physics for Technology I, II	1 each

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 29:2355 (November 2003), amended LR 31:3087 (December 2005).

§2331. Social Studies

A. Three units of Social Studies shall be required for graduation. They shall be (a) American History; (b) Civics, AP American Government, or 1/2 unit of Civics and 1/2 unit of Free Enterprise; and (c) one of the following: World History, World Geography, Western Civilization, or AP European History. Social Studies course offerings shall be as follows.

Course Title	Unit(s)
American Government	1
American History	1
Civics	1 (or 1/2)
Economics	1
Free Enterprise System	1/2
Law Studies	1
Psychology	1
Sociology	1
Western Civilization	1
World Geography	1
World History	1
AP European History	1

B. Economics may be taught by a teacher qualified in Business Education.

C. Free Enterprise shall be taught by teachers qualified in Social Studies, Business Education, or Distributive Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2356 (November 2003), amended LR 31:3088 (December 2005).

§2333. Speech

A. Speech course offerings shall be as follows.

Course Title	Unit(s)
Speech I (Fundamentals)	1
Speech II	1
Speech III	1
Speech IV	1

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 29:2356 (November 2003), LR 31:3088 (December 2005).

§2335. Course Credit for Religion

A. A maximum of four units in religion shall be granted to students transferring from state-approved private and sectarian high schools who have completed such course work. Those credits shall be accepted in meeting the requirements for high school graduation.

Course Title	Units
Religion I	1
Religion II	1
Religion III	1
Religion IV	1

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 29:2356 (November 2003), amended LR 31:3088 (December 2005).

§2337. Theatre Arts

The theatre arts course offerings shall be as follows.

Course Title	Unit(s)
Theatre I	1
Advanced Theatre	1

B. Advanced Theatre is a performance class with new literature each year; it may be repeated more than once.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2356 (November 2003), amended LR 31:3088 (December 2005).

§2339. Course Credit for Private Piano and Studio

Strings Lessons

A. Approval by the State Department of Education shall be granted before private piano and studio strings instruction can be given for credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2356 (November 2003), amended LR 31:3088 (December 2005).

Chapter 25. Career/Technical Education Course Offerings

§2501. Agricultural Education

A. The Agricultural Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
Exploratory Agriscience	7-8	1
Agribusiness	11-12	1
Agricultural Education Elective, I, II	9-12	1
Agriscience I	9-12	1
Agriscience II	10-12	1
Agriscience III	11-12	1/2
Agriscience IV	12	1/2
Agriscience III Laboratory	11-12	
Agriscience IV Laboratory	12	1/2
Agriscience-Construction	11-12	1/2
Agriscience Elective	9-12	1/2
Agriscience-Entrepreneurship	11-12	1/2
Agriscience Internship I	11-12	1/2
Agriscience Internship II	11-12	1/2
Agriscience-Leadership Development	11-12	1/2
Agriscience-Welding Systems I	11-12	1/2
Agriscience-Welding Systems II	11-12	1/2
Animal Systems	11-12	1/2
Aquaculture	11-12	1/2
Biotechnology	11-12	1
Care and Management of Small Animals I	11-12	1/2
Care and Management of Small Animals II	11-12	1/2
Cooperative Agriscience Education I	11-12	3
Cooperative Agriscience Education II	12	3
Crop Systems	11-12	1/2
Environmental Applications	11-12	1/2
Equine Science	11-12	1/2

Food and Fiber	11-12	1/2
Forestry	11-12	1/2
Horticulture I	11-12	1/2
Horticulture II	11-12	1/2
Precision Agriculture	11-12	1
Small Engines (Applications)	11-12	1/2
Industry-Based Certifications		
ABC Welding in Agriscience	11-12	1-3
ABC Carpentry in Agriscience	11-12	1-3
ABC Electricity in Agriscience	11-12	1-3
ABC Pipefitting in Agriscience	11-12	1-3

B. Agriscience III and IV Laboratory, Agriscience Internship I and II, and Cooperative Agriscience Education I and II are offered only to students who are also enrolled in Agriscience III or Agriscience IV for two consecutive semester courses during the year.

C. Semester courses are designed to be offered in the place of, or in addition to, Agriscience III and/or IV

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (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 29:2356 (November 2003), amended LR 31:3088 (December 2005).

§2503. Business Education

A. Business Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
Exploratory Keyboarding (Middle School)	6-8	-
Accounting I	10-12	1
Accounting II	11-12	1
Administrative Support Occupations	11-12	1
Business Communications	10-12	1
Business Computer Applications	10-12	1
Business Education Elective I, II	9-12	1/2-3
Business English	11-12	1
Business Internship I	11-12	2
Business Internship II	12	2
Business Law	11-12	1/2
Computer Technology Literacy	9-12	1
Computer Multimedia Presentations	11-12	1/2
Cooperative Education (COE)	12	3
Desktop Publishing	11-12	1
Economics	11-12	1
Entrepreneurship	11-12	1
Financial Mathematics	10-12	1
Introduction to Business Computer Applications	9-12	1
Keyboarding	9-12	1/2
Keyboarding Applications	9-12	1/2
Lodging Management I	10-12	1-3
Lodging Management II	11-12	1-3
Principles of Business	9-12	1
Telecommunications	10-12	1/2
Web Design	10-12	1/2
Word processing	11-12	1 or 1/2

B. Cooperative Office Education shall be limited to seniors. The students shall have successfully completed Keyboarding/Keyboarding Applications or Introduction to Business Computer Applications and one of the following:

ASO or Word Processing or BCA, and have maintained an overall "C" average. The students' attendance records should also be considered. Other prerequisites may be required by the individual school system.

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 29:2357 (November 2003), amended LR 31:3089 (December 2005).

§2505. General Cooperative Education

A. General Cooperative Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
CTE Internship I	11-12	2
CTE Internship II	12	2
General Cooperative Education I	11-12	3
General Cooperative Education II	12	3
Education for Careers	9-12	1/2-1
STAR I	11-12	1
STAR II	12	1
Advanced Television Broadcasting I	10-12	1-3
Advanced Television Broadcasting II	11-12	1-3
Digital Media I	10-12	1-3
Digital Media II	11-12	1-3
Oracle Internet Academy		
Data Modeling & Relational Database Design	11-12	1/2
Introduction to SQL	11-12	1/2
Introduction to Java	11-12	1/2
Java Programming	11-12	1/2
Finance Academy		
Economics and the World of Finance	11-12	1/2
Banking and Credit	11-12	1/2
Financial Planning	11-12	1/2
Securities	11-12	1/2
Insurance	11-12	1/2
International Finance	11-12	1/2
Introduction to Financial Services	11-12	1/2- 1
Hospitality and Tourism Academy		
Introduction to Travel and Tourism	11-12	1/2
Travel and Tourism II	11-12	1/2
Travel Destinations I, II	11-12	1/2
Systems Applications	11-12	1/2
Economics for Travel and Tourism	11-12	1/2
Information Technology Academy		
Introduction to Information Technology	11-12	1/2
Digital Networks	11-12	1/2
Advanced Web Tools	11-12	1/2
Databases	11-12	1/2

B. General Cooperative education courses shall be limited to students who meet the specific prerequisites and requirements of one of the specialized cooperative education programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (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 29:2357 (November 2003), amended LR 31:3089 (December 2005).

§2507. Health Occupations

A. Health Occupations course offerings shall be as follows.

Course Title	Grade Level	Unit(s)
AHEC of a Summer Career Exploration	9-12	1/2
Allied Health Services I	10-12	1-2
Allied Health Services II	10-12	1-2
Cooperative Health Occupations	11-12	3
Dental Assistant I	10-12	1-2
Dental Assistant II	11-12	2-3
Emergency Medical Technician—Basic	10-12	2
First Responder	9-12	1/2-2
Health Occupations Elective I, II	9-12	1/2-3
Health Occupations Internship I	11-12	2
Health Occupations Internship II	12	2
Health Science I	11-12	1-2
Health Science II	12	1-2
Introduction to Emergency Medical Technology	10-12	2
Introduction to Health Occupations †	9-12	1
Introduction to Pharmacy Assistant	10-12	1-2
Medical Assistant I	10-12	1-2
Medical Assistant II	11-12	1-2
Medical Assistant III	12	1-2
Medical Terminology	9-12	1
Nursing Assistant I	10-12	1-3
Nursing Assistant II	11-12	1-3
Pharmacy Technician	12	1-2
Sports Medicine I	10-12	1-2
Sports Medicine II	11-12	1-2

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2357 (November 2003), amended LR 31:3089 (December 2005).

§2509. Family and Consumer Sciences Education

A. Family and Consumer Sciences Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
Exploratory FACS	7-8	-
Family and Consumer Sciences I	9-12	1
Family and Consumer Sciences II	10-12	1
Food Science	10-12	1
Adult Responsibilities	11-12	1/2
Child Development	10-12	1/2
Personal and Family Finance	10-12	1/2
Family Life Education	10-12	1/2
Clothing and Textiles	10-12	1/2
Housing and Interior Design	10-12	1/2
Family Life Education	10-12	1/2
Clothing and Textiles	10-12	1/2
Housing and Interior Design	10-12	½
Nutrition and Food	10-12	1/2
Parenthood Education	11-12	1/2
Advanced Child Development*	10-12	1/2
Advanced Clothing and Textiles*	10-12	1/2
Advanced Nutrition and Food*	10-12	1/2
FACS Elective I, II	9-12	½-3
*The related beginning semester course is prerequisite to the advanced semester course		
Occupational Courses		
Clothing & Textile Occupations I	11-12	1-3
Clothing & Textile Occupations II	12	1-3
Early Childhood Education I	11-12	1-3
Early Childhood Education II	12	1-3
FACS Internship I	11-12	2
FACS Internship II	12	2
Food Services I	11-12	1-3
Food Services II	11-12	1-3
Food Service Technician	11-12	1

Course Title	Recommended Grade Level	Unit(s)
Housing & Interior Design Occupations	11-12	1-3
ProStart I	11-12	1-3
ProStart II	12	1-3
Cooperative FACS Education	12	3

AUTHORITY NOTE: Promulgated in accordance 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 29:2358 (November 2003), amended LR 31:3090 (December 2005).

§2511. Technology Education

A. Technology education course (formerly industrial arts) offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
Communication/Middle School	6-8	-
Construction/Middle School	6-8	-
Manufacturing Technology/Middle School	6-8	-
Modular Technology/Middle School	6-8	-
Transportation Technology/Middle School	6-8	-
Advanced Electricity/Electronics	10-12	1
Advanced Metal Technology	10-12	1
Advanced Technical Drafting	10-12	1
Advanced Wood Technology	10-12	1
Architectural Drafting	10-12	1
Basic Electricity/Electronics	9-12	1
Basic Metal Technology	9-12	1
Basic Technical Drafting	9-12	1
Basic Wood Technology	9-12	1
Communication Technology I	9-12	1
Construction Technology	10-12	1
Cooperative Technology Education	10-12	3
Power and Energy and Transportation Technology	9-12	1
General Technology Education	9-12	1
Manufacturing Technology	9-12	1
Materials and Processes	10-12	1
Physics of Technology I	10-12	1
Physics of Technology II	11-12	1
Power Mechanics	9-12	1
Technology Education Computer Applications	9-12	1
Technology Education Elective I, II	9-12	1/2-3
Technology Education Internship I	11-12	2
Technology Education Internship II	12	2
Welding Technology	10-12	1
Industry-Based Certifications		
Process Technician I, II	11-12	1
ABC Carpentry I, II TE	11-12	1-3
ABC Electrical I, II TE	11-12	1-3
ABC Instrumentation Control Mechanic I, II	11-12	1-3
ABC Pipe Fitter I, II TE	11-12	1-3
ABC Welding Technology I, II TE	11-12	1-3

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (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 29:2358 (November 2003), amended LR 31:3090 (December 2005).

§2513. Marketing Education

A. Marketing Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
Advertising and Sales Promotion	11-12	1/2, 1 or 3
Cooperative Marketing Education I	11-12	3
Cooperative Marketing Education II	12	3
Entrepreneurship	11-12	1/2, 1 or 3
Marketing Education Elective I, II	9-12	1/2-3
Marketing Internship I	11-12	2
Marketing Internship II	12	2
Marketing Management	11-12	1/2, 1 or 3
Marketing Research	11-12	1/2, 1 or 3
Principles of Marketing I	9-12	1
Principles of Marketing II	12	1
Retail Marketing	11-12	1
Tourism Marketing	11-12	1/2, 1 or 3

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 29:2359 (November 2003), amended LR 31:3090 (December 2005).

§2515. Trade and Industrial Education

A. Trade and Industrial Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
Air Conditioning/ Refrigeration I, II	11-12	1-3
Air Conditioning/ Refrigeration III, IV	11-12	2-3
Auto Body Repair I, II	11-12	1-3
Auto Body Repair III, IV	11-12	2-3
Automotive Technician I, II	11-12	1-3
Automotive Technician III, IV, V, VI	11-12	1-3
General Automotive Maintenance	11-12	1-3
G. M. Technician I, II	11-12	1-3
ABC Carpentry I, II	11-12	1-3
ABC Electrical I, II	11-12	1-3
ABC Instrumentation Control Mechanic I, II	11-12	1-3
ABC Pipe Fitter I, II	11-12	1-3
ABC Welding Technology I, II	11-12	1-3
Masonry I-II	11-12	1-3
Cabinetmaking I-II	11-12	1-3
Carpentry I-II	11-12	1-3
Carpentry III, IV	11-12	2-3
Culinary Occupations I-II	11-12	1-3
Culinary Occupations III, IV	11-12	2-3
Custom Sewing I-II	11-12	1-3
Computer Electronics I-II	11-12	1-3
Commercial Art I-II	11-12	1-3
Trade and Industrial Cooperative Education (TICE) I	11-12	1-3
T & I Cooperative Education (TICE) II	12	1-3
T & I Elective	11-12	1-3
Cosmetology I-II	11-12	1-3
Cosmetology III, IV	11-12	2-3
Diesel Mechanics I-II	11-12	1-3
Diesel Mechanics III, IV	11-12	2-3
Drafting and Design Technology I-II	11-12	1-3
Drafting and Design Technology III, IV	11-12	2-3
Basic Electricity I-II	11-12	1-3
Electronics I-II	11-12	1-3
Industrial Electronics I-II	11-12	1-3
Electrician I-II	11-12	1-3
Electrician III, IV	11-12	2-3
Graphic Arts I-II	11-12	1-3
Graphic Arts III, IV	11-12	2-3

Horticulture I-II	11-12	1-3
Industrial Engines I-II	11-12	1-3
Laboratory Technology I-II	11-12	1-3
Industrial Machine Shop I-II	11-12	1-3
Industrial Machine Shop III, IV	11-12	2-3
Marine Operations I-II	11-12	1-3
Photography I, II	11-12	1-3
Plumbing I, II	11-12	1-3
Printing I, II	11-12	1-3
Sheet Metal I, II	11-12	1-3
Outdoor Power Equipment Technician I, II	11-12	1-3
Outdoor Power Equipment Technician III, IV	11-12	2-3
Television Production I, II	11-12	1-3
Upholstery I, II	11-12	1-3
Welding I, II	11-12	1-3
Welding III, IV	11-12	2-3

B. Trade and Industrial Education Programs may be offered in two consecutive class periods, five days per week, for 36 weeks each year for two units of credit, or may be offered with three consecutive class periods for three units of credit in the selected Trade and Industrial Education Program.

C. Each school or school system that operates a career/technical center or comprehensive high school may award 1 1/2 units of credit to students enrolled in a two-hour block for 36 weeks, or 2 1/2 units of credit to students enrolled in a three-hour block for 36 weeks in approved Trade and Industrial Education Programs.

D. A school may offer a one-hour trade and industrial education program for one unit of credit at the ninth or tenth grade level as a prerequisite to enrollment in a related trade and industrial education program at the tenth, eleventh, or twelfth grade level. The course shall be in the programmatic area in which the trade and industrial education instructor is certified to teach.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (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 29:2359 (November 2003), amended LR 31:3091 (December 2005).

§2517. Credit for Career and Technical Education Courses

A. Credits for partial completion of two- or three-hour blocks of career and technical education courses shall be granted for unusual or extenuating circumstances only.

B. Request for partial credit because of unusual or extenuating circumstances shall be made as follows.

1. Written requests from the local school principal and approved by the local superintendent (if applicable) shall be made to the Division of Family, Career and Technical Education, Louisiana Department of Education.

2. A copy of the written responses shall accompany the student's transcript when it is sent to the Division of School Standards, Accountability and Assessment prior to his/her graduation if the request for partial credit has been granted.

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 29:2360 (November 2003), amended LR 31:3091 (December 2005).

§2519. Secondary Students Attending a Private Cosmetology School

A. Secondary students attending an approved cosmetology school, licensed by the Louisiana State Board of Cosmetology, may receive trade and industrial education credit if time requirements for Carnegie units are met and if an equivalent course is not offered at the student's local school.

B. A copy of the written agreement between the school and the private cosmetology school shall be on file in the school office.

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 29:2360 (November 2003), amended LR 31:3092 (December 2005).

§2521. High School Credit for College Courses in Career/Technical Education (Applies to Students Attending College Part Time)

A. The student shall meet the entrance requirements established by the college.

1. The principal of the school shall approve the advanced offering to be taken by the student in college.

2. The high school administrator shall establish a procedure with the college to receive reports of the student's class attendance and performance at six or nine-week intervals.

3. The awarding of the Carnegie units of credit will be in accordance with individual program requirements as stated in Bulletin 741.

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 29:2361 (November 2003), amended LR 31:3092 (December 2005).

§2521. Distance Learning

A. A school choosing to implement a distance education program shall establish policy and procedures for reviewing and approving programs that meet the following Standards for Distance Education as established by BESE.

1. Distance education shall comply with all BESE policies related to nonpublic schools.

2. Development of Distance Education Program.

a. The school shall ensure that each distance education course is provided by an institution accredited by a nationally recognized accrediting body or is authorized by the DOE.

b. The school shall ensure that the content, instruction and assessment of each distance education course are comparable in rigor and breadth to a traditionally delivered course.

c. The providing school or agency shall define minimum prerequisite technology competencies for student participation in distance education courses if such competencies are required for course access.

d. The providing school or agency and the school receiving distance education courses shall provide necessary and relevant resources, including, but not limited to research information, periodicals, supplemental materials and/or extension resources.

e. The providing school or agency shall ensure that teachers delivering instruction in distance education courses use a variety of methods to assess student mastery of the content.

f. The providing school or agency shall ensure that teachers delivering instruction in distance education courses provide timely and informative feedback for support and remediation.

g. The receiving school shall ensure that instruction is provided by qualified teachers with appropriate credentials.

h. The providing school or agency shall provide a complete syllabus prior to course implementation.

i. The providing school or agency shall provide course content that is systematically designed, clearly written and revised based on student performance and feedback.

j. The providing school or agency shall provide courses which are designed to engage students in learning activities based on various learning styles and to accommodate individual differences, including student disabilities.

k. The receiving school shall evaluate the effectiveness of each distance education course received.

l. The providing school or agency shall ensure that all course content complies with copyright fair use laws and policies.

m. The providing school or agency shall ensure that instruction provides opportunities for student-to-teacher and student-to-student interaction.

3. Management and Administration

a. The providing and receiving school or agency shall judiciously address issues relative to course load and student-teacher ratio as appropriate for the particular method of delivery and particular course content and as recommended in the *Louisiana Distance Education Handbook*.

b. The receiving district shall ensure that a facilitator who is a qualified teacher is assigned fulltime to each class participating in distance education courses.

c. The providing and receiving school or agency shall ensure that the teacher providing instruction and the facilitator adhere to guidelines stated in the *Louisiana Distance Education Handbook*.

d. The receiving school shall award credit for distance education courses.

e. The providing and receiving school or agency shall ensure that the teacher providing instruction and the facilitator are provided adequate technical support to ensure ease of use for faculty and students.

f. The teacher delivering instruction and the facilitator shall be responsible for verifying student participation and performance.

g. The providing school or agency shall provide training and/or support in designing course content to fit the delivery methods proposed for distance education courses.

h. The receiving school shall provide adequate and appropriate technical support to students and facilitator.

i. The teacher delivering instruction shall provide alternate course procedures and activities for use in case of technical problems when the technical problems prevent normal course delivery.

j. The teacher delivering instruction shall maintain a secure environment which includes, but is not limited to monitoring online discussions and other instructional activities.

k. The teacher delivering instruction and the facilitator shall practice ethical and legal use of equipment.

l. The receiving school shall provide the facilitator ongoing staff development to support distance education courses technically and instructionally.

m. The facilitator shall implement alternate course procedures and activities when technical problems prevent normal course delivery.

n. The facilitator shall maintain secure environments, including, but not limited to, monitoring online discussions and other instructional activities as they occur in the classroom as directed by the teacher delivering instruction.

o. The receiving school shall ensure that students have appropriate and adequate access to equipment required for course participation.

4. Specifications

a. The receiving school shall provide students enrolled in distance education courses technical access which meets specifications in the *Louisiana Distance Education Handbook*.

b. The receiving school shall provide instructional and communication hardware which meets current industry standards.

c. The receiving school shall provide adequate funding for hardware maintenance.

d. The receiving school shall provide immediate and sustained technical support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:183.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3092 (December 2005).

Chapter 27. Summer Schools

Subchapter A. Elementary Summer Schools

§2701. General

A. An approved elementary summer school shall be organized and operated under the administrative and supervisory control of the chief administrative officer of the school system only for purposes of removing student deficiencies.

B. The principal of the school shall apply to the State Department of Education for approval of each summer school program offered to remove student deficiencies.

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 29:2362 (November 2003), amended LR 31:3093 (December 2005).

§2703. Administration

A. A summer school with seven or more teachers shall have a principal with at least a master's degree.

B. The principal of the school shall apply to the State Department of Education for approval of each summer school program.

C. An application for approval of the offerings of each summer school shall be filed no later than the end of the first week after the summer session begins.

D. The application forms, provided by the State Department of Education, shall be submitted to the appropriate office.

E. The application shall carry the approval of the chief administrative officer of the school system and the principal of the summer school, if applicable.

F. In order for summer schools to be approved, an on-site visit shall be made by personnel from the SDE to verify information submitted on the report.

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 29:2362 (November 2003), amended LR 31:3093 (December 2005).

§2705. Faculty

A. The eligibility of the faculty shall be equal to that required during the regular session.

B. The teaching load shall not exceed 20 students per class.

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 29:2362 (November 2003), amended LR 31:3093 (December 2005).

§2707. Instruction

A. A teacher will be allowed to teach only one subject for removal of deficiencies during a single period.

B. A student attending summer school for promotional purposes shall not enroll for more than two subjects.

C. The library or library books as well as all regular teaching aids and equipment shall be available for summer school use.

D. Textbooks, supplementary materials, and supplies adequate for effective instruction shall be provided.

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 29:2362 (November 2003), amended LR 31:3093 (December 2005).

§2709. Attendance

A. The minimum attendance for all elementary students to receive credit or pass a subject shall be 60 hours for one subject.

1. The school may impose a more strict minimum attendance policy.

B. Students attending summer school for promotional purposes must have written consent by the principal of the last school they attended.

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 29:2362 (November 2003), amended LR 31:3093 (December 2005).

§2711. Time Requirements

A. Elementary summer schools shall offer a minimum of 70 hours of instruction per subject for removal of deficiencies.

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 29:2362 (November 2003), amended LR 31:3093 (December 2005).

§2713. Classification Categories

A. Summer schools shall be given one of the following classification categories:

1. approved—meets all summer school standards;
2. unapproved—deviates from one or more of the summer school standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003), amended LR 31:3094 (December 2005).

§2715. Sanctions

A. Any unapproved summer school cannot operate a summer school the following year.

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 29:2362 (November 2003), amended LR 31:3094 (December 2005).

Subchapter B. Secondary Summer Schools

§2717. General

A. Schools which offer summer school may do so to enable students to schedule courses which tend to enrich their experiences, to take new subjects, and to enable students who have failed in subjects to remove deficiencies. Local school systems which offer summer school shall adhere to the following standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003), amended LR 31:3094 (December 2005).

§2719. Administration

A. A summer school must be organized and operated under the administrative and supervisory control of the chief administrative office of the school system.

B. A summer school with seven or more teachers shall have a principal with at least a master's degree.

C. The summer school administrator shall have written permission from the principal of the student's home school for the student to attend summer school if credit is to be awarded.

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 29:2362 (November 2003), amended LR 31:3094 (December 2005).

§2721. Application

A. All summer schools must apply to the State Department of Education for approval.

B. An application for approval of summer school offerings must be filed no later than the end of the first week after school is in session.

C. The application forms provided by the State Department of Education, shall be submitted to the appropriate office.

D. The application must carry the approval of the chief administrative officer of the school system, principal of the school for the regular session, and the principal of the summer school, if applicable.

E. An on-site visit shall be made by personnel from the State Department of Education to verify information submitted on the report.

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 29:2362 (November 2003), amended LR 31:3094 (December 2005).

§2723. Faculty

A. The eligibility of the faculty shall be equal to that required during the regular session.

B. Teaching load and class size shall not exceed that of the regular session.

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 29:2363 (November 2003), amended LR 31:3094 (December 2005).

§2725. Instruction

A. No teacher shall be allowed to teach more than two subjects during one period.

B. Library, laboratory, and audiovisual aids shall be available in the facilities used for summer school.

C. Textbooks, supplementary materials, and supplies adequate for effective instruction shall be provided.

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 29:2363 (November 2003), amended LR 31:3094 (December 2005).

§2727. Attendance

A. In order to be eligible to receive grades, summer school students shall be in attendance a minimum of 70 hours for 1/2 unit of new credit, or 47 hours for 1/2 unit of repeat credit.

B. The school system or independent school may impose a stricter minimum attendance policy.

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 29:2363 (November 2003), amended LR 31:3094 (December 2005).

§2729. Time Requirements

A. Summer schools shall offer 90 hours of instruction for 1/2 unit of new credit and 60 hours of instruction for 1/2 unit of repeat credit in all subjects.

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 29:2363 (November 2003), amended LR 31:3094 (December 2005).

§2731. Classification Categories

A. Summer school shall be given one of the following classification categories:

1. approved—meets all summer school standards;
2. unapproved—deviates from one or more of the summer school standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2363 (November 2003), amended LR 31:3094 (December 2005).

§2733. Sanctions

A. Any unapproved summer school cannot operate a summer school the following year.

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 29:2363 (November 2003), amended LR 31:3095 (December 2005).

§2735. Instruction by Private Teachers

A. Credit may be allowed for high school work completed under private instructors, subject to the following conditions.

1. The instruction must be under the direction of a private tutor only when the tutor is eligible for regular employment in an approved nonpublic high school.

2. The time requirements for credits in a regular high school will apply.

3. The necessary facilities peculiar to a particular subject must be available for instructional purposes.

4. Prior to enrolling a privately tutored course, a student must obtain written approval from the principal of the high school in which he/she is enrolled.

B. Southern Association of Colleges and Schools members school should comply with Principle D Standard 6. (Member schools shall not give credit for private tutoring.)

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 29:2363 (November 2003), amended LR 31:3095 (December 2005).

Chapter 29. Standards for Approval of Alternative Schools/Programs

Subchapter A. Operation and Administration

§2901. Philosophy and Need for Alternative Schools/Programs

A. If alternative school programs are to be developed and established, they shall respond to particular educational needs within the community.

B. The local educational governing authority shall pass a resolution establishing the need for the alternative school/program and setting forth its goals and objectives.

C. Each alternative school/program shall develop and maintain a written statement of its philosophy and the major purposes to be served by the school/program. The statement shall reflect the individual character of the school/program and the characteristics and needs of the students it serves.

D. The educational school/program shall be designed to implement the stated goals and objectives which shall be directly related to the unique educational requirements of its student body.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (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 29:2364 (November 2003), amended LR 31:3095 (December 2005).

§2903. Approval of Alternative Schools/Programs

A. Alternative schools/programs shall comply with prescribed policies and standards for regular schools, except for those deviations granted by the State Board of Elementary and Secondary Education.

B. Approval shall be obtained from the State Department of Education prior to the establishment of the alternative school/program.

C. A narrative proposal describing the alternative school/program shall be submitted and shall include the following information:

1. purpose;
2. needs assessment;
3. type (alternative within regular education or alternative to regular education placement);
4. list of the Bulletin 741 Louisiana Handbook for School Administrators, policy and standard deviations;
5. anticipated date of implementation;
6. student eligibility;
7. entrance and exit criteria;
8. total number of students;
9. individual class sizes;
10. detailed outline of curriculum;
11. methods of instruction to meet individual student needs;
12. type and number of staff including qualifications/certification;
13. plan for awarding Carnegie units, when applicable;
14. grading and reporting procedures;
15. plan for parental and community involvement;
16. educational support services;
17. in-service (professional development for personnel);
18. type and location of physical facility;
19. procedure for program evaluation.

D. A school system choosing to implement an alternative school/program shall submit the above proposal to the Division of Family, Career and Technical Education by May 1 for fall semester implementation and November 1 for spring semester implementation

E. Refer to the Alternative Education Handbook.

F. The State Department of Education will provide the SBESE with a listing of approved alternative schools/programs twice annually, in June and December of each year.

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 29:2364 (November 2003), amended LR 31:3095 (December 2005).

§2905. Final Approval to Operate

A. Prior to final approval, the school shall be visited by State Department of Education (SDE) representatives, who will determine the school's suitability for SDE approval.

B. An annual school report based upon the standards for approval of alternative schools shall be made to the State Department of Education (SDE) on or before the date prescribed by the department. Final approval is contingent

upon review and satisfactory compliance with the requirements of the annual school report.

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 29:2364 (November 2003), amended LR 31:3095 (December 2005).

§2907. Special Education

A. Special Education programs within an alternative school shall comply with all applicable State and Federal requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2364 (November 2003), amended LR 31:3096 (December 2005).

§2909. The Earning of Carnegie Units for Use in Meeting Graduation Requirements

A. Students enrolled in an alternative school/program shall be allowed to earn Carnegie units when possible.

B. The integrity of the Carnegie unit shall not be diminished by any alternative school/program.

C. The Carnegie units shall be granted by regular or special education teachers qualified in the subject matter areas in which they are teaching.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2364 (November 2003), amended LR 31:3096 (December 2005).

§2911. Program Evaluation

A. The education program of the alternative school shall be evaluated on the basis of its stated goals and objectives.

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 29:2364 (November 2003), amended LR 31:3096 (December 2005).

§2913. Operation and Administration

A. Each nonpublic school that desires State Board of Elementary and Secondary Education (SBESE) approval and has students receiving special education services shall comply with all applicable federal and state law and regulations.

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 29:2365 (November 2003), amended LR 31:3096 (December 2005).

Chapter 31. Addendum

§3101. Test Security Policy

A. The Board of Elementary and Secondary Education holds the test security policy to be of utmost importance and deems any violation of test security to be serious.

B. Test Security

1. Tests administered by or through the State Board of Elementary and Secondary Education shall include, but not be limited to:

a. all criterion-referenced tests (CRTs) and norm-referenced tests (NRTs);

b. all alternate assessments.

2. For purposes of this policy, school districts shall include local education agencies; special school districts; approved special schools such as the Louisiana School for the Visually Impaired and Louisiana School for the Deaf, laboratory schools, charter schools, Louisiana School for Math, Science and the Arts; and participating nonpublic/other schools that utilize tests administered through the State Board of Elementary and Secondary Education or the Louisiana Department of Education.

3. It shall be a violation of test security for any person to do any of the following:

a. administer tests in a manner that is inconsistent with the administrative instructions provided by the Louisiana Department of Education (LDE) that would give examinees an unfair advantage or disadvantage;

b. give examinees access to test questions prior to testing;

c. examine any test item at any time (except for students during the test or test administrators while providing the accommodations "Tests Read Aloud" or "Communication Assistance" for students determined to be eligible for those accommodations);

d. copy, reproduce, discuss or use at any time in a manner inconsistent with test regulations all or part of any secure test booklet, answer document, or supplementary secure materials (e.g., writing prompts, science tasks);

e. coach examinees in any manner during testing or alter or interfere with examinees' responses in any manner;

f. provide answers to students in any manner during the test, including provision of cues, clues, hints, and/or actual answers in any form, written, printed, verbal, or nonverbal;

g. administer published parallel, previously administered, or current forms of any statewide assessment (e.g., Louisiana Educational Assessment Program for the 21st Century (LEAP 21), Graduation Exit Examination for the 21st Century (GEE 21), Graduation Exit Examination ("old" GEE), LEAP Alternate Assessment (LAA), or Forms K, L, M, and all new forms of The Iowa Tests) as a practice test or study guide;

h. fail to follow security regulations for distribution and return of secure test booklets, answer documents, supplementary secure materials (e.g., writing prompts, science tasks), as well as overages as directed; or fail to account for and secure test materials before, during, or after testing;

i. conduct testing in environments that differ from the usual classroom environment without prior written permission from the Louisiana Department of Education, Division of Student Standards and Assessments;

j. fail to report any testing irregularities to the district test coordinator (a "testing irregularity" is any incident in test handling or administration that leads to a question regarding the security of the test or the accuracy of the test data), who must report such incidents to the Division of Student Standards and Assessments;

k. participate in, direct, aid, counsel, assist in, encourage, or fail to report any of the acts prohibited in the section.

4. Each school district as described in this policy shall develop and adopt a district test security policy that is in

compliance with the state's test security policy. A "Statement of Assurance" regarding the LEA's test security policy must be submitted annually to the Louisiana Department of Education, Division of Student Standards and Assessments. This statement must include the name of the individual designated by the district superintendent or institution to procure test material. The policy shall provide:

a. for the security of the test materials during testing, including test booklets, answer documents, supplementary secure materials (e.g., writing prompts, science tasks), video tapes, and completed observation sheets;

b. for the storage of all tests materials, except district and school test coordinator manuals and test administration manuals, in a predetermined, secure, locked area before, during, and after testing; all secure materials, including any parallel forms of a test, must be kept in locked storage at both the district and school levels; secure materials must never be left in open areas or unattended;

c. a description and record of professional development on test security, test administration, and security procedures for individual student test data provided for all individuals with access to test materials or individual student test data ("access" to test materials by school personnel means any contact with or handling the materials but does not include reviewing tests or analyzing test items, which are prohibited);

d. a list of personnel authorized to have access to the locked, secure storage area;

e. procedures for investigating any testing irregularities, including violations in test security, such as plagiarism and excessive wrong-to-right erasures identified through erasure analysis;

f. procedures for the investigation of employees accused of irregularities or improprieties in the administration of standardized tests, as required by the amended R.S. 17:81.6;

g. procedures for the investigation of any missing test booklets, answer documents, or supplementary secure material (e.g., writing projects, science tasks);

h. procedures for ensuring the security of individual student test data in electronic and paper formats.

5. Procedures for investigating missing secure materials, any testing irregularity (including cheating), and any employees accused of improprieties must, at a minimum, include the following.

a. The district test coordinator shall initiate the investigation upon the district's determination of an irregularity or breach of security or upon notification by the State Department of Education. The investigation shall be conducted by the district test coordinator and other central office staff as designated by the district superintendent.

b. The location of the predetermined, locked, secure area for storage of materials shall be examined, and the individuals with access to secure materials shall be identified.

c. Interviews regarding testing administration and security procedures shall be conducted with the principal, school test coordinator(s), test administrator(s), and proctor(s) at the identified schools. All individuals who had access to the test materials at any time must be interviewed.

d. Interviews shall be conducted with students in the identified classes regarding testing procedures, layout of the classroom, access to test materials before the test, and access to unauthorized materials during testing.

e. After completion of the investigation, the district shall provide a report of the investigation and a written plan of action to the state superintendent within 30 calendar days of the initiation of the investigation. At a minimum, the report shall include the nature of the situation, the time and place of occurrence, and the names of the persons involved in or witness to the occurrence. Officials from the Louisiana Department of Education are authorized to conduct additional investigations.

6. Test materials, including all test booklets, answer documents, and supplementary secure materials (e.g., writing prompts, science tasks) containing secure test questions, shall be kept secure and accounted for in accordance with the procedures specified in the test administration manuals and other communications provided by the Louisiana Department of Education. Secure test materials include test booklets, answer documents, and any supplementary secure materials (e.g., writing prompts, science tasks). Procedures described in the test manuals shall include, but are not limited to, the following.

a. All test booklets, answer documents, and supplementary secure materials (e.g., writing prompts, science tasks) must be kept in a predetermined, secure, locked storage area prior to and after administration of any test; test administrators are to be given access to the tests and any supplementary secure materials only on the day the test is to be administered, and these are to be retrieved immediately after testing is completed for the day and stored in a locked, secure location each day of testing.

b. All test booklets, answer documents, and supplementary secure materials (e.g., writing prompts, science tasks) must be accounted for and written documentation kept by test administrators and proctors for each point at which test materials are distributed and returned.

c. Any discrepancies noted in the serial numbers of test booklets, answer documents, and any supplementary secure materials (e.g., writing prompts, science tasks), or the quantity received from contractors must be reported to the Division of Student Standards and Assessments (LDE) by the designated institutional or school district personnel prior to the administration of the test.

d. In the event that test booklets, answer documents, or supplementary secure materials (e.g., writing prompts, science tasks) are determined to be missing while in the possession of the institution or school district or in the event of any other testing irregularities or breaches of security, the designated institutional or school district personnel must immediately notify by telephone the Division of Student Standards and Assessments (LDE) and follow the detailed procedures for investigating and reporting specified in this policy.

7. Only personnel trained in test security and administration shall be allowed to have access to or administer any standardized tests.

8. Each district superintendent or institution must annually designate one individual in the district or institution

as district test coordinator who is authorized to procure test materials that are utilized in testing programs administered by or through the State Board of Elementary and Secondary Education of the Louisiana Department of Education. The name of the individual designated must be provided in writing to the Division of Student Standards and Assessments (LDE) and included on the statement of assurance.

9. Testing shall be conducted in class-sized groups. *Bulletin 741* (2.038.01–02) states that K-3 classroom enrollment should be no more than 26 students, and in grades 4-12, no more than 33, except in certain activity types of classes in which the teaching approach and the material and equipment are appropriate for large groups. For grades K-8, the maximum class size for Health and Physical Education classes may be no more than 40. Class size for exceptional students is generally smaller (*Bulletin 741*, 2.038.05). Permission for testing in environments that differ from the usual classroom environment must be obtained in writing from the Louisiana Department of Education, Division of Standards and Assessments, at least 30 days prior to testing. If testing outside the usual classroom environment is approved by the Division of Student Standards and Assessments, the LEA must provide at least one proctor for every 30 students.

10. The State Superintendent of Education may disallow test results that may be achieved in a manner that is in violation of test security.

11. The Louisiana Department of Education shall establish procedures to identify:

- a. improbable achievement of test score gains in consecutive years;
- b. situations in which collaboration between or among individuals may occur during the testing process;
- c. a verification of the number of all test distributed and the number of tests returned;
- d. excessive wrong-to-right erasures for multiple-choice tests;
- e. any violation to written composition or open-ended responses that involves plagiarism;
- f. any other situation that may result in invalidation of test results.

12. In cases in which test results are not accepted because of a breach of test security or action by the Louisiana Department of Education, any programmatic, evaluative, or graduation criteria dependent upon the data shall be deemed not to have been met, but individuals will be allowed to retake the test at the next test administration.

13. Individuals shall adhere to all procedures specified in all manuals that govern mandated testing programs.

14. Any individual knowingly engages in any activity during testing that results in invalidation of scores derived from the Louisiana Educational Assessment Program for the 21st Century (LEAP 21), graduation exit examination for the 21st Century (GEE 21), or graduation exit examination ("old" GEE) shall forfeit the test results but will be allowed to retake the test at the next test administration.

15. Anyone known to be involved in the presentation of forged, counterfeit, or altered identification for the purposes of obtaining admission to a test administration site for any test administered by or through the State Board of Elementary and Secondary Education or the Louisiana

Department of Education shall have breached test security. Any individual who knowingly causes or allows the presentation of forged, counterfeited, or altered identification for the purpose of obtaining admission to any test administration site must forfeit all test scores but will be allowed to retake the test at the next test administration.

16. School districts must ensure that individual student test data are protected from unauthorized access and disclosure. District test coordinators, principals, school test coordinators and other authorized users of the LEAP^{web} reporting system and LEAP^{data} system must ensure the security of passwords, any disks or CDs with downloaded individual student test data, and student-level test data open on a computer screen. All users must sign a statement guaranteeing they will not share the password with unauthorized individuals and maintain the confidentiality of student data. A copy of the signed statement should be sent to the district test coordinator to be kept on file. Users who have access to these systems and leave their positions at a district or school site must not use or share the password. District test coordinators are responsible for providing training regarding the security and confidentiality of individual student test data (in paper and electronic format) and of aggregated data of fewer than ten students.

17. Louisiana Department of Education staff will conduct site visits during testing to observe test administration procedures and to ensure that appropriate test security procedures are being followed. Schools with prior violations of test security or other testing irregularities will be identified for visits. Other schools will be randomly selected.

18. Any teachers or other school personnel who breach test security or allow breaches in test security shall be disciplined in accordance with the provisions of R.S. 17:416 et seq., R.S. 17:441 et seq., R.S. 17:81.6 et seq., policy and regulations adopted by the Board of Elementary and Secondary Education, and any and all laws that may be enacted by the Louisiana Legislature.

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 29:2365 (November 2003), amended LR 31:3096 (December 2005).

Weegie Peabody
Executive Director

0512#009

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for
State Certification of School Personnel
Educational Diagnostician
(LAC 28:1.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:1.903.A. This policy allows the issuance of a one-year

provisional endorsement as an Educational Diagnostician to an individual who has completed all requirements for certification in this area with the exception of the 100 clock-hour internship. At the present time an individual must have certification as an Educational Diagnostician to serve in this capacity. This one-year provisional endorsement will allow an individual who has not completed the internship the ability to serve in this position while the internship is being completed.

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 (April 1975), 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 31:3099 (December 2005).

* * *

Educational Diagnostician (Special Education)

A. Endorsement Requirements:

1. a minimum of a master's degree in education earned from a regionally accredited institution of higher education;
2. hold a valid Type B or Level 2 Louisiana teaching certificate, and meet one of the following guidelines:
 - a. hold generic special education certification, with at least one year of classroom teaching experience in a properly certified area of special education;
 - b. hold certification in at least two special education disability areas (e.g., mentally retarded, learning disabled), with at least one year of teaching experience in a properly certified area of special education. Academically gifted is not an accepted special education area;
3. reading credit, as follows:
 - a. elementary/middle grades majors: Six semester hours in diagnosis and remediation of reading problems, three semester hours of which may be undergraduate coursework;
 - b. secondary/all-level majors: Nine semester hours of reading coursework, with six of the semester hours in diagnosis and remediation of reading problems and three of the semester hours in foundations of reading. Three of the required semester hours may be undergraduate coursework;
4. have completed a minimum of 21 semester hours of graduate credit, as follows:
 - a. applied learning theory, 3 semester hours;
 - b. behavioral intervention strategies, including systematic behavioral assessment (this course must include 25 child contact hours), 3 semester hours;
 - c. consulting teacher strategies, 3 semester hours;
 - d. precision assessment and diagnostic/prescriptive strategies, 3 semester hours;
 - e. test theory, 3 semester hours;
 - f. educational diagnosis, 3 semester hours;

g. supervised internship, to include 100 child contact clock hours*, 3 semester hours.

*This course must include fieldwork involving the administration, scoring, and interpretation of norm-referenced and criterion-referenced individual educational tests; working with School Building Level Committees; teacher consultation; and implications for educational intervention through the development of the individualized assessment/intervention plan. This course may be completed while employed on a provisional endorsement.

B. Provisional Educational Diagnostician: A one-year provisional endorsement as an Educational Diagnostician may be issued if all requirements have been completed, with the exception of the 100-contact-hour internship. The intern employed on a provisional endorsement must work under a certified Educational Diagnostician who has a minimum of five years of field experience in that position. At the time of employment, the Louisiana employing authority must submit verification of the supervision component. Until the internship is completed and the provisional status is removed from the intern's certificate, the supervising Educational Diagnostician shall sign all reports and evaluations involving the intern.

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Weegie Peabody
Executive Director

0512#011

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State
Certification of School Personnel
NCLB Requirements for Title I Paraprofessionals
(LAC 28:1.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:1.903.A. In 2003, the State Board of Elementary and Secondary Education adopted multiple pathways for a paraprofessional to achieve highly qualified status. This revision in policy will align pathways so that paraprofessionals have similar skill levels and abilities since their employment capacity may change from year to year. This revision of policy will reduce the number of credit hours required in mathematics from nine credit hours to six credit hours for those individuals seeking to meet the NCLB highly qualified requirements for paraprofessionals following "Pathway 2", the 48 hour pathway.

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

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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 (April 1975), 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 31:3099 (December 2005).

NCLB Requirements for Title I Paraprofessionals

The U.S. Department of Education specifies that paraprofessionals should be able to demonstrate knowledge of and the ability to assist in instruction in the areas of reading, writing, and math, or in "school readiness." Paraprofessionals are expected to have a working knowledge of these academic areas. Louisiana will offer all paraprofessionals three pathways to meet federal requirements.

All Title I paraprofessionals hired on or before January 8, 2002, and working in a program supported with Title I funds must meet the following requirements by January 8, 2006. All Title I paraprofessionals hired after January 8, 2002, must meet the following requirements to be hired:

1. Possess a secondary school diploma or its recognized equivalent (e.g., Graduate Equivalency Examination—GED). (NOTE: This includes paraprofessionals who serve as translators or who conduct parental involvement activities.); and
2. Pass a State approved assessment for paraprofessionals; OR Obtain an associate (or higher) degree at a higher education institution; OR Complete two years of full time study at an institution of higher education.

Highly Qualified Paraprofessional in Louisiana

New to the Profession
Pathway 1: Has passed the Educational Testing Service Para-Pro Assessment; OR
Pathway 2: Has two years of full-time study (48 semester credit hours) from the recommended list of state-approved institutions of higher education or from a regionally accredited institution(s) of higher education. A total of 15 hours of general education course requirements include English Composition (3), English/Reading (6), and Mathematics (6). For the remaining 33 hours of coursework, acceptance of credit for a course shown on a transcript from an approved higher education institution is left to school district discretion in addressing the needs of the specific job; OR
Pathway 3: Has Associate of Arts or Associate of Applied Science degree from a state-approved or regionally accredited institution of higher education.
"Not New" Paraprofessionals (By January 2006)
Pathway 1: Has passed the Educational Testing Service Para-Pro Assessment; OR
Pathway 2: Has two years of full-time study (48 semester credit hours) from the recommended list of state-approved institutions of higher education or from a regionally accredited institution(s) of higher education. A total of 15 hours of general education course requirements include English Composition (3), English/Reading (6), and Mathematics (6). For the remaining 33 hours of coursework, acceptance of credit for a course shown on a transcript from an approved higher education institution is left to school district discretion in addressing the needs of the specific job; OR
Pathway 3: Has Associate of Arts or Associate of Applied Science degree from a state-approved or regionally accredited institution of higher education; OR

Pathway 4: Has successfully completed the ACT, Inc., Work Keys skills assessments and on-the-job observation.

Weegie Peabody
Executive Director

0512#012

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel Out-of-State Principal Certification (LAC 28:1.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:1.903.A. This policy allows the issuance of a standard, three-year, non-renewable Louisiana teaching certificate that authorizes certification as principal in Louisiana of an individual who has an out-of-state certification as principal. An out-of-state principal certificate is issued to individuals who have not met Louisiana's PRAXIS and/or NTE requirements. At present, for an out-of-state individual to become certified in Louisiana to serve as a principal they must first become certified in Louisiana as a regular classroom teacher. This policy would allow an individual who is certified in another state as a principal and has four years of successful experience of serving as a principal to be issued a three-year non-renewable Louisiana certificate to serve in this capacity. If the individual meets all other requirements for certification as stipulated by state statute or board policy and completes one-year of serving as a principal in a Louisiana public school system, the local superintendent or designee may recommend that person be granted full certification as an elementary or secondary principal. This policy will allow the individual to be exempt from the PRAXIS requirement.

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 (April 1975), 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 31:3100 (December 2005).

Out-of-State Principal—a standard, three-year, non-renewable Louisiana teaching certificate that authorizes

certification as principal in Louisiana of an individual who has an out-of-state certification as principal. An out-of-state principal certificate is issued to individuals who have not met Louisiana's PRAXIS and/or NTE requirements.

Eligibility Requirements:

1. A valid out-of-state certificate as an elementary or secondary principal.

2. At least four years of successful experience as a secondary or elementary principal in another state as verified by the previous out-of-state school district(s) from satisfactory annual evaluation results.

3. With the completion of one year of employment as a principal in the Louisiana public school system once the three-year out-of-state Louisiana certificate was issued an individual shall not have to complete the required examinations or to submit examination scores from any examination previously taken in another state as prerequisite to the granting of certification as elementary or secondary principal in Louisiana provided that:

A. Administrator meets all other requirements for a Louisiana certificate as required by law or board policy; and

B. The local superintendent or his designee of the public school system employing the principal has recommended him/her for employment for the following school year and has requested that the teacher be granted a valid Louisiana certificate as elementary principal or secondary principal.

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Weegie Peabody
Executive Director

0512#013

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Temporary Authority to Teach (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy will require the passage of PRAXIS Pre-Professional Skills Tests: Reading and Writing prior to the issuance of any Temporary Authority to Teach (TAT) certificate. It will also require that, at the end of the three-year period for which an individual was employed on this policy, they must fulfill guidelines for a Practitioner License or higher-level certificate. The following revision of this policy will also allow two additional conditions for employment on a TAT certificate: a) an individual may have a minimum of a 2.0 GPA but does not have the required 2.20 GPA for admission to an alternate program and b) an applicant who has a minimum of a 2.35 GPA on a 4.00 scale and has completed all other requirements for certification may be employed on a TAT certificate. The revisions to the TAT policy will streamline and clarify the policy for

individuals and districts and will provide avenues for employment for individuals who do not have the required grade point average but otherwise fulfill all other certification requirements.

**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

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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 (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 31:3101 (December 2005).

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Nonstandard Teaching Authorizations

An initial fee is paid with a first application for a nonstandard teaching authorization. There is no fee required for renewal.

I. Temporary Authority to Teach (TAT)—May be issued for one school year, renewed annually, and held a maximum of three years while the holder pursues alternate certification program admission requirements or certification requirements. Upon completion of the three years of employment on this certificate, for continued employment as a teacher in a Louisiana school system, the holder must fulfill guidelines for a Practitioner License or a higher-level certificate.

A. An applicant must have passing scores on the Praxis Pre-Professional Skills Tests (PPSTs) Reading and Writing exams. Applicants who meet this eligibility standard can apply for a TAT based on the following four conditions of eligibility:

1. Condition 1: Issued to an applicant who graduates from a teacher preparation program, does not pass all Praxis exams, and who has not previously qualified for a Louisiana standard teaching authorization.

Renewal Guidelines 1: Teacher must take the necessary Praxis examinations at least twice a year.

2. Condition 2: Issued to an applicant who holds a minimum of a baccalaureate degree from a regionally-accredited institution, who applies for admission to a Practitioner teacher or other alternate program, but (a) does not pass the Praxis examinations required for admission to the program, and/or (b) has a minimum of a 2.0 GPA but does not have the required 2.20 GPA for admission to an alternate program.

Renewal Guidelines 2(a): The teacher must successfully complete a minimum of six credit hours per year in the subject area(s) that he/she is attempting to pass on the Praxis and take the necessary exams at least once a year; and/or

Renewal Guidelines 2(b): The teacher must successfully complete a minimum of six credit hours per

year to raise the GPA to a 2.20 as required for admission to an alternate program.

3. Condition 3: Issued to an applicant who holds a minimum of a baccalaureate degree from a regionally-accredited college or university and is hired after the start of an available alternate certification program.

Renewal Guidelines 3: The teacher must apply for admission to an alternate certification program and take the appropriate Praxis examinations required for admission to that program.

4. Condition 4: Issued to an applicant who has a minimum of a 2.35 GPA on a 4.00 scale and has completed all other requirements for certification.

Renewal Guidelines 4: Teacher must successfully complete a minimum of six semester credit hours per year to obtain the 2.50 GPA on a 4.00 scale that is required for certification purposes.

B. TAT Stipulations:

1. Districts may recommend that teachers be given the one-year TAT according to the stipulated eligibility and renewal conditions.

2. Districts submit the application and provide an affidavit signed by the local superintendent verifying that good faith efforts for recruiting certified personnel have been made, including posting all positions for which TATs are issued on the Teach Louisiana Recruitment Center; that "there is no regularly certified, competent, and suitable person available for the position"; and that the applicant is the best-qualified person for the position.

C. If an applicant fails to complete required renewal guidelines, the TAT will not be renewed. Exception to this policy will be considered in the case of a serious medical condition.

Medical Excuse: When serious medical problems of the teacher or his/her immediate family exist, a doctor's statement is required with a letter of assurance from the teacher that the unmet requirements will be completed prior to the beginning of the next school year.

Weegie Peabody
Executive Director

0512#014

RULE

Board of Elementary and Secondary Education

Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities (LAC 28:XCVII.901-907)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, Board of Elementary and Secondary Education amended *Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities*. The addition of Chapter 9, LEAP Alternate Assessments, to Bulletin 1530 is to meet federal requirements and establish guidelines for the participation of students with disabilities in alternate assessments that cannot participate in regular assessment. The criteria for alternate assessment are used in accountability, assessment, and pupil progression.

**Title 28
EDUCATION**

Part XCVII. Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities

Chapter 9. LEAP Alternate Assessments

§901. Participation in Assessments

A. All special education students must participate in statewide assessments.

B. Students are to take the test that corresponds to the grade in which they are enrolled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3102 (December 2005).

§903. Types of Alternate Assessments

A. LEAP Alternate Assessment, Level 1 (LAA 1). The LAA 1 is a performance-based student assessment that evaluates each eligible special education student's knowledge and skills in targeted areas. It is an "on-demand" assessment, which means the test administrator directs the student to perform a specific task and then scores the student's performance after the task is completed.

B. LEAP Alternate Assessment, Level 2 (LAA 2). The LAA 2 is a criterion-referenced test designed for students with persistent academic disabilities who are served under the Individuals with Disabilities Education Improvement Act (IDEA) to participate in academic assessments that are sensitive to measuring progress in their learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3102 (December 2005).

§905. Participation Criteria

A. LEAP Alternate Assessment, Level 1 (LAA 1)

1. Only students with the most significant cognitive disabilities are eligible to participate in LEAP Alternate Assessment, Level 1 (LAA 1).

a. The student's impairments cause dependence on others for most, if not all, daily living needs, and the student is expected to require extensive ongoing support in adulthood.

b. The student's instructional program emphasizes life skills and functional applications of the general curriculum.

c. The student requires extensive instruction on functional skills in multiple settings (e.g., school, work, home, community) to acquire, maintain, and generalize skills necessary for application in school, work, home, and community environments.

d. Current longitudinal data (e.g., classroom observation, task analyses, progress on IEP objectives, evaluations, and parental information) indicate the student should participate in LAA 1.

2. Student Safeguards

a. The decision for LAA 1 is not solely based on the student's placement.

b. The decision for LAA 1 is not solely based on the student's disability according to Bulletin 1508.

c. The decision for LAA 1 is not solely based on excessive or extended absences.

d. The decision for LAA 1 is not solely based on social, cultural, and/or economic differences.

e. The decision for LAA 1 is not based on its anticipated impact on School Performance Scores.

f. The decision for LAA 1 is an IEP team decision based on the needs of the student; it is not an administrative decision.

3.a. A student with one of the three exceptionalities below is considered to have a significant cognitive disability:

- i. moderate mental disability;
- ii. severe mental disability;
- iii. profound mental disability; or

b. a student with one of the three exceptionalities below may function like a student with a significant cognitive disability:

- i. multiple disabilities;
- ii. traumatic brain injury;
- iii. autism; or

c. it is possible, though unlikely, that the LEAP Alternate Assessment may be the appropriate assessment for a student with some other exceptionality who functions like a student with a significant cognitive disability.

B. LEAP Alternate Assessment, Level 2 (LAA 2)

1. The student scored at the *Unsatisfactory* level in English language arts and/or mathematics on the previous year's LEAP/iLEAP/GEE or participated in the LAA 1 or for the 2005-06 school year only, the student's previous year's Total(s) on The Iowa Tests in language, reading, and/or mathematics was/were at or below the fifth percentile.

2. The student's IEP reflects a functioning grade level in English language arts (including reading) and/or mathematics at least three grade levels below the actual grade level in which he or she is enrolled.

3. The student's instructional program is predominately academic in nature, and may include application of academic content across environments to ensure generalization of skills.

4. The decision to test a student in LAA 2 is not based on a disability category.

5. The decision to test a student in LAA 2 is not based on placement setting.

6. The decision to test a student in LAA 2 is not determined administratively.

C. LAA 1 and LAA 2 Participation Criteria forms can be located in Bulletin 1530, Section 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3102 (December 2005).

§907. Test Accommodations

A. The assessment in which the student is to participate and any accommodations the student is to receive for instruction and assessment must be documented annually on the program/services page of the student's IEP.

B. Test accommodations cannot be different from or in addition to the accommodations indicated on the student's IEP and provided in regular classroom instruction and assessment.

C. Test accommodations are described in Bulletin 118, Statewide Assessment Standards and Practices in Chapter 33.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3103 (December 2005).

Weegie Peabody
Executive Director

0512#015

RULE

Board of Elementary and Secondary Education

Bulletin 1566—High Stakes Testing Policy (LAC 28:XXXIX.503 and 1301)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Elementary and Secondary Education amended *Bulletin 1566—Guidelines for Pupil Progression* (LAC 28:XXXIX). The revisions to the High Stakes Testing Policy and to Bulletin 1566 are to meet federal requirements and establish guidelines for the participation of students with disabilities in alternate assessments who cannot participate in regular assessment. The criteria for alternate assessment are used in accountability, assessment, and pupil progression.

Title 28

EDUCATION

Part XXXIX. Bulletin 1566—Guidelines for Pupil Progression

Chapter 5. Placement Policies, State Requirements

§503. Regular Placement

A. - A.1.c.vi.(b). ...

vii. Students with disabilities eligible under the Individuals with Disabilities Education Act (IDEA) participating in LEAP 21 Alternate Assessment. Students with disabilities who participate in the LEAP 21 Alternate Assessment, Level 1 (LAA1), shall have promotion decisions determined by the SBLC.

(a). Students with disabilities who participate in the LEAP Alternate Assessment, Level 2 (LAA2), shall have promotion decisions determined by the SBLC.

viii. - xii. ...

(a). Students with disabilities who participate in LEAP 21 Alternate Assessment, Level 1 (LAA1), are not eligible to attend LEAP 21 summer remediation programs.

(b). Students with disabilities who participate in LEAP Alternate Assessment, Level 2 (LAA2), are eligible to attend LEAP summer remediation programs.

A.1.c.xiii. - D.1.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 26:1433 (July 2000), LR 26:1576 (August 2000), LR 27:188 (February 2001), LR 27:1006 (July 2001), LR 27:1682 (October 2001), LR 29:123 (February 2003), LR 30:407 (March 2004), LR 31:3103 (December 2005).

Chapter 13. Appendix B
§1301. LEAP for the 21st Century, High Stakes Testing Policy

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

c. students with disabilities who participate in LEAP Alternate Assessment, Level 1 (LAA1), are not eligible to attend the LEAP 21 summer remediation programs.

d. Students with disabilities who participate in LEAP Alternate Assessment, Level 2 (LAA2), are eligible to attend LEAP summer remediation programs.

4. - 6.a.ii.(c). ...

b. Students with Disabilities Eligible under the Individuals with Disabilities Education Act (IDEA) participating in LEAP Alternate Assessments

i. Students with disabilities who participate in the LEAP Alternate Assessment Level 1 (LAA1), shall have promotion decisions determined by the SBLC.

ii. Students with disabilities who participate in the LEAP Alternate Assessment, Level 2 (LAA2), shall have promotion decisions determined by the SBLC.

6.c. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:1008 (July 2001), amended LR 27:1683 (October 2001), LR 28:1189 (June 2002), LR 29:123 (February 2003), LR 31:3104 (December 2005).

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0512#016

RULE

Board of Elementary and Secondary Education

Bulletin 1922—Compliance Monitoring Procedures
(LAC 28:XCI.101, 105-111, 301-317, 507, and 509)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 1922—Compliance Monitoring Procedures* (LAC Title 28, Part Number XCI). These changes clarify that all local education agencies must be monitored, eliminates the exemplary category, and adds a new category called targeted monitoring. It also clarifies that agencies must begin correcting non-compliance upon receipt of the monitoring report, requires agencies to develop an intensive corrective action plan (ICAP) when compliance is not reached in one year, requires additional actions in conjunction with the ICAP, and allows the state superintendent to impose special conditions on the agencies IDEA Part B grant award without the need for approval from the State Board of Elementary and Secondary Education. This new monitoring process began in 1999 and, after five years of implementation, changes were needed to make the process more effective.

Title 28
EDUCATION
Part XCI. Bulletin 1922—Compliance Monitoring Procedures

Chapter 1. Overview

§101. Monitoring

A. ...

B. The monitoring system for Louisiana, through the analysis of various quantitative and qualitative data, will focus state resources on improving educational program outcomes for students with exceptionalities through a comprehensive, data-based process. Annually, the Louisiana Department of Education (LDE) will select a list of specific variables and performance indicators for comparative purposes for all local educational agencies providing services to children with exceptionalities. This list is a combination of federally-required indicators and state performance indicators.

C. The quantitative data will be used to determine specific performance profiles for local educational agencies (LEAs) using data relative to a set of variables. Performance profiles will be issued annually. The quantitative data will be collected in relation to a set of variables selected by a statewide group of stakeholders from various agencies and entities called the Continuous Improvement Monitoring Process (CIMP) Steering Committee. This group will meet at least annually with the Louisiana Department of Education (LDE) to select only specific variables or "focus indicators" from all of the variables. The variables selected as "focus indicators" will be used to determine a LEA's performance status.

D. LEAs will be placed in one of two performance categories within one of four population groups based on the total population of students attending public schools. Upon validation of quantitative data, LEAs will be notified of their performance status. The performance categories are focus and continuous improvement.

1. LEAs designated as focus will receive an on-site compliance monitoring visit in order to review qualitative data specific to selected qualitative indicators that focus on the LEA's lowest performing indicator areas. Additional data may be reviewed prior to and during the on-site visit.

2. The LEAs designated as continuous improvement will not be targeted to receive an on-site compliance visit. Some districts may be required to develop a corrective action plan because of triggers within the data that signify concerns such as when the performance of students with disabilities is disproportionately below the state average in any of the required performance indicators. These performance indicators include, but are not limited to suspension, diploma, dropout, and state-wide assessment rates. Through the LEA application process and self-review summaries, LEAs will, for that year, document and track improvement strategies. This documentation will include, not only the allocation of monies in the LEA grant application to target corrective action specific to noncompliance issues revealed in the LEA's self-review

summaries, but also written documentation and tracking of other means of corrective action the LEA has taken.

3. When critical issues of noncompliance are identified by means other than the performance profiles (including, but not limited to complaint logs, evaluation extension requests, and financial risk assessments), a targeted on-site compliance monitoring visit of the LEA may be required by the LDE.

E. Annually, there will also be selected at random a group of LEAs which the LDE will visit for an on-site compliance review. The on-site review for the LEAs designated as random will include a review of a sampling of the qualitative indicators for all special education compliance areas. Eight will be chosen from the continuous improvement category.

F. Embodied in this process are proactive measures of self-evaluation, support, and technical assistance to ensure compliance with all regulatory requirements at the federal and state levels. Findings from data analysis, as well as findings from the on-site compliance visit, will be used to determine and allocate various resources for technical assistance and support to the LEA by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:414 (March 2004), amended LR 31:3104 (December 2005).

§105. Local Educational Agencies (LEAs)

A. Local Educational Agencies (LEAs) to be monitored are:

1. - 3. ...

4. Type 2 and 5 Charter Schools; and

5. University Laboratory Schools not under the administration of a school district.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:415 (March 2004), amended LR 31:3105 (December 2005).

§107. Corrective Action and Sanctions

A. The LDE has the responsibility to monitor all public educational agencies with programs for exceptional children within the state for compliance with applicable state and federal laws, regulations, and standards.

B. The LDE is authorized to take actions necessary to ensure compliance. Failure on the part of a participating agency to comply may result in the LDE withholding funds from the said agency. The affected agency will be afforded an opportunity for a hearing.

C. Each LEA monitored and found to have non-compliant findings will be required to develop a corrective action plan (CAP) after receipt of the LDE's monitoring report in collaboration with the LDE. The CAP shall be submitted to the LDE within 35 business days of receipt of the monitoring report for approval. However, upon receipt of the report, the LEA shall immediately begin correcting the non-compliant findings documented in the report. Based on a one-year timeframe, the plan will address the activities the LEA will implement to correct the areas of non-compliance identified during the on-site visit.

D. The progress toward completing the activities in the plan will be tracked by the LDE to determine if the timelines are being met. LEAs will submit evidence and data as

requested by the LDE to show completion of activities and evidence of change in the LEA as a result of the corrective action plan. Based on a review of submitted evidence, the LDE will decide whether the LEA has met compliance requirements or a follow-up, on-site visit must be conducted to determine if the LEA has made systemic changes to correct non-compliant issues addressed in the corrective action plan.

E. A written report of the findings from a review of the submitted evidence or from a follow-up visit will be issued to the LEA by the LDE within 30 business days of the review of the evidence or the on-site visit. When the Corrective Action Follow-Up Report for a LEA indicates that the LEA has remaining non-compliant findings, and there is not sufficient documented evidence provided within the mandated timeframe, the LEA will receive a letter directing the LEA to submit additional information within thirty business days to prove the deficiencies have been corrected and informing the LEA of the possibility of sanctions if the issues are not immediately corrected.

F. At the end of the 30 business days in Subsection E above, if the LEA has not produced sufficient data to indicate that compliance has been met, the LDE shall impose further corrective action and sanctions on the LEA.

G. When an LEA has not produced sufficient data to indicate that compliance has been met through the approved Corrective Action Plan, the department will require that an Intensive Corrective Action Plan (ICAP) be developed by the LEA in collaboration with the department to address the continuing non-compliant findings. In conjunction with the implementation of the approved plan, the department will take one or more of the following sanctions described below.

NOTE: These sanctions are not on a continuum but can be taken at any time based on the severity of the continuing non-compliance.

1. Direct the LEA to present the ICAP to the local school board for approval.

2. Direct the LEA to use IDEA Part B flow-through funds on the area or areas that the LEA is non-compliant. The LEA will submit evidence to the department of the specific funds targeted for areas of non-compliance. The department will monitor the expenditure of such funds on a consistent basis.

3. The department will appoint a special consultant or management team to oversee the intensive CAP, which will be funded at the local level. The CAP appointment of the special consultant or management team must be submitted to the local school board.

4. Identify the LEA as a high-risk grantee and impose special conditions on the LEA's IDEA Part B grant. The department will impose one or more of the following special conditions.

a. For each year of continuing non-compliance, withhold not less than 20 percent and not more than 50 percent of the LEA's IDEA Part B grant until the department determines the LEA has sufficiently addressed the areas in which the LEA needs intervention.

b. Seek to recover funds under Section 452 of the General Education Provisions Act.

c. Withhold, in whole or in part, any further payments to the LEA under this part pursuant to Subparagraph a.

d. Refer the matter for other appropriate enforcement action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:415 (March 2004), amended LR 31:3105 (December 2005).

§109. Components of the Continuous Improvement Monitoring Process

A. ...

B. The monitoring system will incorporate and utilize strategies and components as listed below.

1. Analyze self-review summaries completed at the local level, which are integrated to review the appraisal process as it relates to the development and implementation of programming, as well as review programming issues.

2. Analyze current data elements and databases that are captured by the LDE and are directly related to student outcomes.

3. Analyze the LEA grant application to track and monitor the allocation and use of Part B funds targeted to address priorities revealed through previous data sources in the monitoring process, as well as policy and procedural assurances.

4. Review complaint management logs regarding specific complaints in individual LEA.

5. Analyze Extended School Year Program data.

6. Analyze Annual School Report data.

7. Analyze district and school accountability profiles.

8. Analyze FAPE tables and other mandated federal data reporting (i.e., personnel tables, child count data).

9. Review ongoing fiscal monitoring of the use of Parts B funds through on-site visits and project completion reports.

10. Analyze Pupil Progression Assurances/Reviews.

11. Review personnel files and training documentation.

12. Track corrective action on noncompliant issues and validate previous corrective action reviews, documentation, and on-site reviews.

12. - 15. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:416 (March 2004), amended LR 31:3106 (December 2005).

§111. Purpose

A. The LDE has the responsibility to ensure that each participating agency in the state is in compliance with all applicable federal and state laws, regulations and standards required for the provision of a free and appropriate public education for all exceptional children for whom each is legally responsible. To fulfill this responsibility, the LDE has established a purpose for conducting monitoring, as well as procedures and strategies that provide ongoing monitoring activities. The procedures provide continuous and comprehensive monitoring of all aspects of special education including the following:

1. - 7. ...

B. In Louisiana, the purpose of compliance monitoring is three fold:

1. to enforce legal requirements;

2. to ensure program effectiveness; and

3. to ensure corrective action, when needed, has been taken.

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:416 (March 2004), amended LR 31:3106 (December 2005).

Chapter 3. Operational Procedures for Compliance Monitoring

§301. Categories of Monitoring

A. All LEAs are placed in performance profile categories on an annual basis. The performance profile is based upon an analysis of quantitative data collected by the LDE.

B. Monitoring will focus on the variables selected annually as focus indicators. LEAs will be profiled on the focus indicators in defined population groups. On-site visits will be determined based on performance profiles rather than on cyclical scheduled on-site visits. LEAs designated as focus will be subject to on-site compliance visits.

C. A group of school LEAs will be selected at random for on-site compliance visits. A sampling of the qualitative indicators from each area will be reviewed in these LEAs.

D. LEAs not identified as focus or random will be classified as continuous improvement. These will not be subject to on-site visits. The identification of non-compliant issues and corrective action necessary to remedy these issues in continuous improvement LEAs will be tracked by the LDE through the validation of the self-review process in these LEAs.

E. In the event that critical issues of noncompliance are identified by means other than the performance profiles (including but not limited to complaint logs, evaluation extension requests, and financial risk assessments), targeted on-site compliance visit of the LEA may be required by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3106 (December 2005).

§303. Timelines

A. Before the start of each monitoring cycle, each LEA will be issued a performance profile and a designation into which category the LEA fell. Within two weeks after the designations are made, a schedule of on-site visits will be issued to LEAs designated as focus and random.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3106 (December 2005).

§305. On-Site Visits

A. ...

B. Non-employees selected to serve as team members will be initially required to receive a minimum of 16 hours of professional development specific to conducting on-site monitoring, conducted by the LDE, with follow-up training on an annual basis. In addition, team leaders, serving in coordination with staff team leaders, will be required to receive 32 hours of professional development specific to leadership, investigative techniques for specific regulatory areas, and assimilating data for report writing conducted by

the LDE, with follow-up training annually and throughout the year as determined by the state monitoring coordinator. Participants will receive a certificate that indicates their completion of the required annual professional development activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3106 (December 2005).

§307. Regulatory Issues Reviewed On-Site

A. For focus category LEAs, the regulatory issues and qualitative indicators reviewed will be specific to the variables targeted in the LEA's performance profile. These visits will focus on selected issues. In the event that other critical issues or triggers are identified by means other than the performance profiles, the LDE will direct the team to monitor those issues for non-compliance. These other means may include, but are not limited to, complaint logs, evaluation extension requests, and financial risk assessments.

B. For random category LEAs, the on-site team will review a sampling of qualitative indicators from each of the variables on the performance profile, and any other critical issues or triggers identified by other means including, but not limited to, complaint logs, evaluation extension requests, and financial risk assessments.

C. The LDE will reserve the right to direct the team to review any and all regulatory issues that indicate non-compliance status in a LEA.

D. Data for the following major regulatory issues will be analyzed, reviewed, and utilized in the self-review and on-site monitoring process:

D.1. - 14. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3107 (December 2005).

§309. Activities Conducted Prior to the On-Site Visit

A. Prior to the on-site visit, quantitative data collected by the LDE specific to the LEA will be reviewed and analyzed, and will include the following:

1. self-review data submitted by the LEA;

2. - 3. ...

4. complaint logs and due process hearings relative to the LEA;

5. files/logs indicative of technical assistance provided to the LEA by the LDE;

6. - 11. ...

12. any other data the LDE determines is necessary to review as part of a comprehensive data review of the LEA.

B. The LEA supervisor/director of special education will be contacted, if necessary, for clarification of any concerns regarding the data. The data analysis will determine the locations within the LEA to be visited, the number and types of records to be reviewed, the methods that will be used for validation of qualitative issues during on-site visits, and the composition of the monitoring team.

C. A meeting with the selected team members will be conducted to:

1. summarize, analyze, and review the LEA's data;

2. ...

3. discuss any unique circumstances or issues regarding the on-site visit to the LEA;

4. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:418 (March 2004), amended LR 31:3107 (December 2005).

§311. Activities Conducted During the On-Site Visit

A. The monitoring team will meet briefly with the representatives of the LEA to discuss how the visit will be conducted and to discuss any logistical or travel issues of concern.

B. The parent team member will conduct a parent focus group meeting and interview parents to collect data/information on their satisfaction of the services provided to their children and their involvement in their children's program.

C. Team members will visit sites, make observations, review records, and interview personnel. Student input will be collected through a student focus group meeting or interviews.

D. A member of the team will meet with the LEA special education director to review administrative issues. Additional data/information may be requested if further analysis is required for determining compliance status for specific regulatory issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:418 (March 2004), amended LR 31:3107 (December 2005).

§313. Activities/Procedures at the Completion of the On-Site Visit

A. At the completion of the on-site visit, the team will meet to discuss, review, and analyze the team findings and to summarize their findings on LDE-issued forms. A department staff team member will meet with representatives of the LEA at the conclusion of the on-site visit.

B. A preliminary draft of a Summary of Findings will be compiled no later than 10 business days after the completion of the on-site visit.

C. The LDE will mail the Summary of Findings to the LEA no later than 60 business days after the completion of the on-site monitoring visit.

D. Upon receipt of the report, the LEA will have 20 business days from the date of receipt of the report to respond to any findings, and 15 additional business days to develop a plan of corrective action to address non-compliant findings described in the summary.

E. The LEA, in collaboration with the LDE, will be required to design a corrective action plan that defines specific supports and resources that the LEA must have in order to implement the corrective action plan.

F. Timelines must be developed that are specific to the corrective action required and to the issues found to be in non-compliant status. The LEA must return the report to the LDE in hard copy and electronically.

G. The LDE will allocate resources from the state level, both human and monetary, when determined necessary by the LDE and the LEA in question, on an annual basis to

address the issues specific to implementing the corrective action required in LEA.

H. If the LEA does not accept the findings, there will be a period of 10 business days allowed for discussion and clarification of the findings and discussion of needed corrective action to become compliant.

I. If acceptance of the report by the LEA is not reached within the established timelines, the State Director of Special Education will, within five business days, notify the State Superintendent of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:418 (March 2004), amended LR 31:3107 (December 2005).

§315. Validation of Corrective Action

A. Upon receipt of the approved compliance document, the LEA must begin to submit documentation of completed activities from the corrective action plan agreed upon by the LEA and the LDE.

B. Corrective action timelines established in the report will be tracked to determine corrective action has been taken and to verify compliance by the LDE.

C. All corrective action must be completed in accordance with the timelines that relate to each specific non-compliant issue. Documentation must be submitted to the LDE within the required timelines.

D. The LDE will conduct, when necessary, an on-site visit in the year following the initial on-site visit, or sooner if deemed necessary by the LDE, to validate the documentation of the implementation of the corrective action and to validate systemic change of non-compliant issues.

E. The LDE will notify the LEA in writing when all corrective action has been accepted as completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:419 (March 2004), amended LR 31:3108 (December 2005).

§317. Self-Review Conducted at the Local Level

A. A locally conducted annual self-review will be an integral component of the entire monitoring process. The data collected in the self-review will be analyzed to help the LEA and the LDE identify areas of non-compliance, as well as levels of support and technical assistance needed at the local level. Corrective action timelines established in the self-review report will be evaluated by the LDE in order to determine the LEA's effort and commitment to making valid systematic findings and developing corrective action that will result in the required evidence of change.

B. LEAs will use set procedures for conducting self-reviews of compliance standards.

1. LEAs will identify the sites to be included in the self-review. LEAs should use the procedures identified in their LEA application to identify the numbers of sites.

2. The identified sites must represent a cross section of all exceptionalities served and include a sample of each service delivery model used in the LEA.

3. ...

4. The local monitoring team will be designated at the local level.

5. The team should include personnel from the service setting such as general educators, parents, and administrators.

6. The team will be trained on procedures and strategies for conducting a self-review relative to special education regulatory compliance standards.

7. All self-review activities will be coordinated by the local LEA.

8. The LEA will be required to monitor the same regulatory issues for State and Federal regulations as monitored by the LDE.

9. ...

10. The LEA providing services will summarize the findings and compile a report to include:

a. summary of non-compliant issues; and

b. a corrective action plan for correcting deficiencies and a timeline for completing a corrective action.

c. Repealed.

11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:419 (March 2004), amended LR 31:3108 (December 2005).

Chapter 5. Fiscal Monitoring

§507. Verification of the Accuracy of the Child Count

A. SBESE establishes the policy to seek to recover any funds made available under IDEA-Part B or the Minimum Foundation Program for services to any child who is determined to be classified erroneously as eligible to be counted.

B. Determination of eligible children will be accomplished through the verification procedures of the LDE regarding the accuracy of the Child Count. In order to verify the accuracy of each count submitted, the LDE will conduct the following activities.

1. The current Child Count from each LEA will be compared with the previous count. In addition, the current Child Count incidence figures from each LEA will be compared with incidence figures from the previous State Child Count.

2. An on-site monitoring visit to verify the accuracy of the Child Count will be conducted in selected LEAs each year. If necessary, each LEA can be monitored for the previous years to verify the accuracy of the Child Count. During the monitoring of each LEA, the monitors will select at least ten names from the Child Count Report. The LEA must provide the student's name, date of birth, evaluation report, IEP, class rosters, and any other information that may be necessary to verify the accuracy of the count.

3. ...

4. If a child's IEP is monitored during the on-site review process and it is determined that the child is not receiving the special education and related services specified on the IEP, the child will be excluded from the Child Count.

5. The LEA will be afforded an opportunity to present supportive or explanatory documentation to refute the LDE findings. If the evidence cannot justify the count, the count will be disallowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:420 (March 2004), amended LR 31:3108 (December 2005).

§509. Recovery of Funds for a Misclassified Child

A. If the LEA has received funds based on an erroneous count and the LDE has documented the extent of the error, the LDE will either reduce the grant award if the error occurred in the current budget and all of the funds have not been expended or request that the LEA return such funds. In the event the LEA refuses to comply, within 10 business days these procedures will be followed.

1. The LDE will submit written documentation of the error in the count to the State Superintendent of Education.

2. - 3. ...

4. Funds recovered by the LDE and the SBESE will be handled within the guidelines set forth by OSEP, U.S. Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:421 (March 2004), amended LR 31:3109 (December 2005).

Weegie Peabody
Executive Director

0512#017

RULE

Board of Elementary and Secondary Education

Technical Changes to Regulatory Policies and Procedures
(LAC 28:I.927, 929, 953, 955, and 1710)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended LAC 28:I.927, 929, 953, 955, and 1710. The *Louisiana Administrative Code* should contain regulatory policies and procedures germane to the conduct of BESE Board business. We are in the process of removing Sections that either contain no regulatory language, the programs they refer to no longer exist, or the language will be transferred to or is already contained in the appropriate regulatory bulletin. These Sections are now represented in Bulletin 741. The transferred Sections will not have an effect on the way BESE conducts board business or the regulatory procedures or language used to oversee any programs.

**Title 28
EDUCATION**

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter B. State Plans

§927. Communicable Disease Control Policy

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10)(15); R.S. 17:170; R.S. 17:1941; 20 USC 1232.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 14:703 (October 1988), amended LR 16:297 (April 1990), repealed LR 31:3109 (December 2005).

§929. Administration of Medication Policy

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:436.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 21:260 (March 1995), LR 22:278 (April 1996), repealed LR 31:3109 (December 2005).

**Subchapter C. Nonpublic Regulations
(Other than in Bulletin 741)**

§953. Home Study Regulations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 (8); R.S. 17:236-236.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 7:407 (August 1981), LR 8:277 (June 1982), LR 9:60 (February 1983), LR 10:997 (December 1984), amended LR 16:297 (April 1990), LR 23:404 (April, 1997), repealed LR 31:3109 (December 2005).

§955. Montessori Schools

A. - B.4.b. repealed.

C. - C.4. ...

D. - J.1 repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3401-3403.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 3:241 (May 1977), LR 9:60, 411 (February, June 1983), LR 10:400 (May 1984), LR 14:789 (November 1988), amended LR 16:297 (April 1990), LR 31:3109 (December 2005).

Chapter 17. Finance and Property

§1710. Acceptable Work Experience for Teacher Pay

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:424.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 21:549 (June 1995), repealed LR 31:3109 (December 2005).

Weegie Peabody
Executive Director

0512#018

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs
(LAC 28:IV.1001-1017, 1901 and 1903)

The Louisiana Student Financial Assistance Commission (LASFAC) has adopted its Scholarship/Grant Programs Rules [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17.3042.1.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)]. (SG0663R)

**Title 28
EDUCATION**

Part IV. Student Financial Assistance—Higher

Education Scholarship and Grant Programs

Chapter 10. TOPS-TECH Early Start Award

§1001. General Provisions

A. Legislative Authority. The TOPS-TECH Early Start Award was created by Act 348 of the 2005 Regular Session of the Louisiana Legislature.

B. Description, History and Purpose. The TOPS-TECH Early Start Award is established as part of the Tuition Opportunity Program for Students (TOPS) to provide grants for Louisiana residents pursuing occupational or vocational training while being dually enrolled in a state public high

school at the eleventh and twelfth grade levels and at a Louisiana public postsecondary institution that offers an occupational or vocational education credential in a Top Demand Occupation. The purpose of TOPS-TECH Early Start is to provide an incentive for qualified Louisiana public high school students to prepare for and pursue an industry-based occupational or vocational education credential in a Top Demand Occupation while still in high school.

C. **Effective Date.** The TOPS-TECH Early Start Award shall be first awarded beginning with the 2005-2006 award year to eleventh and twelfth grade students meeting the eligibility criteria set forth in this Chapter.

D. **Eligible Terms.** The TOPS-TECH Early Start Award is limited to six credit hours per semester and twelve credit hours each Academic Year (College). TOPS-TECH Early Start is not payable for summer semesters or sessions.

E. **Award Amount.** The TOPS-TECH Early Start Award provides a payment not to exceed \$300 for up to six credit hours each semester or \$600 each Academic Year (College) at a rate of \$50 per credit hour.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 31:3109 (December 2005).

§1003. Top Demand Occupation

A. For the purposes of this Chapter, a credential in a "Top Demand Occupation":

1. is a credential defined by the Board of Regents; and
2. is identified by the Occupation Forecasting Conference as a credential for an occupation in top demand in Louisiana; and

3. is recognized by the State Industry-Based Certification Council; and

4. is approved by the State Board of Elementary and Secondary Education; and

5. is approved by the Board of Supervisors of Community and Technical Colleges.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 31:3110 (December 2005).

§1005. Establishing Eligibility

A. To establish eligibility for the TOPS-TECH Early Start Award, the student applicant must meet all of the following criteria:

1. be in the eleventh or twelfth grade in a Louisiana public school;

2. have prepared a five-year education and career plan, including a sequence of related courses with a career focus as provided by the High School Career Option Subchapter in R.S. 17:183.2 et seq.;

3. have a cumulative high school grade point average on all courses attempted of not less than 2.0 when calculated on a 4.0 scale;

4. have at least the minimum scores required to pass the mathematics and English portions of the graduation exit exam established by the State Board of Elementary and Secondary Education;

5. score at least fifteen on the English subsection and fifteen on the mathematics subsection of the ACT PLAN

assessment administered as part of Louisiana's Educational Planning and Assessment System;

6. enroll in a course in an industry-based occupational or vocational education credential program in a Top Demand Occupation.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 31:3110 (December 2005).

§1007. Maintaining Eligibility

A. To continue receiving the TOPS-TECH Early Start Award, the recipient must meet all of the following criteria:

1. agree that the award will be used exclusively for educational expenses; and

2. be a student in good standing in a Louisiana public high school; and

3. maintain a cumulative high school grade point average on all courses attempted of not less than 2.0 when calculated on a 4.0 scale; and

4. continue to pursue one or more courses leading to an industry-based credential in a Top Demand Occupation; and

5. be a student in good standing while enrolled in a Louisiana public postsecondary education institution; and

6. maintain Steady Academic Progress as defined in §301; and

7. maintain, by the end of the spring term, a cumulative college grade point average of at least 2.50 on a 4.00 maximum scale.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 31:3110 (December 2005).

§1009. Eligibility Determination

A. LOSFA shall determine the initial eligibility of students for the TOPS-TECH Early Start Award and provide a list of eligible students to public postsecondary institutions.

B. Upon receipt of bills from institutions submitted in accordance with §1903.B, LOSFA will reimburse the institution for each eligible student in accordance with §1903.

C. LOSFA shall determine the continuing eligibility of students for the TOPS-TECH Early Start Award and provide a list of eligible students to public postsecondary institutions.

D. LOSFA shall conduct audits of the participating Louisiana public postsecondary institutions to ensure compliance with program requirements.

E. LOSFA shall provide the information necessary to fully inform Louisiana public high school students and their parents on the requirements of and procedures for applying for and maintaining the award.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 31:3110 (December 2005).

§1011. Responsibilities of High Schools and School Boards

A. The high school and school board shall comply with the reporting requirements of §1703 for all students enrolled in high school.

B. The high school shall determine whether the student is in good standing in that high school.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 31:3110 (December 2005).

§1013. Responsibilities of Louisiana Public Postsecondary Institutions

A. Each Louisiana public postsecondary institution that offers an industry based occupational or vocational education credential in a Top Demand Occupation shall:

1. determine whether an eligible student has enrolled in a course at that institution to pursue an industry based occupational or vocational education credential in a Top Demand Occupation in accordance with §1903.D;

2. determine whether the student is in good standing at that institution;

3. submit bills in accordance with §1903.B for each eligible student so enrolled;

4. comply with the reporting and records retention requirements of §1903.A. and F.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 31:3111 (December 2005).

§1015. Responsibilities of the Board of Regents

A. The Board of Regents shall provide data in its possession to LOSFA as needed to determine initial eligibility for the TOPS-TECH Early Start Award.

B. The Board of Regents shall define and maintain a list of industry based occupational or vocational education credentials.

C. In the event that the funds appropriated for the TOPS-TECH Early Start Award are insufficient to pay all awards for all eligible students, the Board of Regents shall develop, approve and deliver a plan to LOSFA to limit the awards to the amount appropriated.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 31:3111 (December 2005).

§1017. Responsibilities of the Board of Elementary and Secondary Education (BESE) and the Louisiana Department of Education (LDE)

A. BESE shall provide data in its possession to LOSFA as needed to determine initial eligibility for the TOPS-TECH Early Start Award.

B. LDE shall provide data in its possession to LOSFA as needed to determine initial eligibility for the TOPS-TECH Early Start Award.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 31:3111 (December 2005).

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1901. Eligibility of Postsecondary Institutions to Participate

A. Undergraduate degree granting schools which are components of Louisiana public university medical centers

and two- and four-year public colleges and universities are authorized to participate in the Tuition Opportunity Program for Students (TOPS), TOPS-TECH, TOPS-TECH Early Start, Rockefeller State Wildlife Scholarship, Leveraging Educational Assistance Partnership (LEAP) Program and the GO-Youth Challenge Program.

B. ...

C. Campuses of Louisiana Technical College are authorized to participate in TOPS, TOPS-TECH, TOPS-TECH Early Start, LEAP and the GO-Youth Challenge Program.

D. ...

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

HISTORICAL NOTE: Promulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26: 1998 (September 2000), LR 28:1864 (November 2001), LR 28:448 (March 2002), LR 30:784 (April 2004), LR 31:3111 (December 2005).

§1903. Responsibilities of Postsecondary Institutions

A. - B.9. ...

10.a. upon the school's certification that a student who is eligible for a TOPS-TECH Early Start Award is enrolled in an industry based occupational or vocational education credential program in a Top Demand Occupation institutions shall bill for and LASFAC will pay the institution for each such recipient according to the following schedule.

Credit Hours	Payment
1	\$50
2	\$100
3	\$150
4	\$200
5	\$250
6	\$300

b. The maximum that may be billed is \$300 per semester and \$600 per Academic Year (College).

Institutions may not bill for summer semesters or sessions.

C. - D.4. ...

5. for TOPS-TECH Early Start Awards:

a. verify the student is eligible and enrolled in a course in an industry based occupational or vocational education credential program in a Top Demand Occupation; and

b. verify the student is in good standing.

E. - G. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3111 (December 2005).

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General Counsel

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RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs—2005 Legislation
(LAC 28:IV.301, 703, 803, 1901, and 1903)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended the Scholarship/Grant Programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)] (SG0662R)

**Title 28
EDUCATION**

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

Chapter 3. Definitions

§301. Definitions

A. ...

Award Amount—an amount equal to Tuition at the school attended, for those students attending a Louisiana public college or university, as determined by the Commission, which may be used by the student to pay any educational expense included in that student's "Cost of Attendance." The amount paid for TOPS and TOPS-Tech Awards shall be as follows:

a. ...

b. For students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities or an out-of-state college or university if all of the conditions of §703.I are met and enrolled in an academic degree program, the amount shall equal the Weighted Average Award Amount.

c. - h. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993 and 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), repromulgated LR 27:1842 (November 2001), amended LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330 and 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005).

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

§703. Establishing Eligibility

A.1.a. - A.5.a.i.(b). ...

(c). for students graduating in Academic Year (High School) 2004-2005 through 2006-2007, at the time of

high school graduation, an applicant must have successfully completed 16.5 units of high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting a core curriculum as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Trigonometry*, Calculus or comparable Advanced Mathematics * Trigonometry cannot be used to fulfill this requirement for students graduating in Academic Year (High School) 2005-2006 and thereafter
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or
1	Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE); or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum); BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included):
1/2	Advanced Technical Drafting (1/2 or 1 credit) Business Computer Applications (1/2 or 1 credit) Computer Applications or Computer/Technology Applications (1/2 or 1 credit) Computer Architecture (1/2 or 1 credit) Computer Electronics I (1/2 or 1 credit) Computer Electronics II (1/2 or 1 credit) Computer/Technology Literacy (1/2 or 1 credit) Computer Science I (1/2 or 1 credit) Computer Science II (1/2 or 1 credit) Computer Systems and Networking I (1/2 or 1 credit) Computer Systems and Networking II (1/2 or 1 credit) Desktop Publishing (1/2 or 1 credit) Digital Graphics & Animation (1/2 credit) Introduction to Business Computer Applications (1/2 or 1 credit) Multimedia Productions or Multimedia Presentations (1/2 or 1 credit) Technology Education Computer Applications (1/2 or 1 credit) Telecommunications (1/2 credit) Web Mastering or Web Design (1/2 credit) Word Processing (1/2 or 1 credit) Independent Study in Technology Applications (1/2 or 1 credit)

(d). Beginning with the graduates of Academic Year (High School) 2007-2008, at the time of high school

graduation, an applicant must have successfully completed 17.5 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for one unit; provided however, that such Agriscience unit shall not be considered a science elective for the purpose of the math or science elective requirement below)
1	An elective from among the following math subjects: Geometry, Calculus, Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III, Advanced Mathematics I, Advanced Mathematics II, Integrated Mathematics III or the following science subjects: Biology II, Chemistry II, Physics or Physics II
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or
1	Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE) or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum). BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1/2 or 1 credit) Business Computer Applications (1/2 or 1 credit) Computer Applications or Computer/Technology Applications (1/2 or 1 credit) Computer Architecture (1/2 or 1 credit) Computer Electronics I (1/2 or 1 credit) Computer Electronics II (1/2 or 1 credit) Computer/Technology Literacy (1/2 or 1 credit) Computer Science I (1/2 or 1 credit) Computer Science II (1/2 or 1 credit) Computer Systems and Networking I (1/2 or 1 credit) Computer Systems and Networking II (1/2 or 1 credit) Desktop Publishing (1/2 or 1 credit) Digital Graphics & Animation (1/2 credit)

Units	Course
1/2	Introduction to Business Computer Applications (1/2 or 1 credit) Multimedia Productions or Multimedia Presentations (1/2 or 1 credit) Technology Education Computer Applications (1/2 or 1 credit) Telecommunications (1/2 credit) Web Mastering or Web Design (1/2 credit) Word Processing (1/2 or 1 credit) Independent Study in Technology Applications (1/2 or 1 credit)

- A.5.a.ii. - 6.a.iii. ...
- b. if qualifying under §703.A.5.c;
 - i. the state's reported prior year average plus 3 points, rounded, but never less than 23 for the Opportunity Award; or
 - ii. a 26 for the Performance Award; or
 - iii. a 30 for the Honors Award; and
 - c.i. if completed the twelfth grade level of an approved home study program during or before the Academic Year (High School) 2003-2004 or during or after the Academic Year (High School) 2008-2009 and qualifying under §703.A.5.d;
 - (a). the state's reported prior year average plus 3 points, rounded, but never less than 23 for the Opportunity Award; or
 - (b). a 26 for the Performance Award; or
 - (c). a 30 for the Honors Award; and
 - ii. if completed the twelfth grade level of an approved home study program during or after the Academic Year (High School) 2004-2005 and through the Academic Year (High School) 2007-2008 and qualifying under §703.A.5.d;
 - (a). the state's reported prior year average plus 2 points, rounded, but never less than 22 for the Opportunity Award; or
 - (b). a 25 for the Performance Award; or
 - (c). a 29 for the Honors Award; and
 - d.i. if qualifying under §703.A.5.e by graduating from a high school defined in §1701.A.5; which is limited to the Opportunity Award only; the state's reported prior year average plus 3 points, rounded, but never less than 23;
 - ii. if qualifying under §703.A.5.e by successfully completing the twelfth grade level a home study program approved by BESE and conducted outside the United States and its territories during or before the Academic Year (High School) 2003-2004 or during or after the Academic Year (High School) 2008-2009; which is limited to the Opportunity Award only; the state's reported prior year average plus 3 points, rounded, but never less than 23;
 - iii. if qualifying under §703.A.5.e by successfully completing the twelfth grade level a home study program approved by BESE and conducted outside the United States and its territories during or after the Academic Year (High School) 2004-2005 and through the Academic Year (High School) 2007-2008; which is limited to the Opportunity Award only; the state's reported prior year average plus 2 points, rounded, but never less than 22;

e. if qualifying under §703.A.5.f; which is limited to the Performance Award only; a 24; and

A.7 - H.3. ...

I. Deaf and Hard-of-Hearing Students. Any student who graduates from high school or completes an approved home study program during and after Academic Year (High School) 2004-2005 and who is eligible for a TOPS Opportunity, Performance, or Honors Award may use the award at an out-of-state college or university if all the following conditions are met:

1. the college or university is nonpublic, and
2. the college or university is accredited by a regional accrediting organization recognized by the United States Department of Education, and
3. all programs and services at the college or university are specifically designed to accommodate deaf and hard-of-hearing students, and
4. deaf and hard-of-hearing students comprise the majority of students enrolled at the college or university at the undergraduate level, and
5. the award recipient meets the admission requirements of the college or university that are applicable to deaf and hard-of-hearing students, and
6. the award recipient must enroll as First-Time Freshman as defined in §301, unless granted an exception for cause by LASFAC, in the out-of-state college or university by the deadlines established in §703.A.4, and
7. the award recipient must meet the requirements of Section 705 to continue receiving the TOPS Opportunity, Performance or Honors Awards, and
8. the college or university complies with the requirements for postsecondary institutions provided in §1903.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64 and 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999 and 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219 and 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330 and 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:3112 (December 2005).

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A - A.6.b. ...

7. have achieved an ACT Score, as defined in §301, of at least:
 - a. if qualifying under §803.A.5.a, an ACT composite score of at least 17;
 - b. if qualifying under §803.A.5.b or c, an ACT composite of at least 20; and
 - c. if qualifying under §803.A.5.d and successfully completing the twelfth grade level a home study program approved by BESE during or before the Academic Year

(High School) 2003-2004 or during or after the Academic Year (High School) 2008-2009, an ACT composite of at least 20; and

- d. if qualifying under §803.A.5.d and successfully completing the twelfth grade level a home study program approved by BESE during or after the Academic Year (High School) 2004-2005 or during the Academic Year (High School) 2007-2008, an ACT composite of at least 19; and
8. - 10. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005).

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1901. Eligibility of Postsecondary Institutions to Participate

A.- D. ...

E. Out-of-state colleges and universities may participate in TOPS if all the conditions of §703.I are met.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 30:784 (April 2004), LR 31:3114 (December 2005).

§1903. Responsibilities of Postsecondary Institutions

A. - B.6.b. ...

c. LAICU member colleges and universities or an out-of-state college or university if all of the conditions of §703.I are met may bill for students enrolled in academic programs an amount up to the Weighted Average Award Amount, as defined in §301;

B.6.d. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, 17:3041.10-3041.15, 17:3041.21-3041.26 and R.S. 17:3048.1 and R.S. 17:3050.1 - 050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3114 (December 2005).

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RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs—Maintaining Eligibility
(LAC 28:IV.705 and 805)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant Programs Rules [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)]. (SG0664R)

**Title 28
EDUCATION**

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

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

§705. Maintaining Eligibility

A. - A.8.d. ...

9. through the 2003-2004 Academic Year (College), has not been enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree for more than two years.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996 (September 2000), LR 26:2001 (September 2000), repromulgated LR 27:1853 (November 2001), amended LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1163 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005).

Chapter 8. TOPS-TECH Award

§805. Maintaining Eligibility

A. - A.5. ...

6. has maintained Steady Academic Progress as defined in §301; and

7. maintain, by the end of the spring term, a cumulative college grade point average of at least 2.50 on a 4.00 maximum scale; and

8. earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or term in the Program Year (Non-Academic Program). Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) amended LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997 (September 2000), LR 26:2002 (September 2000), repromulgated LR 27:1856 (November 2001), amended LR 28:774 (April 2002),

LR 28:2332 (November 2002), LR 29:880 (June 2003), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1165 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005).

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RULE

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Incorporation by Reference of 40 CFR Part 63
as It Applies to Major Sources
(LAC 33:III.5122)(AQ254)

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.5122 (Log #AQ254).

This Rule removes 40 CFR Part 63, Subpart D, from the subparts of the federal regulations that are incorporated by reference by the department. This will correctly reflect the subparts that the state is responsible for. 40 CFR Part 63, Subpart D, was incorporated by reference inadvertently in previous rulemaking. The basis and rationale for this Rule are to correct the incorporation by reference to reflect the subparts that the state is responsible for.

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 51. Comprehensive Toxic Air Pollutant
Emission Control Program**

**Subchapter C. Incorporation by Reference of 40 CFR
Part 63 (National Emission Standards for
Hazardous Air Pollutants for Source
Categories) as It Applies to Major
Sources**

**§5122. Incorporation by Reference of 40 CFR Part 63
(National Emission Standards for Hazardous Air
Pollutants for Source Categories) as It Applies to
Major Sources**

A. - C.2. ...

3. 40 CFR Part 63, Subpart D, Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants, and Subpart E, Approval of State Programs and Delegation of Federal Authorities, are not included in this incorporation by reference.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998),

LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005).

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0512#054

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Mercury-Containing Devices and Electronics as Universal Wastes

(LAC 33:V.109, 305, 1501, 2201, 3801, 3807, 3810, 3813, 3821, 3823, 3841, 3843, 3845, 3855, 3877, 4301, and 4911)
(HW088)

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.109, 305, 1501, 2201, 3801, 3807, 3810, 3813, 3821, 3823, 3841, 3843, 3845, 3855, 3877, 4301, and 4911 (Log #HW088).

This Rule adds mercury-containing devices and electronics, including cathode ray tubes (CRTs), destined for recycling as universal wastes. Under the Rule, metallic mercury must be recovered, recycled, reused, or sequestered, and not incinerated, landfilled, or released in any way; electronics, including CRTs, must be sent for dismantling and recovery of components, in a way that prevents releases to the environment. Electronics are the fastest growing portion of the municipal waste stream. In 1988, 20 million computers were discarded as obsolete, and only 11 percent of those were recycled. In 2004, 315 million computers were rendered obsolete in the United States. That equates to 4 billion pounds of plastic, 1 billion pounds of lead, 2 million pounds of cadmium, and 400,000 pounds of mercury. Electronic products are hazardous. They contain lead, mercury, cadmium, zinc, and brominated flame retardants. Televisions and computer monitors contain up to 4 pounds of lead each. Lead is fused with CRT glass as a radiation shield, making it difficult to separate. Currently there is no market for leaded glass. Eight states have already promulgated rules similar to this rule change and have added both electronics/CRTs and mercury-containing devices to their universal waste rules. Two states have taken action to include electronics and/or CRTs as state wastes. Two states have modified their universal waste rules to include mercury-containing devices. The basis and rationale for this Rule are to reduce costs and promote recycling by having mercury-containing devices and electronics, including CRTs, included as part of Louisiana's universal waste rule.

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

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Cathode Ray Tube or CRT—a vacuum tube, composed primarily of glass, that is the video display component of a television or computer monitor. An *intact CRT* means a CRT remaining within the monitor, whose vacuum has not been released. A *broken CRT* means a CRT for which the vacuum has been released and cannot be restored.

* * *

CRT Glass Manufacturing Facility—a facility or part of a facility that uses a furnace to manufacture CRT glass.

CRT Processing—conducting any of the following activities:

1. receiving broken or intact CRTs;
2. intentionally breaking intact CRTs or further breaking or separating broken CRTs;
3. sorting or otherwise managing glass removed from CRTs; or
4. cleaning the coatings off the glass removed from CRTs.

* * *

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, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005).

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§305. Scope of the Permit

A. - C.11.b. ...

- c. mercury-containing equipment as described in LAC 33:V.3807;
- d. lamps as described in LAC 33:V.3809;
- e. electronics as described in LAC 33:V.3810; and
- f. antifreeze as described in LAC 33:V.3811;

C.12. - H. ...

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 13:84 (February 1987), LR 13:433 (August 1987), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 23:567 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1105 (June 1998), LR 24:1690, 1759 (September 1998), LR 25:435 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:708 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3116 (December 2005).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1501. Applicability

A. - C.11.b. ...

- c. mercury-containing equipment as described in LAC 33:V.3807;
- d. lamps as described in LAC 33:V.3809;
- e. electronics as described in LAC 33:V.3810; and
- f. antifreeze as described in LAC 33:V.3811; or

C.12. - H.13. ...

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 18:1256 (November 1992), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 23:565, 568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998), LR 24:1694, 1759 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:277 (February 2000), LR 27:711 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3117 (December 2005).

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2201. Purpose, Scope, and Applicability

A. - I.5.b. ...

- c. mercury-containing equipment as described in LAC 33:V.3807;
- d. lamps as described in LAC 33:V.3809;
- e. electronics as described in LAC 33:V.3810; and
- f. antifreeze as described in LAC 33:V.3811.

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 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), LR 24:666 (April 1998), LR 24:1107 (June 1998), LR 24:1724 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 27:711 (May 2001), amended by the

Office of the Secretary, Legal Affairs Division, LR 31:3117 (December 2005).

Chapter 38. Universal Wastes

Subchapter A. General

§3801. Scope and Applicability

A. This Chapter establishes requirements for managing batteries as described in LAC 33:V.3803, pesticides as described in LAC 33:V.3805, mercury-containing equipment as described in LAC 33:V.3807, lamps as described in LAC 33:V.3809, electronics as described in LAC 33:V.3810, and antifreeze as described in LAC 33:V.3811. This Chapter provides an alternative set of management standards in lieu of regulations under LAC 33:V.Subpart 1.

B. - D. ...

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 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 24:1496 (August 1998), LR 24:1759 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:712 (May 2001), repromulgated LR 27:1518 (September 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3117 (December 2005).

§3807. Applicability—Mercury-Containing Equipment

A. Mercury-Containing Equipment Covered under This Chapter. The requirements of this Chapter apply to persons managing mercury-containing equipment, as described in LAC 33:V.3813, except those listed in Subsection B of this Section.

B. Mercury-Containing Equipment Not Covered under This Chapter. The requirements of this Chapter do not apply to persons managing the following mercury-containing equipment:

1. mercury-containing equipment that is not yet waste under LAC 33:V.Chapter 49 (Subsection C of this Section describes when mercury-containing equipment becomes waste.); and
2. mercury-containing equipment that is not hazardous waste. Mercury-containing equipment is a hazardous waste if it exhibits one or more of the characteristics identified in LAC 33:V.4903.

C. Generation of Waste Mercury-Containing Equipment

1. Used mercury-containing equipment becomes waste on the date it is discarded (i.e., sent for reclamation).
2. Unused mercury-containing equipment becomes waste on the date the handler decides to discard it.

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 23:569 (May 1997), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3117 (December 2005).

§3810. Applicability—Electronics

A. Electronics Covered under This Chapter. The requirements of this Chapter apply to persons managing electronics as described in LAC 33:V.3813, except material listed in Subsection B of this Section. Discarded electronics not managed under LAC 33:V.Chapter 41 are subject to management under this Chapter.

B. Electronics Not Covered under This Chapter. The requirements of this Chapter do not apply to persons managing the following categories of electronics:

1. discarded electronics that are managed under LAC 33:V.Chapter 41;

2. electronics, as described in LAC 33:V.3813, that are not yet wastes under LAC 33:V.4901, including those that do not meet the criteria for waste generation in Subsection C of this Section; and

3. electronics, as described in this Chapter, that are not hazardous waste. Electronics are hazardous waste if they exhibit one or more of the characteristics identified in LAC 33:V.4903.

C. Generation of Waste Electronics

1. An electronic device becomes a waste on the date it is discarded (e.g., when sent for reclamation).

2. An unused electronic device becomes a waste on the date the handler decides to discard it.

3. An electronic device is a universal waste if destined for recycling or dismantling.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 31:3117 (December 2005).

§3813. Definitions

Ampule—an airtight vial made of glass, plastic, metal, or any combination of these materials.

* * *

Destination Facility—a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in LAC 33:V.3821.A and C and 3843.A and C. A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste. A facility that shreds, crushes, heats, or otherwise treats electronic devices or any component thereof, shall be considered a destination facility. A facility shall not be considered a destination facility if it engages in the disassembly or demanufacturing of electronics:

1. for the purpose of marketing, reselling, reusing, or recycling the components of the electronic devices; and

2. without treating the electronic devices or any component thereof.

Electronics or *Electronic Device*—a device or a component thereof that contains one or more circuit boards and is used primarily for data transfer or storage, communication, or entertainment purposes, including but not limited to, desktop and laptop computers, computer peripherals, monitors, copying machines, scanners, printers, radios, televisions, camcorders, video cassette recorders (VCRs), compact disc players, digital video disc players, MP3 players, telephones, including cellular and portable telephones, and stereos.

* * *

Large Quantity Handler of Universal Waste—a universal waste handler (as defined in this Section) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing equipment, lamps, electronics, or antifreeze, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which the 5,000 kilogram-limit is met or exceeded.

Mercury-Containing Equipment—a device or part of a device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function.

* * *

Small Quantity Handler of Universal Waste—a universal waste handler (as defined in this Section) who does not accumulate 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing equipment, lamps, electronics, or antifreeze, calculated collectively) at any time.

* * *

Universal Waste—any of the following hazardous wastes that are subject to the universal waste requirements of this Chapter:

1. - 2. ...

3. mercury-containing equipment as described in LAC 33:V.3807;

4. lamps as described in LAC 33:V.3809;

5. electronics as described in LAC 33:V.3810; and

6. antifreeze as described in LAC 33:V.3811.

* * *

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 23:570 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1760 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:287 (February 2000), LR 27:302 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3118 (December 2005).

Subchapter B. Standards for Small Quantity Handlers of Universal Waste

§3821. Waste Management

A. - B. ...

1. a container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a container that does not meet the requirements of Paragraph B.1 of this Section, provided that the unacceptable container is over packed in a container that does meet the requirements of Paragraph B.1 of this Section;

3. a tank that meets the requirements of LAC 33:V.Chapter 19, except for LAC 33:V.1915.C; or

4. ...

C. Universal Waste Mercury-Containing Equipment. A small quantity handler of universal waste shall manage universal waste mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows.

1. A small quantity handler of universal waste shall place in a container any universal waste mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container shall be closed, structurally sound, and compatible with the contents of the device; shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; and shall be reasonably

designed to prevent the escape of mercury into the environment by volatilization or any other means.

2. A small quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment, provided the handler:

a. removes and manages the ampules in a manner designed to prevent breakage of the ampules;

b. - g. ...

h. packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.

3. A small quantity handler of universal waste who removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing shall determine whether the mercury or clean-up residues resulting from spills or leaks, and/or other solid waste generated as a result of the removal of mercury-containing ampules or housings (e.g., the remaining mercury-containing device) exhibit a characteristic of hazardous waste identified in LAC 33:V.4903.

a. If the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, it shall be managed in compliance with all applicable requirements of these regulations. The handler is considered the generator of the mercury, residues, and/or other waste and shall manage it subject to LAC 33:V.Chapter 11.

b. If the mercury, residues, and/or other solid waste does not exhibit a characteristic of hazardous waste, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local Solid Waste Regulations.

4. A small quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler:

a. immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and

b. follows all requirements for removing ampules and managing removed ampules under Paragraph C.2 of this Section.

D. - D.2....

E. Universal Waste Electronics. A small quantity handler of universal waste shall manage universal waste electronics in a way that prevents the release of any universal waste, component of a universal waste, or constituent of a universal waste to the environment, as follows:

1. store all universal waste electronics inside a building with a roof and four walls or in the cargo-carrying portion of a truck, such as in a trailer, in a manner that prevents universal waste electronics from being exposed to the environment and ensures that all universal waste electronics are handled, stored, and transported in a manner that maintains the reuse or recyclability of any such device or component thereof;

2. immediately clean up and place in a container any broken cathode ray tube from a universal waste electronic device. Any such container shall be closed, structurally sound, and compatible with the cathode ray tube and shall be capable of preventing leakage, spillage, or releases of broken

cathode ray tubes, glass particles, or other hazardous constituents from such broken tubes, to the environment;

3. shall not shred, crush, heat, or otherwise treat electronics or any component thereof, and shall not break the cathode ray tube in any electronic device. Provided no treatment is occurring, a small quantity handler of universal waste electronics may disassemble electronics for the sole purpose of marketing, reselling, reusing, or recycling components thereof.

F. Universal Waste Antifreeze. A small quantity handler of universal waste shall manage universal waste antifreeze in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste antifreeze shall be contained in one or more of the following:

1. a container that remains closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a container that does not meet the requirements of Paragraph F.1 of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of Paragraph F.1 of this Section;

3. a tank that meets the requirements of LAC 33:V.Chapter 19, except for LAC 33:V.1915.C; or

4. a transport vehicle or vessel that is closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

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 23:571 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1760 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:302 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3118 (December 2005).

§3823. Labeling/Marking

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

4. Universal waste mercury-containing equipment (e.g., each device), or a container in which the mercury-containing equipment is contained, shall be labeled or marked clearly with any of the following phrases: "Universal Waste—Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

5. A universal waste mercury-containing thermostat or container containing only universal waste mercury-containing thermostats shall be labeled or marked clearly with any of the following phrases: "Universal Waste—Mercury Thermostat(s)," "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."

6. Each lamp or a container or package in which such lamps are contained shall be labeled or marked clearly with one of the following phrases: "Universal Waste—Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

7. Universal waste electronics, or a container in which the electronics are contained, or each electronic device, package, or pallet containing universal waste electronics, shall be labeled or marked clearly with one of the following

phrases: "Universal Waste—Electronics," or "Waste Electronics," or "Used Electronics."

8. Universal waste antifreeze, or a container in which the antifreeze is contained, shall be labeled or marked clearly with one of the following phrases: "Universal Waste—Antifreeze," or "Waste Antifreeze," or "Used Antifreeze."

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 23:572 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:303 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3119 (December 2005).

Subchapter C. Standards for Large Quantity Handlers of Universal Waste

§3841. Notification

A. - B.3. ...

4. a list of all of the types of universal waste managed by the handler (e.g., batteries, pesticides, mercury-containing equipment, lamps, electronics, antifreeze); and

5. a statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time.

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 23:574 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2496 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2473 (October 2005), LR 31:3120 (December 2005).

§3843. Waste Management

A. - B. ...

1. a container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a container that does not meet the requirements of Paragraph B.1 of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of Paragraph B.1 of this Section;

3. - 4. ...

C. Universal Waste Mercury-Containing Equipment. A large quantity handler of universal waste shall manage universal waste mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows.

1. A large quantity handler of universal waste shall place in a container any universal waste mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container shall be closed, structurally sound, and compatible with the contents of the device; shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; and shall be reasonably

designed to prevent the escape of mercury into the environment by volatilization or any other means.

2. A large quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment provided the handler:

a. removes and manages the ampules in a manner designed to prevent breakage of the ampules;

b. - g. ...

h. packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.

3. A large quantity handler of universal waste who removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing shall determine whether the mercury or clean-up residues resulting from spills or leaks and/or other solid waste generated as a result of the removal of mercury-containing ampules or housings (e.g., the remaining mercury-containing device) exhibit a characteristic of hazardous waste identified in LAC 33:V.4903.

a. If the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, it shall be managed in compliance with all applicable requirements of these regulations. The handler is considered the generator of the mercury, residues, and/or other waste and is subject to LAC 33:V.Chapter 11.

b. If the mercury, residues, and/or other solid waste does not exhibit a characteristic of hazardous waste, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local Solid Waste Regulations.

4. A large quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler:

a. immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and

b. follows all requirements for removing ampules and managing removed ampules under Paragraph C.2 of this Section.

D. - D.2....

E. Universal Waste Electronics. A large quantity handler of universal waste shall manage universal waste electronics in a way that prevents the release of any universal waste, component of a universal waste, or constituent of a universal waste to the environment, as follows:

1. store all universal waste electronics inside a building with a roof and four walls or in the cargo-carrying portion of a truck, such as in a trailer, in a manner that prevents universal waste electronics from being exposed to the environment and ensures that all universal waste electronics are handled, stored, and transported in a manner that maintains the reuse or recyclability of any such device or component thereof;

2. immediately clean up and place in a container any broken cathode ray tube from a universal waste electronic device. Any such container shall be closed, structurally sound, and compatible with the cathode ray tube and shall be

capable of preventing leakage, spillage, or releases of broken cathode ray tubes, glass particles, or other hazardous constituents from such broken tubes, to the environment;

3. shall not shred, crush, heat, or otherwise treat electronics or any component thereof, and shall not break the cathode ray tube in any electronic device. Provided no treatment is occurring, a large quantity handler of universal waste electronics may disassemble electronics for the sole purpose of marketing, reselling, reusing, or recycling components thereof.

F. Universal Waste Antifreeze. A large quantity handler of universal waste shall manage universal waste antifreeze in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste antifreeze shall be contained in one or more of the following:

1. a container that remains closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a container that does not meet the requirements of Paragraph F.1 of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of Paragraph F.1 of this Section;

3. a tank that meets the requirements of LAC 33:V.Chapter 19, except for LAC 33:V.1915.C; or

4. a transport vehicle or vessel that is closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

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 23:574 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:303 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3120 (December 2005).

§3845. Labeling/Marking

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

4. Universal waste mercury-containing equipment (e.g., each device), or a container or tank in which the mercury-containing equipment is contained, shall be labeled or marked clearly with one of the following phrases: "Universal Waste—Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

5. A universal waste mercury-containing thermostat or container containing only universal waste mercury-containing thermostats shall be labeled or marked clearly with one of the following phrases: "Universal Waste—Mercury Thermostat(s)," "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."

6. Each lamp or a container or package in which such lamps are contained shall be labeled or marked clearly with one of the following phrases: "Universal Waste—Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

7. Universal waste electronics, or a container in which the electronics are contained, or each electronic device, package, or pallet containing universal waste electronics,

shall be labeled or marked clearly with one of the following phrases: "Universal Waste—Electronics," or "Waste Electronics," or "Used Electronics."

8. Universal waste antifreeze, or a container in which the antifreeze is contained, shall be labeled or marked clearly with one of the following phrases: "Universal Waste—Antifreeze," or "Waste Antifreeze," or "Used Antifreeze."

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 23:575 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:303 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3121 (December 2005).

§3855. Tracking Universal Waste Shipments

A. - A.1. ...

2. the quantity of each type of universal waste received (e.g., batteries, pesticides, mercury-containing equipment, thermostats, lamps, electronics, antifreeze); and

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

2. the quantity of each type of universal waste sent (e.g., batteries, pesticides, mercury-containing equipment, thermostats, lamps, electronics, antifreeze); and

B.3. - C.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:576 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1762 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3121 (December 2005).

Subchapter E. Standards for Destination Facilities

§3877. Tracking Universal Waste Shipments

A. - A.1. ...

2. the quantity of each type of universal waste received (e.g., batteries, pesticides, mercury-containing equipment, thermostats, lamps, electronics, antifreeze); and

A.3. - B. ...

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 23:578 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1762 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3121 (December 2005).

Chapter 43. Interim Status

§4301. Purpose and Applicability

A. - C.13.b. ...

c. mercury-containing equipment as described in LAC 33:V.3807;

d. lamps as described in LAC 33:V.3809;

e. electronics as described in LAC 33:V.3810; and

f. antifreeze as described in LAC 33:V.3811;

C.14. - I. ...

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 13:84 (February 1987), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998), LR 25:482 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:2498 (November 2000), LR 27:713 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2474 (October 2005), LR 31:3121 (December 2005).

Chapter 49. Lists of Hazardous Wastes

[Comment: Chapter 49 is divided into two sections: Category I Hazardous Wastes, which consist of Hazardous Wastes from nonspecific and specific sources (F and K wastes), Acute Hazardous Wastes (P wastes), and Toxic Wastes (U wastes) (LAC 33:V.4901); and Category II Hazardous Wastes, which consist of wastes that are ignitable, corrosive, reactive, or toxic (LAC 33:V.4903).]

§4911. Conditional Exclusion for Broken Cathode Ray Tubes (CRTs) Undergoing Recycling

A. Prior to processing, broken CRTs are not solid wastes if they are destined for recycling and if they meet the following requirements.

1. Storage. The broken CRTs shall be either:
 - a. stored in a building with a roof, floor, and walls;
 - or
 - b. placed in a container (i.e., a package or a vehicle) that is constructed, filled, and closed to minimize identifiable releases to the environment of CRT glass (including fine solid materials).

2. Labeling. Each container in which broken CRT material is contained shall be labeled or marked clearly with one of the following phrases: "Waste Cathode Ray Tube(s)—Contains Leaded Glass," or "Used Cathode Ray Tube(s)—Contains Leaded Glass." It shall also be labeled: "Do Not Mix with Other Glass Materials."

3. Transportation. These CRTs shall be transported in a container meeting the requirements of Subparagraph A.1.b and Paragraph A.2 of this Section.

4. Speculative Accumulation. These CRTs are subject to the limitations on speculative accumulation as defined in LAC 33:V.109.

B. Requirements for Processing of Broken CRTs. Broken CRTs undergoing *CRT processing* as defined in LAC 33:V.109 are not solid wastes if they meet the following requirements.

1. Storage. Broken CRTs undergoing processing are subject to the requirements of Paragraphs A.1, 2, and 4 of this Section.

2. Processing. All CRTs shall be processed within a building with a roof, floor, and walls. No activities may be performed that use temperatures high enough to volatilize lead from CRTs.

C. Processed CRT Glass Sent to CRT Glass Making or Lead Smelting. Glass removed from used CRTs that is destined for recycling at a CRT glass manufacturing facility or a lead smelter after processing is not a solid waste unless it is speculatively accumulated as defined in LAC 33:V.109. Imported, processed glass from CRTs is subject to these requirements as soon as it enters this state.

D. Processed CRT Glass Sent to Other Types of Recycling, except for Use Constituting Disposal. Glass removed from CRTs that is destined for other types of

recycling after processing (except use constituting disposal) is not a solid waste if it meets the requirements of Paragraphs A.1-4 of this Section. Imported, processed glass removed from CRTs is subject to these requirements as soon as it enters this state.

E. Use Constituting Disposal. Processed glass removed from CRTs that is used in a manner constituting disposal shall comply with the requirements of Paragraphs A.1-4 of this Section and the applicable requirements of LAC 33:V.4139. Imported, processed glass from CRTs is subject to these requirements as soon as it enters this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 31:3122 (December 2005).

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Executive Counsel

0512#055

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Nonattainment New Source Review;
Prevention of Significant Deterioration
(LAC 33:III.504 and 509)(AQ246FS)

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.504 and 509 (Log #AQ246FS).

On December 31, 2002, the United States Environmental Protection Agency published a final New Source Review (NSR) Rule revising the regulations that implement the Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) provisions of the Clean Air Act. To be approvable under the State Implementation Plan (SIP), states implementing Part C (PSD permit program in §51.166) or Part D (nonattainment NSR permit program in §51.165) must include EPA's December 31, 2002, changes as minimum program elements. States must adopt and submit revisions to their Part 51 permitting programs implementing these minimum program elements no later than January 2, 2006 (67 FR 80240). This Rule is a revision to the Louisiana State Implementation Plan for air quality.

EPA's NSR revisions (hereinafter Federal NSR Reform Rule) include five major elements:

Baseline Emissions—changes the method for determining the source's emissions before a change is made (the baseline against which emissions increases are measured);

Applicability Test—changes the method for estimating the emissions after the change;

Clean Unit Exclusion—disregards increases from emissions units that have installed controls within the last 10 years;

Pollution Control Project Exclusion—exempts certain projects that will cause a significant increase in emissions of one pollutant, but reduce emissions of another pollutant; and

Plantwide Applicability Limits—allows facilities to establish a cap on emissions and trade increases and decreases under the cap, without installing controls on new or modified emissions units.

The department has made substantive changes to address comments received during the public comment period of proposed Rule AQ246F. On June 24, 2005, the United States Court of Appeals for the District of Columbia Circuit vacated the Clean Unit and Pollution Control Project portions of EPA's December 31, 2002, NSR Reform rule (*New York et al. v. U.S. EPA*, No. 02-1387). These provisions were removed from AQ246F. Several other unrelated changes were also made in response to public comments.

The basis and rationale for this Rule are to adopt the Federal NSR Reform Rule as mandated by the U.S. EPA.

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

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

A. Applicability. The provisions of this Section apply to the construction of any new *major stationary source* or to any *major modification* at a major stationary source, as defined herein, provided such source or modification will be located within a nonattainment area so designated in accordance with Section 107 of the federal Clean Air Act, and will emit a regulated pollutant for which it is major and for which the area is designated nonattainment. If any provision of this Section, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Section, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

1. For an area that is designated incomplete data, transitional nonattainment, marginal, moderate, serious, or severe nonattainment for the ozone national ambient air quality standard, VOC and NO_x are the regulated pollutants under this Section. VOC and NO_x emissions shall not be aggregated for purposes of determining major stationary source status and significant net emissions increases.

2. ...

3. Except as specified in Paragraph A.5 of this Section, the emissions increase that would result from a proposed modification, without regard to project decreases, shall be compared to the trigger values listed in Subsection L.Table 1 of this Section to determine whether a calculation of the net emissions increase over the contemporaneous period must be performed.

a. Actual-to-Projected-Actual Applicability Test for Projects That Only Involve Existing Emissions Units. The emissions increase of a regulated pollutant shall be calculated by summing the difference between the *projected actual emissions*, as defined in Subsection K of this Section,

and the *baseline actual emissions*, as defined in Subsection K of this Section, specifically Subparagraphs a and b of the definition, for each existing emissions unit.

b. Actual-to-Potential Test for Projects That Only Involve Construction of New Emissions Units. The emissions increase of a regulated pollutant shall be calculated by summing the difference between the *potential to emit*, as defined in Subsection K of this Section, from each new emissions unit following completion of the project and the *baseline actual emissions*, as defined in Subsection K of this Section, specifically Subparagraph c of the definition, of these units before the project.

c. Reserved.

d. Hybrid Test for Projects That Involve Multiple Types of Emissions Units. The emissions increase of a regulated pollutant shall be calculated using the methods specified in Subparagraphs A.3.a-b of this Section, as applicable, with respect to each emissions unit, for each type of emissions unit.

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

5. Reserved.

6. For any major stationary source with a plantwide applicability limit (PAL) for a regulated pollutant, the owner or operator shall comply with Subsection J of this Section.

7. For applications deemed administratively complete in accordance with LAC 33:III.519.A prior to December 20, 2001, the requirements of this Section shall not apply to NO_x increases; furthermore, the 1.40 to 1 VOC internal offset ratio for serious ozone nonattainment areas shall not apply. In such situations, a 1.30 to 1 internal offset ratio shall apply to VOC if lowest achievable emission rate (LAER) is not utilized.

8. For applications deemed administratively complete in accordance with LAC 33:III.519.A on or after December 20, 2001 and prior to June 23, 2003, the provisions of this Section governing serious ozone nonattainment areas shall apply to VOC and NO_x increases. For applications deemed administratively complete in accordance with LAC 33:III.519.A on or after June 23, 2003, the provisions of this Section governing severe ozone nonattainment areas shall apply to VOC and NO_x increases.

B. - D.3. ...

4. For any new major stationary source or major modification in accordance with this Section, it shall be assured that the total tonnage of the emissions increase that would result from the proposed construction or modification shall be offset by an equal or greater reduction as applicable, in the actual emissions of the regulated pollutant from the same or other sources in accordance with Paragraph F.9 of this Section. The total tonnage of increased emissions, in tons per year, shall be determined by summing the difference between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit. A higher level of offset reduction may be required in order to demonstrate that a net air quality benefit will occur.

5. - 8.d. ...

9. For existing emissions units at a major stationary source, other than projects at a source with a PAL, in

circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use, for the purpose of calculating projected actual emissions, the method specified in Subparagraphs K.*Projected Actual Emissions*.a-c of this Section, the following shall apply.

a. Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

- i. a description of the project;
- ii. identification of the emissions units whose emissions of a regulated pollutant could be affected by the project; and
- iii. a description of the applicability test used to determine that the project is not a major modification for any regulated pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under Subparagraph K.*Projected Actual Emissions*.c of this Section (i.e., demand growth) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

b. If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in Subparagraph D.9.a of this Section to the administrative authority. Nothing in this Subparagraph shall be construed to require the owner or operator of such a unit to obtain any determination from the administrative authority before beginning actual construction.

c. The owner or operator shall monitor the emissions of any regulated pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in Clause D.9.a.ii of this Section, and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated pollutant at such emissions unit.

d. If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the administrative authority within 60 days after the end of each year during which records must be generated under Subparagraph D.9.c of this Section setting out the unit's annual emissions during the year that preceded submission of the report.

e. If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the administrative authority if the annual emissions, in tons per year, from the project identified in Subparagraph D.9.a of this Section, exceed the baseline actual emissions, as documented and maintained in accordance with Clause D.9.a.iii of this Section, by a *significant* amount, as defined in Subsection K of this Section, for that regulated pollutant, and if such emissions differ from the preconstruction projection as documented and maintained in accordance with Clause D.9.a.iii of this Section. Such report shall be submitted to the administrative authority within 60 days after the end of such year. The report shall contain the following:

i. the name, address, and telephone number of the major stationary source;

ii. the annual emissions as calculated in accordance with Subparagraph D.9.c of this Section; and

iii. any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

10. The owner or operator of the source shall make the information required to be documented and maintained in accordance with Paragraph D.9 of this Section available for review upon a request for inspection by the administrative authority or the general public in accordance with the requirements contained in 40 CFR 70.4(b)(3)(viii).

E. - F.10. ...

11. Repealed from AQ246FS.

12. Repealed from AQ246FS.

G. Reserved.

H. Reserved.

I. Reserved.

J. Actuals PALs

1. Applicability

a. The administrative authority may approve the use of an actuals PAL for any existing major stationary source, except as provided in Subparagraph J.1.b of this Section, if the PAL meets the requirements of this Subsection. The term "PAL" shall mean "actuals PAL" throughout this Subsection.

b. The administrative authority shall not allow an actuals PAL for VOC or NO_x for any major stationary source located in an extreme ozone nonattainment area.

c. Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements of this Subsection, and complies with the PAL permit:

i. is not a major modification for the PAL pollutant;

ii. does not have to be approved through this Section; and

iii. is not subject to the provisions in Paragraph B.1 of this Section (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the nonattainment major NSR program).

d. Except as provided under Clause J.1.c.iii of this Section, a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

2. Definitions. For purposes of this Subsection, the terms below shall have the meaning herein as follows. When a term is not defined in this Paragraph, it shall have the meaning given in Subsection K of this Section or in the Clean Air Act.

a. *Actuals PAL*—a PAL based on the *baseline actual emissions*, as defined in Subsection K of this Section, of all *emissions units*, as defined in Subsection K of this Section, at the source that emit or have the potential to emit the PAL pollutant.

b. *Allowable Emissions*—as defined in Subsection K of this Section, except with the following modifications.

i. The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

ii. An emissions unit's potential to emit shall be determined using the definition in Subsection K of this Section, except that the words "or enforceable as a practical matter" should be added after "federally enforceable."

c. *Major Emissions Unit*—

i. any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area; or

ii. any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the appropriate major stationary source threshold value listed in Subsection L. Table 1 of this Section for the PAL pollutant.

d. *Plantwide Applicability Limitation (PAL)*—an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with this Subsection.

e. *PAL Effective Date*—generally the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

f. *PAL Effective Period*—the period beginning with the PAL effective date and ending 10 years later.

g. *PAL Major Modification*—notwithstanding the definitions for *major modification* and *net emissions increase* in Subsection K of this Section, any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

h. *PAL Permit*—the major NSR permit, the minor NSR permit, or the state operating permit under a program that is approved into the State Implementation Plan or the Title V permit issued by the administrative authority that establishes a PAL for a major stationary source.

i. *PAL Pollutant*—the pollutant for which a PAL is established at a major stationary source.

j. *Significant Emissions Unit*—an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the *significant* level, as defined in Subsection K of this Section or in the Clean Air Act, whichever is lower, for that PAL pollutant, but less than the amount that would qualify the unit as a *major emissions unit* as defined in Subparagraph J.2.c of this Section.

k. *Small Emissions Unit*—an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the *significant* level for that PAL pollutant, as defined in Subsection K of this Section or in the Clean Air Act, whichever is lower.

3. Permit Application Requirements. As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the administrative authority for approval:

a. a list of all emissions units at the source designated as small, significant, or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, federal or state applicable

requirements, emission limitations, or work practices apply to each unit;

b. calculations of the baseline actual emissions with supporting documentation. Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction;

c. the calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by Subparagraph J.13.a of this Section.

4. General Requirements for Establishing PALs

a. The administrative authority may establish a PAL at a major stationary source, provided that at a minimum, the following requirements are met.

i. The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

ii. The PAL shall be established in a PAL permit that meets the public participation requirements in Paragraph J.5 of this Section.

iii. The PAL permit shall contain all the requirements of Paragraph J.7 of this Section.

iv. The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

v. Each PAL shall regulate emissions of only one pollutant.

vi. Each PAL shall have a PAL effective period of 10 years.

vii. The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in Paragraphs J.12-14 of this Section for each emissions unit under the PAL through the PAL effective period.

b. At no time during or after the PAL effective period are emissions reductions of a PAL pollutant, which occur during the PAL effective period, creditable as decreases for purposes of offsets under Subsection F of this Section unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

5. Public Participation Requirement for PALs. Procedures to establish, renew, or increase PALs for existing major stationary sources shall be the same as the procedures for permit issuance in accordance with LAC 33:III.519. These include the requirement that the administrative authority provide the public with notice of the proposed

approval of a PAL permit and at least a 30-day period for submittal of public comments. The administrative authority shall address all material comments before taking final action on the permit.

6. Setting the 10-Year Actuals PAL Level

a. Except as provided in Subparagraph J.6.b of this Section, the actuals PAL level for a major stationary source shall be established as the sum of the *baseline actual emissions*, as defined in Subsection K of this Section, of the PAL pollutant for each emissions unit at the source, plus an amount equal to the applicable *significant* level for the PAL pollutant, as defined in Subsection K of this Section or in the Clean Air Act, whichever is lower. When establishing the actuals PAL level for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The administrative authority shall specify a reduced PAL level (in tons/yr) in the PAL permit to become effective on the future compliance date of any applicable federal or state regulatory requirement that the administrative authority is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO_x to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit.

b. For newly-constructed units, which do not include modifications to existing units, on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in Subparagraph J.6.a of this Section, the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

7. Contents of the PAL Permit. The PAL permit shall contain, at a minimum, the following information:

a. the PAL pollutant and the applicable source-wide emission limitation in tons per year;

b. the PAL permit effective date and the expiration date of the PAL (PAL effective period);

c. specification that if a major stationary source owner or operator applies to renew a PAL in accordance with Paragraph J.10 of this Section before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period, but shall remain in effect until a revised PAL permit is issued by the administrative authority;

d. a requirement that emission calculations for compliance purposes include emissions associated with startup, shutdown, and malfunction;

e. a requirement that, once the PAL expires, the major stationary source is subject to the requirements of Paragraph J.9 of this Section;

f. the calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by Subparagraph J.13.a of this Section;

g. a requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under Paragraph J.12 of this Section;

h. a requirement to retain the records required under Paragraph J.13 of this Section on site. Such records may be retained in an electronic format;

i. a requirement to submit the reports required under Paragraph J.14 of this Section by the required deadlines;

j. any other requirements that the administrative authority deems necessary to implement and enforce the PAL.

8. PAL Effective Period and Reopening of the PAL Permit

a. PAL Effective Period. The administrative authority shall specify a PAL effective period of 10 years.

b. Reopening of the PAL Permit

i. During the PAL effective period, the administrative authority shall reopen the PAL permit to:

(a). correct typographical/calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL;

(b). reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under Subsection F of this Section;

(c). revise the PAL to reflect an increase in the PAL as provided under Paragraph J.11 of this Section.

ii. The administrative authority has the discretion to reopen the PAL permit in order to:

(a). reduce the PAL to reflect newly applicable federal requirements [e.g., new source performance standards (NSPS)] with compliance dates after the PAL effective date;

(b). reduce the PAL consistent with any other requirement that is enforceable as a practical matter, and that the state may impose on the major stationary source;

(c). reduce the PAL if the administrative authority determines that a reduction is necessary to avoid causing or contributing to a national ambient air quality standard (NAAQS) or PSD increment violation, or to an adverse impact on an air quality-related value that has been identified for a federal Class I area by a federal land manager and for which information is available to the general public.

iii. Except for the permit reopening in Subclause J.8.b.i.(a) of this Section for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of Paragraph J.5 of this Section.

9. Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in Paragraph J.10 of this Section shall expire at the end of the PAL effective period, and the following requirements shall apply.

a. Each emissions unit, or each group of emissions units, that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the following procedures.

i. Within the time frame specified for PAL renewals in Subparagraph J.10.b of this Section, the major

stationary source shall submit a proposed allowable emission limitation for each emissions unit, or each group of emissions units, if such a distribution is more appropriate as decided by the administrative authority, by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under Subparagraph J.10.e of this Section, such distribution shall be made as if the PAL had been adjusted.

ii. The administrative authority shall decide whether and how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the administrative authority determines is appropriate.

b. Each emissions unit shall comply with the allowable emission limitation on a 12-month rolling basis. The administrative authority may approve the use of monitoring systems (source testing, emission factors, etc.) other than continuous emissions monitoring systems (CEMS), continuous emissions rate monitoring systems (CERMS), predictive emissions monitoring systems (PEMS), or continuous parameter monitoring systems (CPMS) to demonstrate compliance with the allowable emission limitation.

c. Until the administrative authority issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under Clause J.9.a.i of this Section, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

d. Any physical change or change in the method of operation at the major stationary source will be subject to the nonattainment major NSR requirements if such change meets the definition of *major modification* in Subsection K of this Section.

e. The major stationary source owner or operator shall continue to comply with any state or federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period, except for those emission limitations that had been established in accordance with Paragraph B.1 of this Section, but were eliminated by the PAL in accordance with the provisions in Clause J.1.c.iii of this Section.

10. Renewal of a PAL

a. The administrative authority shall follow the procedures specified in Paragraph J.5 of this Section in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the administrative authority.

b. Application Deadline. A major stationary source owner or operator shall submit a timely application to the administrative authority to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is

to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.

c. Application Requirements. The application to renew a PAL permit shall contain the following information:

i. the information required in Subparagraphs J.3.a-c of this Section;

ii. a proposed PAL level;

iii. the sum of the potential to emit of all emissions units under the PAL, with supporting documentation;

iv. any other information the owner or operator wishes the administrative authority to consider in determining the appropriate level for renewing the PAL.

d. PAL Adjustment. In determining whether and how to adjust the PAL, the administrative authority shall consider the options outlined in Clauses J.10.d.i-ii of this Section. However, in no case may any such adjustment fail to comply with Clause J.10.d.iii of this Section.

i. If the emissions level calculated in accordance with Paragraph J.6 of this Section is equal to or greater than 80 percent of the PAL level, the administrative authority may renew the PAL at the same level without considering the factors set forth in Clause J.10.d.ii of this Section.

ii. The administrative authority may set the PAL at a level that he or she determines to be more representative of the source's baseline actual emissions, or that he or she determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the administrative authority in his or her written rationale.

iii. Notwithstanding Clauses J.10.d.i-ii of this Section:

(a) if the potential to emit of the major stationary source is less than the PAL, the administrative authority shall adjust the PAL to a level no greater than the potential to emit of the source; and

(b) the administrative authority shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of Paragraph J.11 of this Section regarding increasing a PAL.

e. If the compliance date for a state or federal requirement that applies to the PAL source occurs during the PAL effective period, and if the administrative authority has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or Title V permit renewal, whichever occurs first.

11. Increasing a PAL during the PAL Effective Period

a. The administrative authority may increase a PAL emission limitation only if the major stationary source complies with the following provisions.

i. The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions units contributing to the increase in emissions so as to cause the

major stationary source's emissions to equal or exceed its PAL.

ii. As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions units, exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

iii. The owner or operator shall obtain a major NSR permit for all emissions units identified in Clause J.11.a.i of this Section, regardless of the magnitude of the emissions increase resulting from them (i.e., no significant levels apply). These emissions units shall comply with any emissions requirements resulting from the nonattainment major NSR program process (e.g., LAER), even though they have also become subject to the PAL or continue to be subject to the PAL.

iv. The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

b. The administrative authority shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls as determined in accordance with Clause J.11.a.ii of this Section, plus the sum of the baseline actual emissions of the small emissions units.

c. The PAL permit shall be revised to reflect the increased PAL level in accordance with the public notice requirements of Paragraph J.5 of this Section.

12. Monitoring Requirements for PALs

a. General Requirements

i. Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

ii. The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in Clauses J.12.b.i-iv of this Section and must be approved by the administrative authority.

iii. Notwithstanding Clause J.12.a.ii of this Section, an owner or operator may also employ an alternative monitoring approach that meets the requirements of Clause J.12.a.i of this Section if approved by the administrative authority.

iv. Failure to use a monitoring system that meets the requirements of this Paragraph renders the PAL invalid.

b. Minimum Performance Requirements for Approved Monitoring Approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in Subparagraphs J.12.c-i of this Section:

i. mass balance calculations for activities using coatings or solvents;

ii. CEMS;

iii. CPMS or PEMS; and

iv. emission factors.

c. Mass Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

i. provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

ii. assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

iii. where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator shall use the highest value of the range to calculate the PAL pollutant emissions unless the administrative authority determines there is site-specific data or a site-specific monitoring program to support another content within the range.

d. CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:

i. CEMS must comply with applicable performance specifications found in 40 CFR Part 60, Appendix B; and

ii. CEMS must sample, analyze, and record data at least every 15 minutes while the emissions unit is operating.

e. CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

i. the CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameters and the PAL pollutant emissions across the range of operation of the emissions unit; and

ii. each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the administrative authority, while the emissions unit is operating.

f. Emission Factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

i. all emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;

ii. the emissions unit shall operate within the designated range of use for the emission factor, if applicable; and

iii. if technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six months of PAL permit issuance, unless the administrative authority determines that testing is not required.

g. A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.

h. Notwithstanding the requirements in Subparagraphs J.12.c-d of this Section, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameters and the PAL pollutant emissions rate at all operating points of the emissions unit, the administrative authority shall, at the time of permit issuance:

i. establish default values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating points; or

ii. determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameters and the PAL pollutant emissions is a violation of the PAL.

i. Revalidation. All data used to establish the PAL pollutant must be revalidated through performance testing or other scientifically valid means approved by the administrative authority. Such testing must occur at least once every five years after issuance of the PAL.

13. Recordkeeping Requirements

a. The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of this Subsection and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five years from the date of such record.

b. The PAL permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus five years:

i. a copy of the PAL permit application and any applications for revisions to the PAL; and

ii. each annual certification of compliance in accordance with Title V and the data relied on in certifying the compliance.

14. Reporting and Notification Requirements. The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the administrative authority in accordance with the applicable Title V operating permit program. The reports shall meet the following requirements.

a. Semiannual Report. The semiannual report shall be submitted to the administrative authority within 30 days

of the end of each reporting period. This report shall contain the following information:

i. the identification of the owner or operator and the permit number;

ii. total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded in accordance with Subparagraph J.13.a of this Section;

iii. all data relied upon, including but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions;

iv. a list of any emissions units modified or added to the major stationary source during the preceding 6-month period;

v. the number, duration, and cause of any deviations or monitoring malfunctions, other than the time associated with zero and span calibration checks, and any corrective action taken;

vi. a notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by Subparagraph J.12.g of this Section;

vii. a signed statement by the responsible official, as defined by the applicable Title V operating permit program, certifying the truth, accuracy, and completeness of the information provided in the report.

b. Deviation Report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted in accordance with 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the applicable program implementing 40 CFR 70.6(a)(3)(iii)(B). The reports shall contain the following information:

i. the identification of the owner or operator and the permit number;

ii. the PAL requirement that experienced the deviation or that was exceeded;

iii. emissions resulting from the deviation or the exceedance; and

iv. a signed statement by the responsible official, as defined by the applicable Title V operating permit program, certifying the truth, accuracy, and completeness of the information provided in the report.

c. Revalidation Results. The owner or operator shall submit to the administrative authority the results of any revalidation test or method within three months after completion of such test or method.

15. Transition Requirements

a. No administrative authority may issue a PAL that does not comply with the requirements of this Subsection after the administrator has approved regulations incorporating these requirements into the State Implementation Plan.

b. The administrative authority may supersede any PAL that was established prior to the date of approval of the

State Implementation Plan by the administrator with a PAL that complies with the requirements of this Subsection.

K. Definitions. The terms in this Section are used as defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

Act—repealed.

Actual Emissions—the actual rate of emissions of a pollutant from an emissions unit as determined in accordance with the following, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under Subsection J of this Section. Instead, the definitions of *projected actual emissions* and *baseline actual emissions* in this Subsection shall apply for those purposes.

a. In general, *actual emissions* as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period that precedes the particular date and that is representative of normal major stationary source operation. A different time period shall be allowed upon a determination by the department that it is more representative of normal major stationary source operation. *Actual emissions* shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

b. The administrative authority may presume that source-specific allowable emissions for the unit are equivalent to the *actual emissions* of the unit.

c. For any emissions unit that has not begun normal operations on the particular date, *actual emissions* shall equal the allowable emissions of the unit.

Administrator—the *administrator* of the USEPA or an authorized representative.

Adverse Impact on Visibility—visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the mandatory federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of the visibility impairments and how these factors correlate with:

a. times of visitor use of the mandatory federal Class I area; and

b. the frequency and timing of natural conditions that reduce visibility.

This term does not include effects on integral vista as defined at 40 CFR 51.301, Definitions.

Allowable Emissions—the emissions rate of a major stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

a. the applicable standard set forth in 40 CFR Part 60, 61, or 63;

b. any applicable State Implementation Plan emissions limitation including those with a future compliance date; or

c. the emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

Baseline Actual Emissions—the rate of emissions, in tons per year, of a regulated pollutant, determined as follows.

a. For any existing electric utility steam generating unit, *baseline actual emissions* means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The administrative authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

iii. For a regulated pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the *baseline actual emissions* for the emissions units being changed. A different consecutive 24-month period can be used for each regulated pollutant.

iv. The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Clause a.ii of this definition.

b. For an existing emissions unit, other than an electric utility steam generating unit, *baseline actual emissions* means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the administrative authority for a permit required under this Section, except that the 10-year period shall not include any period earlier than November 15, 1990.

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

iii. The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the administrator proposed or promulgated under 40 CFR Part 63, the *baseline actual*

emissions need only be adjusted if the state has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of Paragraphs F.4 and 5 of this Section.

iv. For a regulated pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the *baseline actual emissions* for the emissions units being changed. A different consecutive 24-month period may be used for each regulated pollutant.

v. The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Clauses b.ii-iii of this definition.

c. For a new emissions unit, the *baseline actual emissions* for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero, and thereafter, for all other purposes, shall equal the unit's potential to emit.

d. For a PAL for a major stationary source, the *baseline actual emissions* shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in Subparagraph a of this definition, for other existing emissions units in accordance with the procedures contained in Subparagraph b of this definition, and for a new emissions unit in accordance with the procedures contained in Subparagraph c of this definition.

Begin Actual Construction—initiation of physical on-site construction activities on an emissions unit that are of a permanent nature. Such activities include, but are not limited to, installation of building support and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating this term refers to those on-site activities other than preparatory activities that mark the initiation of the change.

Best Available Control Technology (BACT)—as defined in LAC 33:III.509.

Building, Structure, Facility, or Installation—all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, or are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

Clean Air Act—the federal Clean Air Act, 42 U.S.C. 7401-7671(q).

Clean Coal Technology—any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam, which was not in widespread use as of November 15, 1990.

Clean Coal Technology Demonstration Project—a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial

demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

Clean Unit—Repealed.

Commence—as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

a. begun, or caused to begin, a continuous program of actual on-site construction of the major stationary source, to be completed within a reasonable time; or

b. entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the major stationary source to be completed within a reasonable time.

Construction—any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in actual emissions.

Continuous Emissions Monitoring System (CEMS)—all of the equipment that may be required to meet the data acquisition and availability requirements of this Section, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

Continuous Emissions Rate Monitoring System (CERMS)—the total equipment required for the determination and recording of the pollutant mass emissions rate, in terms of mass per unit of time.

Continuous Parameter Monitoring System (CPMS)—all of the equipment necessary to meet the data acquisition and availability requirements of this Section, to monitor process and control device operational parameters (e.g., control device secondary voltages and electric currents) and other information (e.g., gas flow rate, O₂ or CO₂ concentrations), and to record average operational parameter values on a continuous basis.

Electric Utility Steam Generating Unit—any steam-electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

Emissions Unit—any part of a major stationary source that emits or would have the potential to emit any regulated pollutant, and includes an *electric utility steam generating unit* as defined in this Subsection. For purposes of this Section, there are two types of *emissions units* as described below.

a. A *new emissions unit* is any emissions unit that is, or will be, newly constructed and that has existed for less than two years from the date such emissions unit first operated.

b. An *existing emissions unit* is any emissions unit that does not meet the requirements in Subparagraph a of

this definition. A *replacement unit*, as defined in this Subsection, is an *existing emissions unit*.

Federal Class I Area—any federal land that is classified or reclassified as a "Class I" area in accordance with the federal Clean Air Act.

Federal Land Manager—with respect to any lands in the United States, the secretary of the department with authority over such lands.

Federally Enforceable—all limitations and conditions which are *federally enforceable* by the administrator, including those requirements developed in accordance with 40 CFR Parts 60, 61, and 63, requirements within any applicable State Implementation Plan, any permit requirements established in accordance with 40 CFR 52.21 or under regulations approved in accordance with 40 CFR Part 51, Subpart I including 40 CFR 51.165 and 40 CFR 51.166.

Fugitive Emissions—those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

Lowest Achievable Emission Rate—for any source, the more stringent rate of emissions based on the following:

a. the most stringent emissions limitation that is contained in the implementation plan of any state for such class or category of major stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

b. the most stringent emissions limitation that is achieved in practice by such class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified major stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

Major Modification—

a. Any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase, as listed in Subsection L.Table 1 of this Section, of any regulated pollutant for which the stationary source is already major.

b. Any net emissions increase that is considered significant for VOC or NO_x shall be considered significant for ozone. VOC and NO_x emissions shall not be aggregated for the purpose of determining significant net emissions increases.

c. A physical change or change in the method of operation shall not include:

- i. routine maintenance, repair, and replacement;
- ii. use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in accordance with the Federal Power Act;
- iii. use of an alternative fuel by reason of an order or rule under Section 125 of the Clean Air Act;
- iv. use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
- v. use of an alternative fuel or raw material by a stationary source that:

(a) the source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition that was established after December 12, 1976, in accordance with 40 CFR 52.21 or under regulations approved in accordance with 40 CFR Part 51, Subpart I or 40 CFR 51.166; or

(b) the source is approved to use under any permit issued under regulations approved in accordance with this Section;

vi. an increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition that was established after December 21, 1976, in accordance with 40 CFR 52.21 or regulations approved in accordance with 40 CFR Part 51, Subpart I or 40 CFR 51.166;

vii. any change in ownership at a stationary source;

viii. reserved;

ix. the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(a) the State Implementation Plan for the state in which the project is located; and

(b) other requirements necessary to attain and maintain the national ambient air quality standard during the project and after it is terminated.

d. This definition shall not apply with respect to a particular regulated pollutant when the major stationary source is complying with the requirements under Subsection J of this Section for a PAL for that pollutant. Instead, the definition at Subparagraph J.2.g of this Section shall apply.

Major Stationary Source—

a. any stationary source (including all emission points and units of such source located within a contiguous area and under common control) of air pollutants which emits, or has the potential to emit, any regulated pollutant at or above the threshold values defined in Subsection L.Table 1 of this Section; or

b. any physical change that would occur at a stationary source not qualifying under Subparagraph a of this definition as a *major stationary source*, if the change would constitute a *major stationary source* by itself;

c. a *major stationary source* that is major for VOC or NO_x shall be considered major for ozone. VOC and NO_x emissions shall not be aggregated for the purpose of determining *major stationary source* status;

d. a stationary source shall not be a *major stationary source* due to fugitive emissions, to the extent that they are quantifiable, unless the source belongs to:

- i. any category in Table A in LAC 33:III.509; or
- ii. any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act;

e. a stationary source shall not be a *major stationary source* due to secondary emissions.

Mandatory Federal Class I Area—those federal lands that are international parks, national wilderness areas which exceed 5,000 acres in size, national memorial parks which exceed 5,000 acres in size, and national parks which exceed 6,000 acres in size, and that were in existence on August 7, 1977. These areas may not be redesignated.

Natural Conditions—includes naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

Necessary Preconstruction Approvals or Permits—those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation Plan.

Net Emissions Increase—the amount by which the sum of the following exceeds zero:

a.i. any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source as calculated in accordance with Paragraph A.3 of this Section; and

ii. any other creditable increases and decreases in actual emissions at the major stationary source over a period including the calendar year of the proposed increase, up to the date on which the proposed increase will occur, and the preceding four consecutive calendar years. Baseline actual emissions for calculating increases and decreases under this Clause shall be determined as provided in Subsection K.*Baseline Actual Emissions* of this Section except that Clauses a.iii and b.iv of that definition shall not apply;

b. an increase or decrease in actual emissions is creditable only if neither the department nor the administrator has relied on it in issuing a permit for the source under this regulation and, for a decrease, the administrator has not relied on it in issuing a permit under 40 CFR 52.21, which permit is in effect when the increase in actual emissions from the particular change occurs;

c. Reserved;

d. an increase in actual emissions is creditable only to the extent that the new level of allowable emissions exceeds the old level of actual emissions;

e. a decrease in actual emissions is creditable only to the extent that:

i. the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of allowable emissions;

ii. it is enforceable as a practical matter at and after the time that actual construction of the particular change begins;

iii. it has not been relied on by the state in demonstrating attainment or reasonable further progress; and

iv. it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

v. Repealed from AQ246FS.

f. an increase that results from a physical change at a major stationary source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days;

g. Subparagraph K.*Actual Emissions.a* of this Section shall not apply for determining creditable increases and decreases or after a change.

Nonattainment Area—for any air pollutant, an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the administrator to be reliable) to exceed any national ambient air quality standard for such pollutant. Such term includes

any area identified under Subparagraphs (A)-(C) of Section 107(d)(1) of the Federal Clean Air Act.

Pollution Control Project (PCP)—Repealed.

Pollution Prevention—any activity that, through process changes, product reformulation or redesign, or substitution of less polluting raw materials, eliminates or reduces the release of air pollutants, including fugitive emissions, and other pollutants to the environment prior to recycling, treatment, or disposal; it does not mean recycling (other than certain "in-process recycling" practices), energy recovery, treatment, or disposal.

Portable Stationary Source—a source that can be relocated to another operating site with limited dismantling and reassembly.

Potential to Emit—the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

Predictive Emissions Monitoring System (PEMS)—all of the equipment necessary to monitor process and control device operational parameters (e.g., control device secondary voltages and electric currents) and other information (e.g., gas flow rate, O₂ or CO₂ concentrations), and calculate and record the mass emissions rate (e.g., lb/hr) on a continuous basis.

Prevention of Significant Deterioration (PSD) Permit—any permit that is issued under a major source preconstruction permit program that has been approved by the administrator and incorporated into the State Implementation Plan to implement the requirements of 40 CFR 51.166, or under the program in 40 CFR 52.21.

Project—a physical change in, or change in the method of operation of, an existing major stationary source.

Projected Actual Emissions—the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source. In determining the *projected actual emissions* before beginning actual construction, the owner or operator of the major stationary source:

a. shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the state or federal regulatory authorities, and compliance plans under the approved State Implementation Plan; and

b. shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and

c. shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the *baseline actual emissions* as defined in this Subsection and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or

d. in lieu of using the method set out in Subparagraphs a-c of this definition, may elect to use the emissions unit's *potential to emit*, in tons per year, as defined in this Subsection.

Regulated Pollutant—any air pollutant, the emission or ambient concentration of which is regulated in accordance with the Clean Air Act.

Replacement Unit—an emissions unit for which all the following criteria are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

a. The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.

b. The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

c. The emissions unit does not alter the basic design parameters of the process unit.

d. The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a *new emissions unit*, as defined in this Subsection.

Secondary Emissions—emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this Section, *secondary emissions* must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. *Secondary emissions* include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. *Secondary emissions* do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Significant—in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed the lower of any of the following rates or the applicable major modification significant net increase threshold in Subsection L. Table 1 of this Section.

Pollutant	Emission Rate
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Ozone	40 tpy of volatile organic compounds
Lead	0.6 tpy

Stationary Source—any building, structure, facility, or installation which emits or may emit any regulated pollutant.

Temporary Clean Coal Technology Demonstration Project—a clean coal technology demonstration project that is operated for a period of five years or less, and that complies with the State Implementation Plan for the state in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

Temporary Source—a stationary source that changes its location or ceases to exist within one year from the date of initial start of operations.

Visibility Impairment—any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.

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

Pollutant	Major Stationary Source Threshold Values (tons/year)	Major Modification Significant Net Increase (tons/year)	Offset Ratio Minimum
Ozone		Trigger Values	
VOC/NO _x ¹			
Marginal ¹	100	40(40) ²	1.10 to 1
Moderate	100	40(40) ²	1.15 to 1
Serious	50	25 ³ (5) ⁴	1.20 to 1 w/LAER or 1.40 to 1 internal w/o LAER
Severe	25	25 ³ (5) ⁴	1.30 to 1 w/LAER or 1.50 to 1 internal w/o LAER
CO			
Moderate	100	100	>1.00 to 1
Serious	50	50	>1.00 to 1
SO ₂	100	40	>1.00 to 1
PM ₁₀			
Moderate	100	15	>1.00 to 1
Serious	70	15	>1.00 to 1
Lead	100	0.6	>1.00 to 1

¹For those parishes that are designated incomplete data or transitional nonattainment for ozone, the new source review rules for a marginal classification apply.

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

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

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

VOC = volatile organic compounds

NO_x = oxides of nitrogen

CO = carbon monoxide

SO₂ = sulfur dioxide
PM₁₀ = particulate matter of less than 10 microns in diameter

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§509. Prevention of Significant Deterioration

A. Applicability Procedures

1. The requirements of this Section apply to the construction of any new *major stationary source*, as defined in Subsection B of this Section, or any project at an existing *major stationary source* in an area designated as attainment or unclassifiable under Sections 107(d)(1)(A)(ii) or (iii) of the Clean Air Act.

2. The requirements of Subsections J-R of this Section apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this Section otherwise provides.

3. No new major stationary source or major modification to which the requirements of Subsection J-Paragraph R.5 of this Section apply shall begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements. The administrative authority has authority to issue any such permit.

4. The requirements of the program will be applied in accordance with the following principles.

a. Except as otherwise provided in Paragraph A.5 of this Section, and consistent with the definition of *major modification* contained in Subsection B of this Section, a project is a major modification for a regulated new source review (NSR) pollutant if it causes two types of emissions increases—a *significant* emissions increase, as defined in Subsection B of this Section, and a significant *net emissions increase*, as defined in Subsection B of this Section. The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

b. The procedure for calculating, before beginning actual construction, whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type of emissions units being modified, according to Subparagraphs A.4.c-f of this Section. The procedure for calculating, before beginning actual construction, whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is as defined in Subsection B.*Net Emissions Increase* of this Section. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

c. Actual-to-Projected-Actual Applicability Test for Projects That Only Involve Existing Emissions Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the *projected actual emissions*, as defined in Subsection B of this Section, and the *baseline actual emissions*, as defined in Subparagraphs B.*Baseline Actual Emissions.a* and b of this Section, for each existing emissions unit, equals or exceeds the *significant* amount for that pollutant, as defined in Subsection B of this Section.

d. Actual-to-Potential Test for Projects That Only Involve Construction of a New Emissions Unit. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the *potential to emit*, as defined in Subsection B of this Section, from each new emissions unit following completion of the project and the *baseline actual emissions*, as defined in Subparagraph B.*Baseline Actual Emissions.c* of this Section, of these units before the project equals or exceeds the *significant* amount for that pollutant, as defined in Subsection B of this Section.

e. Reserved.

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

5. For any major stationary source for a plantwide applicability limit (PAL) for a regulated NSR pollutant, the major stationary source shall comply with the requirements under Subsection AA of this Section.

6. Repealed from AQ246FS.

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

Actual Emissions—the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with the following, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under Subsection AA of this Section. Instead, Subsection B.*Projected Actual Emissions* and *Baseline Actual Emissions* of this Section shall apply for those purposes.

a. In general, *actual emissions* as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period that precedes the particular date and which is representative of normal source operation. The administrative authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation. *Actual emissions* shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

b. The administrative authority may presume that source-specific allowable emissions for the unit are equivalent to the *actual emissions* of the unit.

c. For any emissions unit that has not begun normal operations on the particular date, *actual emissions* shall equal the potential to emit of the unit on that date.

Adverse Impact on Visibility—visibility impairment that interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairments, and how these factors correlate with:

- a. times of visitor use of the federal Class I area; and
- b. the frequency and timing of natural conditions that reduce visibility.

Allowable Emissions—the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits that restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

- a. the applicable standards as set forth in 40 CFR Parts 60 and 61; or
- b. the applicable implementation plan emissions limitation, including those with a future compliance date; or
- c. the emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

Baseline Actual Emissions—the rate of emissions, in tons per year, of a regulated NSR pollutant, determined as follows.

a. For any existing electric utility steam generating unit, *baseline actual emissions* means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator projects to begin actual construction of the project. The administrative authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

iii. For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the *baseline actual emissions* for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

iv. The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Clause a.ii of this definition.

b. For an existing emissions unit, other than an electric utility steam generating unit, *baseline actual emissions* means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual

construction of the project, or the date a complete permit application is received by the administrative authority for a permit required under this Section, except that the 10-year period shall not include any period earlier than November 15, 1990.

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

iii. The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the administrative authority proposed or promulgated under 40 CFR Part 63, the *baseline actual emissions* need only be adjusted if the state has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).

iv. For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the *baseline actual emissions* for all the emissions units being changed. A different consecutive 24-month period may be used for each regulated NSR pollutant.

v. The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Clauses b.ii and iii of this definition.

c. For a new emissions unit, the *baseline actual emissions* for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero, and thereafter, for all other purposes, shall equal the unit's potential to emit.

d. For a PAL for a stationary source, the *baseline actual emissions* shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in Subparagraph a of this definition, for other existing emissions units in accordance with the procedures contained in Subparagraph b of this definition, and for a new emissions unit in accordance with the procedures contained in Subparagraph c of this definition.

Baseline Area—

a. Any intrastate area (and every part thereof) designated as attainment or unclassifiable under Section 107(d)(1) (D) or (E) of the Clean Air Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 $\mu\text{g}/\text{m}^3$ (annual average) of the pollutant for which the minor source baseline date is established.

b. Area redesignations under Section 107(d)(1) (D) or (E) of the Clean Air Act cannot intersect or be smaller

than the area of impact of any major stationary source or major modification that:

- i. establishes a minor source baseline date; or
- ii. is subject to 40 CFR 52.21 or under regulations approved in accordance with 40 CFR 51.166 and would be constructed in the same state as the state proposing the redesignation.

c. Any *baseline area* established originally for the total suspended particulates (TSP) increments shall remain in effect and shall apply for purposes of determining the amount of available PM₁₀ increments, except that such *baseline area* shall not remain in effect if the administrative authority rescinds the corresponding minor source baseline date in accordance with Subparagraph B. *Baseline Date*.d of this Section.

Baseline Concentration—

a. That ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date. A *baseline concentration* is determined for each pollutant for which a minor source baseline date is established and shall include:

- i. the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in Subparagraph b of this definition;
- ii. the allowable emissions of major stationary sources that commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date.

b. The following will not be included in the *baseline concentration* and will affect the applicable maximum allowable increase:

- i. actual emissions from any major stationary source on which construction commenced after the major source baseline date; and
- ii. actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

Baseline Date—

a. *Major Source Baseline Date—*

- i. in the case of particulate matter (PM₁₀) and sulfur dioxide, January 6, 1975; and
- ii. in the case of nitrogen dioxide, February 8, 1988.

b. *Minor Source Baseline Date—*the earliest date after the trigger date on which a major stationary source or a major modification subject to this Section submits a complete application under the relevant regulations. The trigger date is:

- i. in the case of particulate matter (PM₁₀) and sulfur dioxide, August 7, 1977; and
- ii. in the case of nitrogen dioxide, February 8, 1988.

c. The *baseline date* is established for each pollutant for which increments or other equivalent measures have been established if:

- i. the area in which the proposed source or modification would construct is designated as attainment or unclassifiable under Section 107(d)(i)(D) or (E) of the Clean Air Act for the pollutant on the date of its complete application under 40 CFR 52.21 or under regulations approved in accordance with 40 CFR 51.166; and

- ii. in the case of a major stationary source, the pollutant would be emitted in significant amounts or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

d. Any *minor source baseline date* established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM₁₀ increments, except that the administrative authority shall rescind a *minor source baseline date* where it can be shown, to the satisfaction of the administrative authority, that the emissions increase from the major stationary source, or net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM₁₀ emissions.

*Begin Actual Construction—*in general, initiation of physical on-site construction activities on an emissions unit that are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities, other than preparatory activities, that mark the initiation of the change.

Best Available Control Technology (BACT)—

a. An emissions limitation, including a visible emission standard, based on the maximum degree of reduction for each pollutant subject to regulation under this Section that would be emitted from any proposed major stationary source or major modification that the administrative authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant.

b. In no event shall application of *best available control technology* result in emissions of any pollutant that would exceed the emissions allowed by an applicable standard under 40 CFR Parts 60 and 61. If the administrative authority determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of *best available control technology*. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation, and shall provide for compliance by means that achieve equivalent results.

*Building, Structure, Facility, or Installation—*all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control), except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same *Major Group* (i.e., which have the same first two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977

Supplement (U. S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

Clean Air Act—the federal Clean Air Act, as amended (42 U.S.C. Chapter 85).

Clean Coal Technology—any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam, which was not in widespread use as of November 15, 1990.

Clean Coal Technology Demonstration Project—a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

Clean Unit—Repealed.

Commence—as applied to construction of a major stationary source or major modification, means that the owner or operator has all necessary preconstruction approvals or permits and either has:

a. begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

b. entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

Complete—in reference to an application for a permit, that the application contains all of the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the administrative authority from requesting or accepting any additional information.

Construction—any physical change or change in the method of operation, including fabrication, erection, installation, demolition, or modification of an emissions unit, that would result in a change in actual emissions.

Continuous Emissions Monitoring System (CEMS)—all of the equipment that may be required to meet the data acquisition and availability requirements of this Section, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

Continuous Emissions Rate Monitoring System (CERMS)—the total equipment required for the determination and recording of the pollutant mass emissions rate, in terms of mass per unit of time.

Continuous Parameter Monitoring System (CPMS)—all of the equipment necessary to meet the data acquisition and availability requirements of this Section, to monitor process and control device operational parameters (e.g., control device secondary voltages and electric currents) and other information (e.g., gas flow rate, O₂ or CO₂ concentrations), and to record average operational parameter values on a continuous basis.

Electric Utility Steam Generating Unit—any steam-electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

Emissions Unit—any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant, and includes an *electric utility steam generating unit*, as defined in this Subsection. For purposes of this Section, there are two types of *emissions units*.

a. A *new emissions unit* is any emissions unit that is, or will be, newly constructed and that has existed for less than two years from the date such emissions unit first operated.

b. An *existing emissions unit* is any emissions unit that is not a new emissions unit. A *replacement unit*, as defined in this Subsection, is an *existing emissions unit*.

Federal Land Manager—with respect to any lands in the United States, the secretary of the department with authority over such lands.

Federally Enforceable—all limitations and conditions that are enforceable by the administrator, including those requirements developed in accordance with 40 CFR Parts 60, 61, and 63, requirements within any applicable State Implementation Plan, any permit requirements established in accordance with 40 CFR 52.21 or under regulations approved in accordance with 40 CFR Part 51, Subpart I, including operating permits issued under an EPA-approved program that is incorporated into the State Implementation Plan and expressly requires adherence to any permit issued under such program.

Fugitive Emissions—those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

High Terrain—any area having an elevation 900 feet or more above the base of the stack of a source.

Indian Governing Body—the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

Indian Reservation—any federally-recognized reservation established by treaty, agreement, executive order, or act of Congress.

Innovative Control Technology—any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

Low Terrain—any area other than *high terrain*, as defined in this Subsection.

Lowest Achievable Emission Rate (LAER)—as defined in LAC 33:III.504.

Major Modification—

a. Any physical change in or change in the method of operation of a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant, and a significant net emissions increase of that pollutant from the major stationary source.

b. Any significant emissions increase from any emissions unit or net emissions increase at a major stationary source that is significant for volatile organic compounds shall be considered significant for ozone.

c. A physical change or change in the method of operation shall not include:

- i. routine maintenance, repair, and replacement;
- ii. use of an alternative fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in accordance with the Federal Power Act;
- iii. use of an alternative fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act;
- iv. use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
- v. use by a source of an alternate fuel or raw material that:

(a) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition that was established after January 6, 1975, in accordance with 40 CFR 52.21 or under regulations approved in accordance with 40 CFR Part 51, Subpart I or 40 CFR 51.166; or

(b) the source is approved to use under any permit issued under 40 CFR 52.21 or under regulations approved in accordance with 40 CFR 51.166;

vi. an increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition that was established after January 6, 1975, in accordance with 40 CFR 52.21 or under regulations approved in accordance with 40 CFR Part 51, Subpart I or 40 CFR 51.166;

vii. any change in source ownership;

viii. Reserved;

ix. the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(a) the State Implementation Plan for the state in which the project is located; and

(b) other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated;

x. the installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis;

xi. the reactivation of a very clean coal-fired electric utility steam generating unit.

d. This definition shall not apply with respect to a particular pollutant subject to regulation under this Section when the major stationary source is complying with the

requirements under Subsection AA of this Section for a PAL for that pollutant. Instead, the definition at Subparagraph AA.2.g of this Section shall apply.

Major Stationary Source—

a. any of the stationary sources of air pollutants listed in Table A of this definition that emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under this Section;

b. for stationary source categories other than those listed in Table A of this definition, any stationary source that emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under this Section; or

c. any physical change that would occur at a source not otherwise qualifying as a major stationary source under Subparagraphs a and b of this definition if the change would constitute a major source by itself;

d. a major source that is major for volatile organic compounds shall be considered major for ozone;

e. the fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Section whether it is a *major stationary source*, unless the source is listed in Table A of this definition or, as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act.

Table A—Stationary Sources of Air Pollutants	
1	Fossil fuel-fired steam electric plants of more than 250 million British thermal units (Btu) per hour heat input
2	Coal cleaning plants (with thermal dryers)
3	Kraft pulp mills
4	Portland cement plants
5	Primary zinc smelters
6	Iron and steel mill plants
7	Primary aluminum ore reduction plants
8	Primary copper smelters
9	Municipal incinerators capable of charging more than 250 tons of refuse per day
10	Hydrofluoric, sulfuric, and nitric acid plants
11	Petroleum refineries
12	Lime plants
13	Phosphate rock processing plants
14	Coke oven batteries
15	Sulfur recovery plants
16	Carbon black plants (furnace process)
17	Primary lead smelters
18	Fuel conversion plants
19	Sintering plants
20	Secondary metal production plants
21	Chemical process plants
22	Fossil fuel boilers (or combinations thereof) totaling more than 250 million Btu per hour heat input.
23	Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels
24	Taconite ore processing plants
25	Glass fiber processing plants
26	Charcoal production plants

*Necessary Preconstruction Approvals or Permits—*those permits or approvals required under all applicable air quality control laws and regulations.

Net Emissions Increase—

a. With respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

i. the increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated in accordance with Paragraph A.4 of this Section; and

ii. any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this Clause shall be determined as provided in Subsection B. *Baseline Actual Emissions* of this Section, except that Clauses B. *Baseline Actual Emissions*.a.iii and b.iv of this Section shall not apply.

b. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

i. the date five years before construction on the particular change commences; and

ii. the date that the increase from the particular change occurs.

c. An increase or decrease in actual emissions is creditable only if the administrative authority has not relied on it in issuing a permit for the source under this Section, which permit is in effect when the increase in actual emissions from the particular change occurs.

d. An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides that occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

e. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

f. A decrease in actual emissions is creditable only to the extent that:

i. the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

ii. it is enforceable as a practical matter at and after the time that actual construction on the particular change begins; and

iii. it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

g. Reserved.

h. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

i. Subparagraph B. *Actual Emissions*.a of this Section shall not apply for determining creditable increases and decreases.

Pollution Control Project (PCP)—Repealed.

Pollution Prevention—any activity that, through process changes, product reformulation or redesign, or substitution of less polluting raw materials, eliminates or reduces the release of air pollutants, including fugitive emissions, and other pollutants to the environment prior to recycling,

treatment, or disposal; it does not mean recycling (other than certain "in-process recycling" practices), energy recovery, treatment, or disposal.

Potential to Emit—the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

Predictive Emissions Monitoring System (PEMS)—all of the equipment necessary to monitor process and control device operational parameters (e.g., control device secondary voltages and electric currents) and other information (e.g., gas flow rate, O₂ or CO₂ concentrations), and calculate and record the mass emissions rate (e.g., lb/hr) on a continuous basis.

Prevention of Significant Deterioration (PSD) Program—a major source preconstruction permit program that has been approved by the administrator and incorporated into the State Implementation Plan to implement the requirements of this Section or the program in 40 CFR 52.21. Any permit issued under such a program is a major NSR permit.

Project—a physical change in, or change in the method of operation of, an existing major stationary source.

Projected Actual Emissions—the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source. In determining the *projected actual emissions* before beginning actual construction, the owner or operator of the major stationary source:

a. shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the state or federal regulatory authorities, and compliance plans under the approved State Implementation Plan; and

b. shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and

c. shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the *baseline actual emissions* as defined in this Subsection and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or

d. in lieu of using the method set out in Subparagraphs a-c of this definition, may elect to use the emissions unit's *potential to emit*, in tons per year, as defined in this Subsection.

Reactivation of a Very Clean Coal-Fired Electric Utility Steam Generating Unit—any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation, where the unit:

a. has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the administrative authority's emissions inventory at the time of enactment;

b. was equipped prior to shut-down with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent;

c. is equipped with low-NO_x burners prior to the time of commencement of operations following reactivation; and

d. is otherwise in compliance with the requirements of the Clean Air Act.

Reasonably Available Control Technology (RACT)—devices, systems, process modifications, or other apparatus or techniques that are reasonably available taking into account:

a. the necessity of imposing such controls in order to attain and maintain a national ambient air quality standard;

b. the social, environmental, and economic impact of such controls; and

c. alternative means of providing for attainment and maintenance of such standard.

Regulated NSR Pollutant—

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

b. any pollutant that is subject to any standard promulgated under Section 111 of the Clean Air Act;

c. any Class I or II substance subject to a standard promulgated under or established by Title VI of the Clean Air Act; or

d. any pollutant that otherwise is subject to regulation under the Clean Air Act; except that any or all hazardous air pollutants either listed in Section 112 of the Clean Air Act or added to the list in accordance with Section 112(b)(2) of the Clean Air Act, which have not been delisted in accordance with Section 112(b)(3) of the Clean Air Act, are not *regulated NSR pollutants* unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under Section 108 of the Clean Air Act.

Replacement Unit—an emissions unit for which all the criteria listed in Subparagraphs a-d of this definition are met.

No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

a. The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.

b. The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

c. The emissions unit does not alter the basic design parameters of the process unit.

d. The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a *new emissions unit*, as defined in this Subsection.

Repowering—replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the administrative authority, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

a. *Repowering* shall also include any oil and/or gas-fired unit that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

b. The administrative authority shall give expedited consideration to permit applications for any source that satisfies the requirements of this definition and is granted an extension under Section 409 of the Clean Air Act.

Reviewing Authority—Repealed.

Secondary Emissions—emissions that would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purposes of this definition, *secondary emissions* must be specific, well defined, and quantifiable, and impact the same general areas as the stationary source modification that causes the secondary emissions. *Secondary emissions* include emissions from any offsite support facility that would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. *Secondary emissions* do not include any emissions that come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Significant—

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

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

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

²Measured as particulate matter.

³Measured as sulfur dioxide and hydrogen chloride.

⁴Measured as nonmethane organic compounds.

b. in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that Subparagraph a of this definition does not list, any emissions rate;

c. notwithstanding Subparagraph a of this definition, any emissions rate or any net emissions increase associated with a major stationary source or major modification that would construct within 10 kilometers of a Class I area and have an impact on such area equal to or greater than 1µg/m³ (24-hour average).

Significant Emissions Increase—for a regulated NSR pollutant, an increase in emissions that is *significant*, as defined in this Subsection, for that pollutant.

Stationary Source—any building, structure, facility, or installation that emits or may emit any pollutant subject to regulation under this Section.

Temporary Clean Coal Technology Demonstration Project—a clean coal technology demonstration project that is operated for a period of five years or less, and that complies with the State Implementation Plans for the state in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

C. Ambient Air Increments. In areas designated as Class I, II, or III, increases in pollutant concentration over the baseline concentration shall be limited to the following.

Pollutant	Maximum Allowable Increase (Micrograms per Cubic Meter) ¹
Class I	
Particulate matter:	
PM10, annual arithmetic mean	4
PM10, 24-hr maximum	8
Sulfur dioxide:	
Annual arithmetic mean	2
24-hr maximum	5
3-hr maximum	25

Pollutant	Maximum Allowable Increase (Micrograms per Cubic Meter) ¹
Nitrogen dioxide:	
Annual arithmetic mean	2.5
Class II	
Particulate matter:	
PM10, annual arithmetic mean	17
PM10, 24-hr maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	512
Nitrogen dioxide:	
Annual arithmetic mean	25
Class III	
Particulate matter:	
PM10, annual arithmetic mean	34
PM10, 24-hr maximum	60
Sulfur dioxide:	
Annual arithmetic mean	40
24-hr maximum	182
3-hr maximum	700
Nitrogen dioxide:	
Annual arithmetic mean	50

¹For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

D. Ambient Air Ceilings. No concentration of a pollutant shall exceed:

- the concentration permitted under the national secondary ambient air quality standard; or
- the concentration permitted under the national primary ambient air quality standard; whichever concentration is lowest for the pollutant for a period of exposure.

E. Restrictions on Area Classifications

1. All of the following areas that were in existence on August 7, 1977, shall be Class I areas and may not be redesignated:

- international parks;
- national wilderness areas that exceed 5,000 acres in size;
- national memorial parks that exceed 5,000 acres in size; and
- national parks that exceed 6,000 acres in size.

2. Areas that were redesignated as Class I under regulations promulgated before August 7, 1977, shall remain Class I, but may be redesignated as provided in this Section.

3. Any other area, unless otherwise specified in the legislation creating such an area, is initially designated Class II, but may be redesignated as provided in this Section.

4. The following areas may be redesignated only as Class I or II:

a. an area that as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, or a national lakeshore or seashore; and

b. a national park or national wilderness area established after August 7, 1977, that exceeds 10,000 acres in size.

F. Reserved.

G. Redesignation

1. All areas, except as otherwise provided under Subsection E of this Section, are designated Class II as of December 5, 1974. Redesignation, except as otherwise precluded by Subsection E of this Section, may be proposed by the respective states or Indian governing bodies, as provided below, subject to approval by the administrative authority as a revision to the applicable State Implementation Plan.

2. The state may submit to the administrator a proposal to redesignate areas of the state Class I or Class II, provided that:

a. at least one public hearing has been held in accordance with procedures established in 40 CFR 51.102;

b. other states, Indian governing bodies, and federal land managers whose lands may be affected by the proposed redesignation were notified at least 30 days prior to the public hearing;

c. a discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation, was prepared and made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion;

d. prior to the issuance of notice respecting the redesignation of an area that includes any federal lands, the state has provided written notice to the appropriate federal land manager and afforded adequate opportunity (not in excess of 60 days) to confer with the state respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any federal land manager had submitted written comments and recommendations, the state shall have published a list of any inconsistency between such redesignation and such comments and recommendations, together with the reasons for making such redesignation against the recommendation of the federal land manager; and

e. the state has proposed the redesignation after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

3. Any area other than an area to which Subsection E of this Section refers may be redesignated as Class III if:

a. the redesignation would meet the requirements of Paragraph G.2 of this Section;

b. the redesignation, except any established by an Indian governing body, has been specifically approved by the governor of the state, after consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session (unless state law provides that the redesignation must be specifically approved by state legislation) and if general purpose units of local government representing a majority of the residents of the area to be redesignated enact legislation or pass resolutions concurring in the redesignation;

c. the redesignation would not cause, or contribute to, a concentration of any air pollutant which would exceed any maximum allowable increase permitted under the

classification of any other area or any national ambient air quality standard; and

d. any permit application for any major stationary source or major modification, subject to review under Subsection L of this Section, which could receive a permit under this Section only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available insofar as was practicable for public inspection prior to any public hearing on redesignation of the area as Class III.

4. Lands within the exterior boundaries of Indian reservations may be redesignated only by the appropriate Indian governing body. The appropriate Indian governing body may submit to the administrative authority a proposal to redesignate areas Class I, Class II, or Class III, provided that:

a. the Indian governing body has followed procedures equivalent to those required of a state under Paragraph G.2 and Subparagraphs G.3.c and d of this Section; and

b. such redesignation is proposed after consultation with the states in which the Indian reservation is located and which border the Indian reservation.

H. Stack Heights

1. The degree of emission limitation required for control of any air pollutant under this Section shall not be affected in any manner by:

a. so much of the stack height of any source as exceeds good engineering practice; or

b. any other dispersion technique.

2. Paragraph H.1 of this Section shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then.

I. Exemptions

1. The requirements of Subsections J-R of this Section shall not apply to a particular major stationary source or major modification if:

a. the major stationary source would be a nonprofit health or nonprofit educational institution or a major modification that would occur at such an institution; or

b. the source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, were considered in calculating the potential to emit of the stationary source or modification and such source does not belong to any following categories:

- i. coal cleaning plants (with thermal dryers);
- ii. kraft pulp mills;
- iii. portland cement plants;
- iv. primary zinc smelters;
- v. iron and steel mills;
- vi. primary aluminum ore reduction plants;
- vii. primary copper smelters;
- viii. municipal incinerators capable of charging more than 250 tons of refuse per day;
- ix. hydrofluoric, sulfuric, or nitric acid plants;
- x. petroleum refineries;
- xi. lime plants;
- xii. phosphate rock processing plants;
- xiii. coke oven batteries;
- xiv. sulfur recovery plants;

- xv. carbon black plants (furnace process);
- xvi. primary lead smelters;
- xvii. fuel conversion plants;
- xviii. sintering plants;
- xix. secondary metal production plants;
- xx. chemical process plants;
- xxi. fossil fuel boilers (or combination thereof)

totaling more than 250 million british thermal units per hour heat input;

- xxii. petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- xxiii. taconite ore processing plants;
- xxiv. glass fiber processing plants;
- xxv. charcoal production plants;
- xxvi. fossil fuel-fired steam electric plants of more than 250 million british thermal units per hour heat input;
- xxvii. any other stationary source category that, as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act; or

c. the source or modification is a portable stationary source that has previously received a permit under requirements equivalent to those contained in Subsections J-R of this Section, if:

- i. the source proposes to relocate and emissions of the source at the new location would be temporary; and
- ii. the emissions from the source would not exceed its allowable emissions; and
- iii. the emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

iv. reasonable notice is given to the administrative authority prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the administrative authority not less than 10 days in advance of the proposed relocation unless a different time duration is previously approved by the administrative authority.

2. The requirements of Subsections J-R of this Section shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment under Section 107 of the Clean Air Act.

3. The requirements of Subsections K, M, and O of this Section shall not apply to a proposed major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from a new source, or the net emissions increase of that pollutant from a modification, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

4. The requirements of Subsections K, M, and O of this Section as they relate to any maximum allowable increase for a Class II area shall not apply to a modification of a major stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each a regulated NSR pollutant from the modification after the application of best available control technology would be less than 50 tons per year.

5. The administrative authority may exempt a stationary source or modification from the requirements of

Subsection M of this Section, with respect to monitoring for a particular pollutant, if:

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

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

b. the concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in Subparagraph I.5.a of this Section; or

c. the pollutant is not listed in Subparagraph I.5.a of this Section.

6. Reserved.

7. Reserved.

8. The permitting requirements of Paragraph K.2 of this Section shall not apply to a stationary source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted an application for a permit under this Section before the provisions embodying the maximum allowable increase took effect as part of the applicable State Implementation Plan and the permitting authority subsequently determined that the application as submitted before that date was complete.

9. The permitting requirements of Paragraph K.2 of this Section shall not apply to a stationary source or modification with respect to any maximum allowable increase for PM_{10} if:

a. the owner or operator of the source or modification submitted an application for a permit under this Section before the provisions embodying the maximum allowable increases for PM_{10} took effect in a State Implementation Plan to which this Section applies; and

b. the permitting authority subsequently determined that the application as submitted before that date was complete. Instead, the applicable requirements equivalent to Paragraph K.2 of this Section shall apply with respect to the maximum allowable increases for TSP as in effect on the date the application was submitted.

J. Control Technology Review

1. A major stationary source or major modification shall meet each applicable emissions limitation under the State Implementation Plan and each applicable emission standard and standard of performance under 40 CFR Parts 60 and 61.

2. A new major stationary source shall apply best available control technology for each regulated NSR pollutant that it would have the potential to emit in significant amounts.

3. A major modification shall apply best available control technology for each regulated NSR pollutant for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

4. For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time that occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

K. Source Impact Analysis. The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions, including secondary emissions, would not cause or contribute to air pollution in violation of:

1. any national ambient air quality standard in any air quality control region; or

2. any applicable maximum allowable increase over the baseline concentration in any area.

L. Air Quality Models

1. All estimates of ambient concentrations required under this Subsection shall be based on applicable air quality models, databases, and other requirements specified in Appendix W of 40 CFR Part 51 (Guideline on Air Quality Models).

2. Where an air quality model specified in Appendix W of 40 CFR Part 51 (Guideline on Air Quality Models) is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis for a specific state program. Written approval of the administrator must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures developed in accordance with Subsection Q of this Section.

M. Air Quality Analysis

1. Preapplication Analysis

a. Any application for a permit under this Section shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

i. for the source, each pollutant that it would have the potential to emit in a significant amount;

ii. for the modification, each pollutant for which it would result in a significant net emissions increase.

b. With respect to any such pollutant for which no national ambient air quality standard exists, the analysis shall contain such air quality monitoring data as the administrative authority determines is necessary to assess

ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

c. With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

d. In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one year and shall represent at least the year preceding receipt of the application, except that, if the administrative authority determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not to be less than four months), the data that is required shall have been gathered over at least that shorter period.

e. For any application that became complete, except as to the requirements of Subparagraphs M.1.c and d of this Section, between June 8, 1981 and February 9, 1982, the data that Subparagraph M.1.c of this Section requires shall have been gathered over at least the period from February 9, 1981, to the date the application became otherwise complete, except:

i. if the source or modification would have been major for that pollutant under 40 CFR 52.21 as in effect on June 19, 1978, any monitoring data shall have been gathered over at least the period required by those regulations;

ii. if the administrative authority determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than four months), the data that Subparagraph M.1.c of this Section requires shall have been gathered over at least that shorter period;

iii. if the monitoring data would relate exclusively to ozone and would not have been required under 40 CFR 52.21 as in effect on June 19, 1978, the administrative authority may waive the otherwise-applicable requirements of this Subsection to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year.

f. The owner or operator of a proposed stationary source or modification of volatile organic compounds who satisfies all conditions of 40 CFR Part 51, Appendix S, Section IV may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under Paragraph M.1 of this Section.

g. For any application that became complete, except as to the requirements of Subparagraphs M.1.c and d of this Section pertaining to PM₁₀, after December 1, 1988 and no later than August 1, 1989, the data that Subparagraph M.1.c of this Section requires shall have been gathered over at least the period from August 1, 1988, to the date the application becomes otherwise complete, except that if the administrative authority determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data that Subparagraph M.1.c of this Section requires shall have been gathered over that shorter period.

h. With respect to any requirements for air quality monitoring of PM₁₀ under Subparagraphs I.9.a and b of this

Section, the owner or operator of the source or modification shall use a monitoring method approved by the administrative authority and shall estimate the ambient concentrations of PM₁₀ using the data collected by such approved monitoring method in accordance with estimating procedures approved by the administrative authority.

2. Post-Construction Monitoring. The owner or operator of a major stationary source or major modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the administrative authority determines is necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area.

3. Operations of Monitoring Stations. The owner or operator of a major stationary source or major modification shall meet the requirements of 40 CFR Part 58, Appendix B during the operation of monitoring stations for purposes of satisfying the requirements of this Subsection.

N. Source Information. The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or make any determination required under this Section.

1. With respect to a source or modification to which Subsections J, L, N, and P of this Section apply, such information shall include:

a. a description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

b. a detailed schedule for construction of the source or modification;

c. a detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates, and any other information necessary to determine that best available control technology would be applied.

2. Upon request of the administrative authority, the owner or operator shall also provide information on:

a. the air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

b. the air quality impacts, and the nature and extent of, any or all general commercial, residential, industrial, and other growth that has occurred since August 7, 1977, in the area the source or modification would affect.

O. Additional Impact Analyses

1. The owner or operator shall provide an analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

2. The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the source or modification.

3. Visibility Monitoring. The administrative authority may require monitoring of visibility in any federal Class I area near the proposed new stationary source for major

modification for such purposes and by such means as the administrative authority deems necessary and appropriate.

P. Sources Impacting Federal Class I Areas—Additional Requirements

1. Notice to Federal Land Managers. The administrative authority shall provide written notice of any permit application for a proposed major stationary source or major modification, the emissions from which may affect a Class I area, to the federal land manager and the federal official charged with direct responsibility for management of any lands within any such area. Such notification shall include a copy of all information relevant to the permit application and shall be given within 30 days of receipt and at least 60 days prior to any public hearing on the application for a permit to construct. Such notification shall include an analysis of the proposed source's anticipated impacts on visibility in the federal Class I area. The administrative authority shall also provide the federal land manager and such federal officials with a copy of the preliminary determination required under Subsection Q of this Section, and shall make available to them any materials used in making that determination, promptly after the administrative authority makes such determination. Finally, the administrative authority shall also notify all affected federal land managers within 30 days of receipt of any advance notification of any such permit application.

2. Federal Land Manager. The federal land manager and the federal official charged with direct responsibility for management of such lands have an affirmative responsibility to protect the air quality-related values, including visibility, of such lands and to consider, in consultation with the administrative authority, whether a proposed source or modification will have an adverse impact on such values.

3. Visibility Analysis. The administrative authority shall consider any analysis performed by the federal land manager, provided within 30 days of the notification required by Paragraph P.1 of this Section, that shows that a proposed new major stationary source or major modification may have an adverse impact on visibility in any federal Class I area. Where the administrative authority finds that such an analysis does not demonstrate to the satisfaction of the administrative authority that an adverse impact on visibility will result in the federal Class I area, the administrative authority must, in the notice of public hearing on the permit application, either explain his decision or give notice as to where the explanation can be obtained.

4. Denial—Impact on Air Quality-Related Values. The federal land manager of any such lands may demonstrate to the administrative authority that the emissions from a proposed source or modification would have an adverse impact on the air quality-related values, including visibility, of those lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations that would exceed the maximum allowable increases for a Class I area. If the administrative authority concurs with such demonstration, then he shall not issue the permit.

5. Class I Variances. The owner or operator of a proposed source or modification may demonstrate to the federal land manager that the emissions from such source or modification would have no adverse impact on the air quality-related values of any such lands, including visibility,

notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations that would exceed the maximum allowable increases for a Class I area. If the federal land manager concurs with such demonstration and he so certifies, the administrative authority, provided that the applicable requirements of this Section are otherwise met, may issue the permit with such emission limitations as may be necessary to ensure that emissions of sulfur dioxide, particulate matter, and nitrogen oxides would not exceed the following maximum allowable increases over minor source baseline concentration for such pollutants.

Pollutant	Maximum Allowable Increase (Micrograms per Cubic Meter)
Particulate matter:	
PM ₁₀ , annual arithmetic mean	17
PM ₁₀ , 24-hr maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	325
Nitrogen dioxide:	
Annual arithmetic mean	25

6. Sulfur Dioxide Variance by Governor with Federal Land Manager's Concurrence. The owner or operator of a proposed source or modification that cannot be approved under Paragraph P.4 of this Section may demonstrate to the governor that the source cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of 24 hours or less applicable to any Class I area and, in the case of federal mandatory Class I areas, that a variance under this Paragraph would not adversely affect the air quality-related values of the area, including visibility. The governor, after consideration of the federal land manager's recommendation (if any) and subject to his concurrence, may, after notice and public hearing, grant a variance from such maximum allowable increase. If such variance is granted, the administrative authority may issue a permit to such source or modification in accordance with the requirements of Paragraph P.7 of this Section, provided that the applicable requirements of this Section are otherwise met.

7. Variance by the Governor with the President's Concurrence. In any case where the governor recommends a variance in which the federal land manager does not concur, the recommendations of the governor and the federal land manager shall be transmitted to the President. The President may approve the governor's recommendation if he finds that the variance is in the national interest. If the variance is approved, the administrative authority may issue a permit in accordance with the requirements of this Paragraph, provided that the applicable requirements of this Section are otherwise met.

8. Emission Limitations for Presidential or Gubernatorial Variance. In the case of a permit issued in accordance with Paragraph P.5 or 6 of this Section, the source or modification shall comply with such emission limitations as may be necessary to ensure that emissions of sulfur dioxide from the source or modification would not, during any day on which the otherwise applicable maximum allowable increases are exceeded, cause or contribute to

concentrations that would exceed the following maximum allowable increases over the baseline concentration and to ensure that such emissions would not cause or contribute to concentrations that exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period.

Period of Exposure	Maximum Allowable Increase [Micrograms per Cubic Meter]	
	Terrain Areas	
	Low	High
24-hr maximum	36	62
3-hr maximum	130	221

Q. Public Participation

1. The administrative authority shall notify all applicants within 60 days after receipt of the application as to the completeness of the application or any deficiency in the application or information submitted. In the event of such a deficiency, the date of receipt of the application shall be the date on which the administrative authority received all required information.

2. Within one year after receipt of a complete application, the administrative authority shall:

a. make a preliminary determination whether construction should be approved, approved with conditions, or disapproved;

b. make available in at least one location in each region in which the proposed source would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination;

c. notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and of the opportunity for comment at a public hearing as well as written public comment;

d. send a copy of the notice of public comment to the applicant, the administrator, and officials and agencies having cognizance over the location where the proposed construction would occur, as follows:

i. any other state or local air pollution control agencies;

ii. the chief executives of the city and parish where the source would be located;

iii. any comprehensive regional land use planning agency; and

iv. any state, federal land manager, or Indian governing body whose lands may be affected by emissions from the source or modification;

e. provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations;

f. consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing in making a final decision on the approvability of the application. The

administrative authority shall make all comments available for public inspection in the same locations where the administrative authority made available preconstruction information relating to the proposed source or modification;

g. make a final determination whether construction should be approved, approved with conditions, or disapproved;

h. notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the administrative authority made available preconstruction information and public comments relating to the source.

R. Source Obligation

1. Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted in accordance with this Section or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this Section who commences construction after the effective date of these regulations without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.

2. Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The administrative authority may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

3. Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan and any other requirements under local, state, or federal law.

4. At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation that was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of Subsections J-S of this Section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

5. Reserved.

6. The provisions of this Paragraph apply to projects at an existing emissions unit at a major stationary source, other than projects at a source with a PAL, in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in Subparagraphs B.*Projected Actual Emissions*.a-c of this Section for calculating projected actual emissions.

a. Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

i. a description of the project;

ii. identification of the emission units whose emissions of a regulated NSR pollutant could be affected by the project; and

iii. a description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under Subparagraph B.*Projected Actual Emissions*.c of this Section and an explanation for why such amount was excluded, and any netting calculations, if applicable.

b. If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in Subparagraph R.6.a of this Section to the administrative authority. Nothing in this Subparagraph shall be construed to require the owner or operator of such a unit to obtain any determination from the administrative authority before beginning actual construction.

c. The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in Clause R.6.a.ii of this Section, and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity of or potential to emit that regulated NSR pollutant at such emissions unit.

d. If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the administrative authority within 60 days after the end of each year during which records must be generated under Subparagraph R.6.c of this Section setting out the unit's annual emissions during the calendar year that preceded submission of the report.

e. If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the administrative authority if the annual emissions, in tons per year, from the project identified in Subparagraph R.6.a of this Section, exceed the baseline actual emissions, as documented and maintained in accordance with Clause R.6.a.iii of this Section, by a significant amount, as defined in Subsection B.*Significant* of this Section, for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained in accordance with Clause R.6.a.iii of this Section. Such report shall be submitted to the administrative authority within 60 days after the end of such year. The report shall contain the following:

i. the name, address, and telephone number of the major stationary source;

ii. the annual emissions as calculated in accordance with Subparagraph R.6.c of this Section; and

iii. any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

7. The owner or operator of the source shall make the information required to be documented and maintained in accordance with Paragraph R.6 of this Section available for review upon a request for inspection by the administrative authority or the general public in accordance with the requirements contained in 40 CFR 70.4(b)(3)(viii).

S. Reserved.

T. Reserved.

U. Reserved.

V. Innovative Control Technology

1. An owner or operator of a proposed major stationary source or major modification may request the administrative authority in writing, no later than the close of the comment period under Subsection Q.2.e of this Section, to approve a system of innovative control technology.

2. The administrative authority may, with the consent of the governor of affected states, determine that the source or modification may employ a system of innovative control technology, if:

a. the proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

b. the owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under Paragraph J.2 of this Section by a date specified by the administrative authority. Such date shall not be later than four years from the time of startup or seven years from permit issuance;

c. the source or modification would meet the requirements of Subsections J and K of this Section, based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the administrative authority;

d. the source or modification would not, before the date specified by the administrative authority:

i. cause or contribute to a violation of an applicable national ambient air quality standard; or

ii. impact any area where an applicable increment is known to be violated;

e. the provisions of Subsection P of this Section, relating to Class I areas, have been satisfied with respect to all periods during the life of the source or modification;

f. all other applicable requirements including those for public participation have been met.

3. The administrative authority shall withdraw any approval to employ a system of innovative control technology made under this Subsection, if:

a. the proposed system fails by the specified date to achieve the required continuous emissions reduction rate;

b. the proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

c. the administrative authority decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

4. If a source or modification fails to meet the required level of continuous emission reduction within the specified time period or the approval is withdrawn in accordance with Paragraph V.3 of this Section, the administrative authority may allow the source or

modification up to an additional three years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

W. Permit Rescission

1. Any permit issued under this Section or a prior version of this Section shall remain in effect, unless and until it expires under Subsection R of this Section or is rescinded.

2. Any owner or operator of a stationary source or modification who holds a permit for the source or modification that was issued under 40 CFR 52.21 as in effect on July 30, 1987, or any earlier version of 40 CFR 52.21, may request that the administrative authority rescind the permit or a particular portion of the permit.

3. The administrative authority shall grant an application for rescission if the application shows that this Section, as it existed at the time the permit was issued, would not apply to the source or modification.

4. If the administrative authority rescinds a permit under this Subsection, the public shall be given adequate notice of the rescission. Publication of an announcement of rescission in a newspaper of general circulation in the affected region within 60 days of the rescission shall be considered adequate notice.

X. Reserved.

Y. Reserved.

Z. Reserved.

AA. Actuals PALs. The following provisions govern actuals PALs.

1. Applicability

a. The administrative authority may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements of this Subsection. The term "PAL" shall mean "actuals PAL" throughout this Subsection.

b. Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements of this Subsection, and complies with the PAL permit:

i. is not a major modification for the PAL pollutant;

ii. does not have to be approved through the PSD program; and

iii. is not subject to the provisions in Paragraph R.4 of this Section (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the major NSR program).

c. Except as provided under Clause AA.1.b.iii of this Section, a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

2. Definitions. For the purposes of this Subsection, the following definitions apply. When a term is not defined in this Paragraph, it shall have the meaning given in Subsection B of this Section or in the Clean Air Act.

a. *Actuals PAL*—a PAL for a major stationary source based on the *baseline actual emissions*, as defined in Subsection B of this Section, of all *emissions units*, as defined in Subsection B of this Section, at the source that emit or have the potential to emit the PAL pollutant.

b. *Allowable Emissions*—as defined in Subsection B of this Section, except for the following modifications.

i. The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

ii. An emissions unit's potential to emit shall be determined using the definition in Subsection B of this Section, except that the words "or enforceable as a practical matter" should be added after "federally enforceable."

c. *Major Emissions Unit*—

i. any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area; or

ii. any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the Clean Air Act for nonattainment areas. For example, in accordance with the definition of *major stationary source* in Section 182(c) of the Clean Air Act, an emissions unit would be a major emissions unit for VOC if the emissions unit is located in a serious ozone nonattainment area and it emits or has the potential to emit 50 or more tons of VOC per year.

d. *Plantwide Applicability Limitation (PAL)*—an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with this Subsection.

e. *PAL Effective Date*—generally, the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

f. *PAL Effective Period*—the period beginning with the PAL effective date and ending 10 years later.

g. *PAL Major Modification*—any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL, notwithstanding the definitions for *major modification* and *net emissions increase* in Subsection B of this Section.

h. *PAL Permit*—the major NSR permit, the minor NSR permit, or the state operating permit under a program that is approved into the State Implementation Plan or the Title V permit issued by the administrative authority that establishes a PAL for a major stationary source.

i. *PAL Pollutant*—the pollutant for which a PAL is established at a major stationary source.

j. *Significant Emissions Unit*—an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the *significant* level, as defined in Subsection B of this Section or in the Clean Air Act, whichever is lower, for that PAL pollutant, but less than the amount that would qualify the unit as a *major emissions unit* as defined in Subparagraph AA.2.c of this Section.

k. *Small Emissions Unit*—an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the *significant* level for that PAL pollutant, as defined in Subsection B of this Section or in the Clean Air Act, whichever is lower.

3. Permit Application Requirements. As part of a permit application requesting a PAL, the owner or operator

of a major stationary source shall submit the following information to the administrative authority for approval:

a. a list of all emissions units at the source designated as small, significant, or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, federal or state applicable requirements, emission limitations, or work practices apply to each unit;

b. calculations of the baseline actual emissions with supporting documentation. Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction;

c. the calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by Subparagraph AA.13.a of this Section.

4. General Requirements for Establishing PALs

a. The administrative authority is allowed to establish a PAL at a major stationary source, provided that at a minimum, the following requirements are met.

i. The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

ii. The PAL shall be established in a PAL permit that meets the public participation requirements in Paragraph AA.5 of this Section.

iii. The PAL permit shall contain all the requirements of Paragraph AA.7 of this Section.

iv. The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

v. Each PAL shall regulate emissions of only one pollutant.

vi. Each PAL shall have a PAL effective period of 10 years.

vii. The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in Paragraphs AA.12-14 of this Section for each emissions unit under the PAL through the PAL effective period.

b. At no time during or after the PAL effective period are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets under 40 CFR 51.165(a)(3)(ii) unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

5. Public Participation Requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or increased through a procedure that is consistent with 40 CFR 51.160 and 51.161. This includes the requirement that the administrative authority provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comment. The administrative authority must address all material comments before taking final action on the permit.

6. Setting the 10-Year Actuals PAL Level

a. Except as provided in Subparagraph AA.6.b of this Section, the actuals PAL level for a major stationary source shall be established as the sum of the *baseline actual emissions*, as defined in Subsection B of this Section, of the PAL pollutant for each emissions unit at the source, plus an amount equal to the applicable *significant* level for the PAL pollutant, as defined in Subsection B of this Section, or in the Clean Air Act, whichever is lower. When establishing the actuals PAL level for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The administrative authority shall specify a reduced PAL level (in tons/yr) in the PAL permit to become effective on the future compliance date of any applicable federal or state regulatory requirement that the administrative authority is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO_x to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit.

b. For newly-constructed units, which do not include modifications to existing units, on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in Subparagraph AA.6.a of this Section, the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

7. Contents of the PAL Permit. The PAL permit shall contain, at a minimum, the following information:

a. the PAL pollutant and the applicable source-wide emission limitation in tons per year;

b. the PAL permit effective date and the expiration date of the PAL (PAL effective period);

c. specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with Paragraph AA.10 of this Section before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period, but shall remain in effect until a revised PAL permit is issued by an administrative authority;

d. a requirement that emission calculations for compliance purposes must include emissions from startups, shutdowns, and malfunctions;

e. a requirement that, once the PAL expires, the major stationary source is subject to the requirements of Paragraph AA.9 of this Section;

f. the calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total as required by Subparagraph AA.13.a of this Section;

g. a requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under Paragraph AA.12 of this Section;

h. a requirement to retain the records required under Paragraph AA.13 of this Section on site. Such records may be retained in an electronic format;

i. a requirement to submit the reports required under Paragraph AA.14 of this Section by the required deadlines;

j. any other requirements that the administrative authority deems necessary to implement and enforce the PAL.

8. PAL Effective Period and Reopening of the PAL Permit

a. PAL Effective Period. The administrative authority shall specify a PAL effective period of 10 years.

b. Reopening of the PAL Permit

i. During the PAL effective period, the administrative authority must reopen the PAL permit to:

(a) correct typographical/calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL;

(b) reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under 40 CFR 51.165(a)(3)(ii); and

(c) revise the PAL to reflect an increase in the PAL as provided under Paragraph AA.11 of this Section.

ii. The administrative authority shall have discretion to reopen the PAL permit in order to:

(a) reduce the PAL to reflect newly applicable federal requirements (e.g., NSPS) with compliance dates after the PAL effective date;

(b) reduce the PAL consistent with any other requirement that is enforceable as a practical matter, and that the state may impose on the major stationary source under the State Implementation Plan; and

(c) reduce the PAL if the administrative authority determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation, or to an adverse impact on an air quality-related value that has been identified for a federal Class I area by a federal land manager and for which information is available to the general public.

iii. Except for the permit reopening in Subclause AA.8.b.i.(a) of this Section for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of Paragraph AA.5 of this Section.

9. Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in Paragraph AA.10 of this Section shall expire at the end of the PAL effective period, and the following requirements shall apply.

a. Each emissions unit, or each group of emissions units, that existed under the PAL shall comply with an

allowable emission limitation under a revised permit established according to the following procedures.

i. Within the time frame specified for PAL renewals in Subparagraph AA.10.b of this Section, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit, or each group of emissions units, if such a distribution is more appropriate as decided by the administrative authority, by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under Subparagraph AA.10.e of this Section, such distribution shall be made as if the PAL had been adjusted.

ii. The administrative authority shall decide whether and how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the administrative authority determines is appropriate.

b. Each emissions unit shall comply with the allowable emission limitation on a 12-month rolling basis. The administrative authority may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.

c. Until the administrative authority issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under Clause AA.9.a.ii of this Section, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

d. Any physical change or change in the method of operation at the major stationary source will be subject to major NSR requirements if such change meets the definition of *major modification* in Subsection B of this Section.

e. The major stationary source owner or operator shall continue to comply with any state or federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period, except for those emission limitations that had been established in accordance with Paragraph R.4 of this Section, but were eliminated by the PAL in accordance with the provisions in Clause AA.1.b.iii of this Section.

10. Renewal of a PAL

a. The administrative authority shall follow the procedures specified in Paragraph AA.5 of this Section in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the administrative authority.

b. **Application Deadline.** A major stationary source owner or operator shall submit a timely application to the administrative authority to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is

renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.

c. **Application Requirements.** The application to renew a PAL permit shall contain the following information:

i. the information required in Subparagraphs AA.3.a-c of this Section;

ii. a proposed PAL level;

iii. the sum of the potential to emit of all emissions units under the PAL, with supporting documentation;

iv. any other information the owner or operator wishes the administrative authority to consider in determining the appropriate level for renewing the PAL.

d. **PAL Adjustment.** In determining whether and how to adjust the PAL, the administrative authority shall consider the options outlined in Clauses AA.10.d.i and ii of this Section. However, in no case may any such adjustment fail to comply with Clause AA.10.d.iii of this Section.

i. If the emissions level calculated in accordance with Paragraph AA.6 of this Section is equal to or greater than 80 percent of the PAL level, the administrative authority may renew the PAL at the same level without considering the factors set forth in Clause AA.10.d.ii of this Section.

ii. The administrative authority may set the PAL at a level that he or she determines to be more representative of the source's baseline actual emissions, or that he or she determines to be more appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the administrative authority in his or her written rationale.

iii. Notwithstanding Clauses AA.10.d.i and ii of this Section:

(a) if the potential to emit of the major stationary source is less than the PAL, the administrative authority shall adjust the PAL to a level no greater than the potential to emit of the source; and

(b) the administrative authority shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of Paragraph AA.11 of this Section regarding increasing a PAL.

e. If the compliance date for a state or federal requirement that applies to the PAL source occurs during the PAL effective period, and if the administrative authority has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or Title V permit renewal, whichever occurs first.

11. Increasing a PAL During the PAL Effective Period

a. The administrative authority may increase a PAL emission limitation only if the major stationary source complies with the following provisions.

i. The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions units contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

ii. As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units, assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions units, exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

iii. The owner or operator shall obtain a major NSR permit for all emissions units identified in Clause AA.11.a.i of this Section, regardless of the magnitude of the emissions increase resulting from them (i.e., no significant levels apply). These emissions units shall comply with any emissions requirements resulting from the major NSR process (e.g., BACT), even though they have also become subject to the PAL or continue to be subject to the PAL.

iv. The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

b. The administrative authority shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units, assuming application of BACT equivalent controls as determined in accordance with Clause AA.11.a.ii of this Section, plus the sum of the baseline actual emissions of the small emissions units.

c. The PAL permit shall be revised to reflect the increased PAL level in accordance with the public notice requirements of Paragraph AA.5 of this Section.

12. Monitoring Requirements for PALs

a. General Requirements

i. Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

ii. The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in Clauses AA.12.b.i-iv of this Section and must be approved by the administrative authority.

iii. Notwithstanding Clause AA.12.a.ii of this Section, the owner or operator may also employ an alternative monitoring approach that meets the requirements of Clause AA.12.a.i of this Section if approved by the administrative authority.

iv. Failure to use a monitoring system that meets the requirements of this Paragraph renders the PAL invalid.

b. Minimum Performance Requirements for Approved Monitoring Approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in Subparagraphs AA.12.c-i of this Section:

i. mass balance calculations for activities using coatings or solvents;

ii. CEMS;

iii. CPMS or PEMS; and

iv. emission factors.

c. Mass Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

i. provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

ii. assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

iii. where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator shall use the highest value of the range to calculate the PAL pollutant emissions unless the administrative authority determines there is site-specific data or a site-specific monitoring program to support another content within the range.

d. CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:

i. CEMS must comply with applicable performance specifications found in 40 CFR Part 60, Appendix B; and

ii. CEMS must sample, analyze and record data at least every 15 minutes while the emissions unit is operating.

e. CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

i. the CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameters and the PAL pollutant emissions across the range of operation of the emissions unit; and

ii. each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the administrative authority, while the emissions unit is operating.

f. Emission Factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

i. all emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;

ii. the emissions unit shall operate within the designated range of use for the emission factor, if applicable; and

iii. if technically practicable, the owner or operator of a significant emissions unit that relies on an emission

factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six months of PAL permit issuance, unless the administrative authority determines that testing is not required.

g. A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.

h. Notwithstanding the requirements in Subparagraphs AA.12.c-g of this Section, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameters and the PAL pollutant emissions rate at all operating points of the emissions unit, the administrative authority shall, at the time of permit issuance:

i. establish default values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating points; or

ii. determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameters and the PAL pollutant emissions is a violation of the PAL.

i. Revalidation. All data used to establish the PAL pollutant must be revalidated through performance testing or other scientifically valid means approved by the administrative authority. Such testing must occur at least once every five years after issuance of the PAL.

13. Recordkeeping Requirements

a. The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of Subsection AA of this Section and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five years from the date of such record.

b. The PAL permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus five years:

i. a copy of the PAL permit application and any applications for revisions to the PAL; and

ii. each annual certification of compliance in accordance with Title V of the Clean Air Act and the data relied on in certifying the compliance.

14. Reporting and Notification Requirements. The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the administrative authority in accordance with the applicable Title V operating permit program. The reports shall meet the following requirements.

a. Semiannual Report. The semiannual report shall be submitted to the administrative authority within 30 days of the end of each reporting period. This report shall contain the following information:

i. the identification of the owner or operator and the permit number;

ii. total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded in accordance with Subparagraph AA.13.a of this Section;

iii. all data relied upon, including but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions;

iv. a list of any emissions units modified or added to the major stationary source during the preceding 6-month period;

v. the number, duration, and cause of any deviations or monitoring malfunctions, other than the time associated with zero and span calibration checks, and any corrective action taken;

vi. a notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by Subparagraph AA.12.g of this Section;

vii. a signed statement by the responsible official, as defined by the applicable Title V operating permit program, certifying the truth, accuracy, and completeness of the information provided in the report.

b. Deviation Report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted in accordance with 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the applicable program implementing 40 CFR 70.6(a)(3)(iii)(B). The reports shall contain the following information:

i. the identification of the owner or operator and the permit number;

ii. the PAL requirement that experienced the deviation or that was exceeded;

iii. emissions resulting from the deviation or the exceedance; and

iv. a signed statement by the responsible official, as defined by the applicable Title V operating permit program, certifying the truth, accuracy, and completeness of the information provided in the report.

c. Revalidation Results. The owner or operator shall submit to the administrative authority the results of any revalidation test or method within three months after completion of such test or method.

15. Transition Requirements

a. No administrative authority may issue a PAL that does not comply with the requirements of this Subsection after the administrator has approved regulations incorporating these requirements into the State Implementation Plan.

b. The administrative authority may supersede any PAL that was established prior to the date of approval of the State Implementation Plan by the administrator with a PAL that complies with the requirements of this Subsection.

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

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

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

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0512#052

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Nonattainment New Source Review;
Prevention of Significant Deterioration
(LAC 33:III.504 and 509)(AQ246LS)

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.504 and 509 (Log #AQ246LS).

On December 31, 2002, the United States Environmental Protection Agency published a final New Source Review (NSR) rule revising the regulations that implement the Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) provisions of the Clean Air Act. To be approvable under the State Implementation Plan (SIP), states implementing Part C (PSD permit program in §51.166) or Part D (nonattainment NSR permit program in §51.165) must include EPA's December 31, 2002, changes as minimum program elements. States must adopt and submit revisions to their Part 51 permitting programs implementing these minimum program elements no later than January 2, 2006 (67 FR 80240). This rule is a revision to the Louisiana State Implementation Plan for air quality.

The department's Rule AQ246FS adopts the federal rule. This Rule, AQ246LS, includes Louisiana revisions put forward by the department. These revisions supersede text in Rule AQ246FS. According to the Administrative Procedure Act (R.S. 49:953(F)(1)), the department is required to propose a Rule that differs from a federal rule separately from a Rule that is identical to a federal Rule.

Louisiana's Rule adds consequences for underestimation of projected actual emissions. For projects originally determined not to result in a significant net emissions increase, if an owner or operator subsequently reevaluates projected actual emissions and determines that a project has resulted or will now result in a significant net emissions increase, the owner or operator must either request that the administrative authority limit the potential to emit of the affected emissions units as appropriate via federally enforceable conditions such that a significant net emissions increase will no longer result, or submit a revised PSD

application within 180 days. Louisiana's Rule eliminates "malfunctions" from the definitions of "baseline actual emissions" and "projected actual emissions." For purposes of this regulation, emissions that are permitted or otherwise authorized (e.g., by a variance) are not to be considered malfunctions. Louisiana's Rule omits the exclusions for temporary and permanent clean coal technology demonstration projects and for the reactivation of a very clean coal-fired electric utility steam generating unit. Also, non-substantive wording and/or structural changes are made to update the regulations and improve readability (e.g., alphabetized definitions). The basis and rationale for this rule are to adopt the Federal NSR Reform rule as mandated by the U.S. EPA and include revisions put forward by the department.

The department has made substantive changes to address comments received during the public comment period of proposed rule AQ246L. Louisiana's June 20, 2005, AQ246L proposal eliminated "malfunctions" from the definitions of *baseline actual emissions* and *projected actual emissions*. Because the state's proposed regulation did not mirror the corresponding federal requirement, the department must demonstrate that such provisions are at least as stringent as the federal rule. With these substantive changes, "malfunctions" will be reinstated where previously omitted, but defined. The federal rule does not define "malfunction." AQ246LS establishes that for purposes of LAC 33:III.504 and 509, malfunctions shall include any such emissions authorized by permit, variance, or the on-line operating adjustment provisions of LAC 33:III.1507.B and 2307.C.2, but exclude any emissions that are not compliant with federal or state standards. The addition of a definition which clarifies that the only "malfunction" emissions to be excluded are those not compliant with federal or state standards ensures that the state rule is at least as stringent as the federal rule.

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

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

A. - D.9.a.iii. ... [See AQ246FS]

b. If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in Subparagraph D.9.a of this Section to the administrative authority.

9.c. - 10. ... [See AQ246FS]

11. For a project originally determined not to result in a significant net emissions increase, if an owner or operator subsequently reevaluates projected actual emissions and determines that the project has resulted or will now result in a significant net emissions increase, the owner or operator must either:

a. request that the administrative authority limit the potential to emit of the affected emissions units (including

those used in netting) as appropriate via federally enforceable conditions such that a significant net emissions increase will no longer result; or

b. submit a revised permit application within 180 days requesting that the original project be deemed a major modification.

E. - J.3.a. ... [See AQ246FS]

b. calculations of the baseline actual emissions with supporting documentation. Baseline actual emissions are to include emissions associated not only with operation of the unit, but also authorized emissions associated with startup, shutdown, and malfunction;

3.c. - 7.c. ... [See AQ246FS]

d. a requirement that emission calculations for compliance purposes include emissions associated with startup, shutdown, and malfunction;

7.e. - 15.b. ... [See AQ246FS]

K. Definitions. The terms in this Section are used as defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

[See AQ246FS]

Baseline Actual Emissions—the rate of emissions, in tons per year, of a regulated pollutant, determined as follows.

a. ... [See AQ246FS]

i. The average rate shall include fugitive emissions to the extent quantifiable, and authorized emissions associated with startups, shutdowns, and malfunctions.

a.ii. - b. ... [See AQ246FS]

i. The average rate shall include fugitive emissions to the extent quantifiable, and authorized emissions associated with startups, shutdowns, and malfunctions.

b.ii. - d. ... [See AQ246FS]

[See AQ246FS]

Clean Coal Technology—repealed from AQ246FS.

Clean Coal Technology Demonstration Project—repealed from AQ246FS.

[See AQ246FS]

Major Modification—

a. - c.vii. ... [See AQ246FS]

viii. Repealed from AQ246FS.

d. ... [See AQ246FS]

[See AQ246FS]

Malfunctions—for purposes of this Section, *malfunctions* shall include any such emissions authorized by permit, variance, or the on-line operating adjustment provisions of LAC 33:III.1507.B and 2307.C.2, but exclude any emissions that are not compliant with federal or state standards.

[See AQ246FS]

Projected Actual Emissions—the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10

years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source. In determining the *projected actual emissions* before beginning actual construction, the owner or operator of the major stationary source:

a. ... [See AQ246FS]

b. shall include fugitive emissions to the extent quantifiable, and authorized emissions associated with startups, shutdowns, and malfunctions; and

c. - d. ... [See AQ246FS]

[See AQ246FS]

Temporary Clean Coal Technology Demonstration Project—repealed from AQ246FS.

[See AQ246FS]

L. ... [See AQ246FS]

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

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

§509. Prevention of Significant Deterioration

A. - A.6. ... [See AQ246FS]

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

[See AQ246FS]

Baseline Actual Emissions—the rate of emissions, in tons per year, of a regulated NSR pollutant, determined as follows.

a. ... [See AQ246FS]

i. The average rate shall include fugitive emissions to the extent quantifiable, and authorized emissions associated with startups, shutdowns, and malfunctions.

a.ii. - b. ... [See AQ246FS]

i. The average rate shall include fugitive emissions to the extent quantifiable, and authorized emissions associated with startups, shutdowns, and malfunctions.

b.ii. - d. ... [See AQ246FS]

[See AQ246FS]

Clean Coal Technology—repealed from AQ246FS.

Clean Coal Technology Demonstration Project—repealed from AQ246FS.

[See AQ246FS]

Major Modification—

a. - c.vii. ... [See AQ246FS]

- viii. Repealed from AQ246FS.
d. ... [See AQ246FS]

[See AQ246FS]

Malfunctions—for purposes of this Section, *malfunctions* shall include any such emissions authorized by permit, variance, or the on-line operating adjustment provisions of LAC 33:III.1507.B and 2307.C.2, but exclude any emissions that are not compliant with federal or state standards.

[See AQ246FS]

Projected Actual Emissions—the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source. In determining the *projected actual emissions* before beginning actual construction, the owner or operator of the major stationary source:

- a. ... [See AQ246FS]
b. shall include fugitive emissions to the extent quantifiable, and authorized emissions associated with startups, shutdowns, and malfunctions; and
c. - d. ... [See AQ246FS]

Reactivation of a Very Clean Coal-Fired Electric Utility Steam Generating Unit—repealed from AQ246FS.

[See AQ246FS]

Repowering—repealed from AQ246FS.

[See AQ246FS]

Temporary Clean Coal Technology Demonstration Project—repealed from AQ246FS.

- C. - R.6.a.iii. ... [See AQ246FS]
b. If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in Subparagraph R.6.a of this Section to the administrative authority.
6.c. - 7. ... [See AQ246FS]
8. Revisions to Projected Actual Emissions. For a project originally evaluated in accordance with Paragraph A.3 of this Section and determined not to result in a significant net emissions increase, if an owner or operator subsequently reevaluates projected actual emissions and determines that the project has resulted or will now result in a significant net emissions increase, the owner or operator shall:
a. request that the administrative authority limit the potential to emit of the affected emissions units (including those used in netting) as appropriate via federally enforceable conditions such that a significant net emissions increase will no longer result; or
b. submit a revised PSD application within 180 days requesting that the original project be deemed a major modification.

S. - AA.3.a. ... [See AQ246FS]

b. calculations of the baseline actual emissions, with supporting documentation. Baseline actual emissions are to include emissions associated not only with operation of the unit, but also authorized emissions associated with startup, shutdown, and malfunction;

3.c. - 15.b. ... [See AQ246FS]

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

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

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0512#053

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Waste Tire Management Fund Grants and Loans
(LAC 33:VII.10505, 10539, 10541 and 10543)(SW040P)

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 adopted the Solid Waste regulations, LAC 33:VII.10505, 10537, 10538, and 10539 (Log #SW040P).

The rule provides the guidelines for persons to apply for grants and loans from the Waste Tire Management Fund. The rule provides a formal process for persons applying for the use of the funds to supply the information necessary for the department to make a decision on whether the proposal serves the purpose of solving the state's waste tire problem. The rule also provides for penalties for violations of the terms and conditions imposed on the use of the funds. Act 789 of the 2003 Regular Session of the Louisiana Legislature amended R.S. 30:2418(H)(3) to provide that 5 percent of the funds in the Waste Tire Management Fund be set aside for providing technical assistance to encourage market research and development projects and to encourage the development of products that are marketable and provide a beneficial use and for promotion of those products that have a beneficial use. The basis and rationale for this Rule are to provide guidance on applying for grants and loans from the Waste Tire Management Fund.

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 VII. Solid Waste
Subpart 2. Recycling

Chapter 105. Waste Tires

§10505. Definitions

A. The following words, terms, and phrases, when used in conjunction with the Solid Waste Rules and Regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

* * *

Applicant—any person submitting a grant and or loan application for funds from the Waste Tire Management Fund.

* * *

Grant—any funds awarded by the department from the Waste Tire Management Fund to a person subject to a grant agreement.

Grant Agreement—a written contract or other written agreement between the department and the recipient of a grant that defines the conditions, goals, and responsibilities of the recipient and the department.

Grant Application—an application meeting the requirements of LAC 33:VII.10541 from a person making a request for a grant from the Waste Tire Management Fund.

Grantee—the recipient of a grant or loan.

Loan—any issuance of funds by the department from the Waste Tire Management Fund to a person subject to a loan agreement.

Loan Agreement—a written contract or other written agreement between the department and the recipient of a loan that defines the conditions, goals, and responsibilities of the recipient and the department.

Loan Application—an application meeting the requirements of LAC 33:VII.10541 from a person making a request for a loan from the Waste Tire Management Fund.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000), LR 27:829 (June 2001), LR 27:2226 (December 2001), LR 28:1953 (September 2002), LR 29:2779 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3158 (December 2005).

§10539. Grants and Loans Applicability

A. The department may award a grant or loan to a person for any use that serves the purpose of:

1. encouraging market research and the development of products from waste tires that are marketable and provide a beneficial use; and/or
2. promoting those waste tire products that have beneficial use; and
3. assisting in solving the state's waste tire problem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 31:3158 (December 2005).

§10541. Application for a Grant or Loan

A. A person may apply for a grant or loan from the Waste Tire Management Fund by making application to the Department of Environmental Quality, Office of Management and Finance. The grant or loan application must be submitted on a form obtained from the department, which shall be available on the department's website. Along with this form, the request for a grant or loan must include information on the following non-exclusive items:

1. a detailed description of the project for which the grant or loan is requested and how the project meets the requirements of LAC 33:VII.10539;
2. the amount of the grant or loan request;
3. the projected time frame for completion of the project for which the grant or loan is requested;
4. an analysis of how the grant or loan monies will be used to encourage market research and the development of products from waste tires that are marketable and that provide a beneficial use, and/or provide for the promotion of those waste tire products that have beneficial use;
5. a detailed explanation of how the grantee will account for the use of the grant or loan funds;
6. procedures for reporting to the department on an annual basis the status of the project. The department may require additional reporting;
7. how the recipient will provide for any permits that may be necessary in order for the project to be completed, and the status of the applicant's efforts to obtain the necessary permits; and
8. any other information deemed necessary by the department.

B. Upon receipt of the grant application or loan application, the department shall review the application, may request additional information from the applicant, may deny the application, or may grant the application.

1. The denial of a grant application or loan application is a final decision of the administrative authority.

2. The granting of the application does not award funds, but allows for the applicant and the department to enter into a grant or loan agreement. The grant or loan agreement constitutes the conditions, goals, and responsibilities of the recipient and the department. The grant agreement or loan agreement, as a condition of the agreement, may require offsets for amounts due from any subsidy payments made in accordance with LAC 33:VII.10535.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 31:3158 (December 2005).

§10543. Violations

A. Failure to Comply. The grantee shall comply with all provisions of the grant agreement or loan agreement. In the event of a violation, the department may take any enforcement action authorized by the Act, including but not limited to:

1. issuance of a compliance order;
2. issuance of a notice of potential penalty and/or a penalty;

3. filing suit for recovery of the grant or loan amounts;
or
4. the placing of a lien on any real property of the grantee for the amount of the grant or loan funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 31:3158 (December 2005).

Herman Robinson, CPM
Executive Counsel

0512#056

RULE

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

Rules of Conduct (LAC 46:I.1901)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners ("board") amended LAC 46:1901.E.1 pertaining to a branch office of a firm offering architectural services. The existing Rule provides that any office offering architectural services shall have an architect resident and regularly employed in that office. The amended Rule deletes the requirement that an office of a firm offering architectural services have an architect resident and regularly employed in that office, provided certain safeguards are in place.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part I. Architects

Chapter 19. Rules of Conduct: Violations

§1901. Rules of Conduct

A. - D.3. ...

E. Professional Conduct

1. Any branch office of a firm rendering or offering architectural services to the public shall be registered with the board as a branch office and shall either have an architect resident and regularly employed in that office, or have a designated registrant in charge of the architectural services provided by that office. The designated registrant shall make periodic visits to the branch office, have direct knowledge and supervisory control of the architectural services provided by that office, and shall be responsible for all of the work performed by that office. In the event a branch office does not have an architect resident and regularly employed therein, the branch office shall inform any person using its services of that fact and of the identity of the designated registrant.

COMMENTARY This Rule previously provided that any branch office offering architectural services to the public shall have an architect resident and regularly employed in that office. With advances in technology and changes in architectural practice, the board concluded that this requirement is no longer necessary to protect the public health, safety, and welfare, provided certain safeguards are in place. This rule sets forth those safeguards.

At the same time, the board believes that a potential client seeking architectural services might fairly and reasonably assume that an office offering such services has an architect resident and regularly employed therein. Accordingly, an

office offering architectural services to a potential client which does not have an architect resident and regularly employed therein should disclose that fact to the potential client.

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 29:572 (April 2003), amended LR 31:3159 (December 2005).

Mary "Teeny" Simmons
Executive Director

0512#061

RULE

**Office of the Governor
Commission on Law Enforcement and
Administration of Criminal Justice**

Peace Officer Training (LAC 22:III.4705 and 4709)

In accordance with the Administrative Procedure Act, and R.S. 40:2401 et seq., the Commission on Law Enforcement and Administration of Criminal Justice has amended its rules and regulations relative to the training of peace officers.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE
AND LAW ENFORCEMENT**

**Part III. Commission on Law Enforcement and
Administration of Criminal Justice**

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4705. Registration of Officers

A. - B.4.c. ...

d. Grandfathering/registration shall become invalid if officer experiences a five year or more break in full time law enforcement service and has less than five years full-time experience.

C. Officers, who were hired prior to January 1, 1986, and who experience a five-year or more break in full time law enforcement, and had at least five years of full-time service, can reinstate their grandfathering by successfully completing:

1. the "Firearms" section of the Louisiana Law Enforcement Training Manual (40 minimum hours);
2. the "Legal Aspects" section of the Louisiana Law Enforcement Basic Training Manual (40 minimum hours);
3. the necessary requirements for POST registration in accordance with the provisions of §4705.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999), LR 31:3159 (December 2005).

§4709. Interruption of Full-Time Service

A. Any peace officer hired prior to January 1, 1986 who interrupts his full-time law enforcement for a period in excess of five years and is thereafter rehired, shall be required to meet the basic training requirements for new peace officers unless the officer had:

1. at least a minimum of five years experience, then the officer must meet the requirement of §4705.C; or

2. had already completed a POST certified basic training course, he shall then be required to complete the Legal Aspects and firearms portion of the course, qualify on the POST firearms qualification course, and pass the statewide examination, at an accredited training center. Proof of basic training will be required. If the students fails the statewide examination, the student must complete a full basic training course.

B. Any officer hired after January, 1986, who interrupts his full-time law enforcement service for a period not to exceed five years and had at least a minimum of two years full-time experience, must qualify with his/her firearms to reinstate their certification. If the officer fails to requalify, then the officer must attend a full 40-hour training course with firearms, and successfully requalify to reinstate their certification. If the officer had interrupted his full time service for a period of five years but had less than two years full time experience, then the officer must meet the requirements for "refreshers" outlined in §4709.A.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), LR 25:664 (April 1999), LR 31:3159 (December 2005).

Michael A. Ranatza
Executive Director

0512#058

RULE

Office of the Governor Division of Administration Racing Commission

Corrupt and Prohibited Practices—Human Recombinant
Erythropoietin and/or Darbepoietin
(LAC 35:I.1716)

The Louisiana State Racing Commission hereby adopts LAC 35:I.1716, "Human Recombinant Erythropoietin and/or Darbepoietin," as follows.

Title 35

HORSE RACING

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1716. Human Recombinant Erythropoietin and/or Darbepoietin

A. The possession and/or use of human recombinant erythropoietin and/or darbepoietin is strictly prohibited, and shall be classified as an RCI Category I substance. Every horse eligible to race in Louisiana is subject to random testing for these and other substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 31:3160 (December 2005).

Charles A. Gardiner III
Executive Director

0512#029

RULE

Office of the Governor Division of Administration Racing Commission

Purses from Video Poker (LAC 35:III.5736)

The Louisiana State Racing Commission hereby adopts LAC 35:III.5736, "Purses from Video Poker," as follows.

Title 35

HORSE RACING

Part III. Personnel, Registration and Licensing

Chapter 57. Associations' Duties and Obligations

§5736. Purses from Video Poker

A. ...

1. Two-thirds of the total funds to all thoroughbred racing associations, proportionately distributed to each association based on the number of prior calendar year thoroughbred race days per track to the total number of prior calendar year thoroughbred race days. Such funds shall be used solely to supplement purses in accordance with a schedule or formula established by the purse committee of the Louisiana Thoroughbred Breeders Association, and only on Louisiana-bred thoroughbred races with purses not exceeding \$20,000.

A.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, R.S. 27:323 and R.S. 33:4862.23.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 31:3160 (December 2005).

Charles A. Gardiner III
Executive Director

0512#028

RULE

Office of the Governor Division of Administration Racing Commission

Vesting of Title; Tests (LAC 35:XI.9913)

The Louisiana State Racing Commission hereby amends LAC 35:XI.9913 "Vesting of Title; Tests," as follows.

Title 35

HORSE RACING

Part XI. Claiming Rules and Engagements

Chapter 99. Claiming Rule

§9913. Vesting of Title; Tests

A. Title to a claimed horse shall be vested in the successful claimant at the time the horse becomes a starter. The successful claimant shall then become the owner of the horse whether alive or dead, sound or unsound, or injured at any time after leaving the starting gate, during the race or after.

B. The successful claimant may request on the claim blank at the time he makes his claim that the horse be tested for the presence of equine infectious anemia via a Coggins test and/or erythropoietin and/or darbepoietin antibodies.

1. Should the test for equine infectious anemia prove positive, it shall be cause for a horse to be returned to his previous owner and barred from racing in the state of Louisiana.

2. Should the test for recombinant erythropoietin and/or darbepoietin antibodies prove positive, it shall be cause for a horse to be returned to his previous owner and barred from racing in the state of Louisiana until such time as the horse tests negative.

C. Additionally, if such erythropoietin and/or darbepoietin antibody positive result is found, the claimant, claimant's trainer or claimant's authorized agent shall have 48 hours in which to request the claim be declared invalid, such request to be made in writing to the stewards.

D. The expense of the tests and the maintenance of the horse during the period requested for the tests shall be absorbed by the successful claimant.

E. If such tests are requested the claimed horse will be sent to the retention barn of the Louisiana State Racing Commission where the state veterinarian will draw blood samples.

1. Blood samples drawn to test for equine infectious anemia shall be sent to a laboratory approved by the Louisiana Livestock Sanitary Board for the conduct of such test.

2. Blood samples drawn to detect by immunoassay the antibody to recombinant erythropoietin and/or darbepoietin shall be sent to the Louisiana State Racing Commission's state chemist.

F. Notwithstanding any inconsistent provision of this Part, a horse shall not be subject to disqualification from the race and from any share of the purse in the race, and the trainer of the horse shall not be subject to application of trainer's responsibility based upon the finding by the laboratory that the antibody of erythropoietin and/or darbepoietin was present in the sample taken from that horse

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:446 (December 1976), amended LR 3:42 (January 1977), LR 4:285 (August 1978), LR 5:136 (June 1979), amended by the Office of the Governor, Division of Administration, Racing Commission LR 30:1476 (July 2004), LR 31:3160 (December 2005).

Charles A. Gardiner III
Executive Director

0512#027

RULE

Department of Health and Hospitals Board of Medical Examiners

Occupational Therapy—Continuing Professional Education (LAC 46:XLV.1967, 1969 and 1971)

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, the Louisiana Occupational Therapy Practice Act, R.S. 37:3001-3014, and the applicable provisions of the Louisiana Administrative Procedure Act, R.S. 49:951, et seq., has

amended administrative Rules governing continuing professional education for occupational therapists and occupational therapy assistants, LAC 46:XLV, Subpart 2, Chapter 19, Subchapter H, §§1967, 1969 and 1971. The rule amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 19. Occupational Therapists and Occupational Therapy Assistants

Subchapter H. Continuing Professional Education

§1967. Qualifying Continuing Professional Education Programs

A. To be acceptable as qualified continuing professional education under these rules a program shall:

1. have significant and substantial theoretical and/or practical content directly related to the practice of occupational therapy, or the development, administration, and supervision of clinical practice;

2. - 5. ...

B. Self-study or independent study, to be acceptable as qualified continuing professional education under these rules, shall be sponsored or offered by the AOTA, by an AOTA approved provider, or the LOTA.

C. A licensee may earn hour for hour continuing education units (up to a maximum of 5 hours per year) for initial presentations, workshops and institutes presented by the licensee when documented by an official program, schedule or syllabus containing title, date, hours and type of audience.

D. A licensee may earn continuing education units (up to a maximum of 5 hours per year) for publications appearing in a peer-reviewed professional journal, a book on theory/practice of occupational therapy, or chapter(s) in a book. Documentation shall consist of the full reference of the publication including, title, author, editor and date of publication or, if not yet published, a copy of a letter of acceptance for publication.

E. None of the following programs, seminars, or activities shall be deemed to qualify as acceptable continuing professional education programs under these rules:

1. any program, seminar or activity not meeting the standards prescribed by §1967.A.-D;

2. any program, presentation, seminar, or course of instruction not providing the participant an opportunity to ask questions or seek clarification of specific matters presented;

3. mentoring, training, or supervisory activities;

4. holding office in professional or governmental organizations, agencies, or committees;

5. participation in case conferences or informal presentations;

6. writing articles for publications that are not peer-reviewed, writing grant applications, or developing or participating in research projects; or

7. reading books or journals, viewing videos, or similar activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1004 (September 1994), amended LR 31:3161 (December 2005).

§1969. Approval of Program Sponsors

A. Any program, course, seminar, workshop, self-study, independent study or other activity meeting the standards prescribed by §1967.A.-D sponsored or offered by the AOTA, by an AOTA approved provider, or the LOTA shall be presumptively deemed approved by the board for purposes of qualifying as an approved continuing professional education program under these rules.

B. Upon the recommendation of the advisory committee, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing professional education program under §1967.A.-D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1004 (September 1994), amended LR 31:3162 (December 2005).

§1971. Approval of Programs

A. A continuing professional education program sponsored by an organization or entity not deemed approved by the board pursuant to §1969.A.-D may be preapproved by the board as a program qualifying and acceptable for satisfying continuing professional education requirements under this Subchapter upon written request to the board therefore, upon a form supplied by the board, providing a complete description of the nature, location, date, content, and purpose of such program and such other information as the board or the advisory committee may request to establish the compliance of such program with the standards prescribed by §1967.A.-D. Any such request for preapproval respecting a program which makes and collects a charge for attendance shall be accompanied by a nonrefundable processing fee of \$30.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1004 (September 1994), amended LR 31:3162 (December 2005).

Kim Edward LeBlanc, M.D., Ph.D.
President

0512#030

RULE

**Department of Health and Hospitals
Board of Veterinary Medicine**

Veterinary Practice—Wellness Clinic
(LAC 46:LXXXV.700 and 711)

The Louisiana Board of Veterinary Medicine amends LAC 46:LXXXV.700 and 711 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1569. This text is amended to clarify and implement the regulatory requirements of a licensed veterinarian conducting a wellness or preventative care clinic in keeping with its

function as defined by the State Legislature in the Veterinary Practice Act. The Rule will clarify and implement requirements for a veterinarian licensed by the board to administer vaccines, perform examinations, and/or diagnostic procedures to promote good health, excluding treatment for a diagnosed disease, illness or medical condition, at a location other than a veterinary hospital, clinic, or mobile clinic. The amendment to the Rules is set forth below. This Rule is currently in effect as an Emergency Rule readopted on December 1, 2005 for the next 120 days from this date or until adoption of the final Rule, whichever occurs first.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§700. Definitions

Wellness or Preventative Care Clinic—a service in which a veterinarian licensed by the board administers vaccine, performs examinations, and/or diagnostic procedures to promote good health, excluding treatment for a diagnosed disease, illness or medical condition, at a location other than a veterinary hospital, clinic, or mobile clinic. A program for the administration of rabies vaccination conducted at a location solely for the specific purpose of rabies prevention shall not be considered a wellness or preventative care clinic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1328 (October 1993), amended LR 20:666 (June 1994), LR 20:1381 (December 1994), LR 24:940 and 941 (May 1998), LR 24:1932 (October 1998), LR 24:2257 (December 1998), LR 27:51 (January 2001), LR 27:543 (April 2001), LR 31:3162 (December 2005).

§711. Definitions and Classification of Practice

Facilities

A. - D.2. ...

E. A wellness or preventative care clinic shall have a published physical address for the specific location, telephone facilities for responding to emergency situations, and the following.

1. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall have a prior written agreement with a local veterinary hospital or clinic, within a 30 mile or 30 minutes travel time, to provide laboratory services, hospitalization, surgery, and/or radiology, if these services are not available at the wellness or preventative care clinic.

2. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall have a prior written agreement with a local veterinary hospital or clinic, within a 30 mile or 30 minutes travel time, to provide emergency care services. A notice of available emergency care services, including the telephone number and physical address of the local veterinary hospital or clinic, shall be posted in a conspicuous place at the wellness or preventative care clinic, and a copy of the notice or information shall be given to each client prior to the administration of a vaccine, the performance of an examination and/or a diagnostic procedure to promote good health.

3. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall physically remain on site until all patients are discharged to their respective owners, or authorized agents.

4. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall comply with the requirements for record keeping regarding the storage, maintenance and availability to the client of the medical records for the patients as set forth in the board's rules on record keeping. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall be the owner of the medical records of the patients.

5. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall be responsible for consultation with clients and the prompt referral of patients when disease, illness or a medical condition is diagnosed.

6. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall be responsible for the information and representations provided to the clients by the staff at the wellness or preventative care clinic.

7. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall have his license or current renewal, in good standing, to practice veterinary medicine in Louisiana on display in a conspicuous place at each location of a wellness or preventative care clinic.

8. Operation of a wellness or preventative care clinic shall also have the following on site at each location:

- a. a clean, safe location;
- b. meet local and state sanitation requirements;
- c. lined waste receptacles;
- d. fresh, running water for cleaning purposes and first aid;
- e. an examination area with good lighting and smooth, easily disinfected surfaces;
- f. all drugs, medicines, or chemicals shall be stored, inventoried, prescribed, administered, dispensed, and/or used in accordance with federal, state and local laws and rules;
- g. all equipment shall be kept clean and in proper working order;
- h. the ability to address sudden life-threatening emergencies which may arise, including the availability, on site, of oxygen, resuscitation drugs, treatment for shock, and fluid administration materials; and
- i. the proper disposal of biomedical waste and the required facilities, on site, for such disposal, as well as documentation on site to verify the proper disposal of biomedical waste.

9. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall make all decisions which involve, whether directly or indirectly, the practice of veterinary medicine and will be held accountable for such decisions in accordance with the Veterinary Practice Act, the board's rules, and other applicable laws.

10. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall be

responsible for compliance with all standards and requirements set forth in the Veterinary Practice Act, the board's rules, and other applicable laws.

11. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall provide a copy of any signed written agreement, including renewal, extension or amendment, required by this rule to the board prior to commencement of the terms of the agreement.

12. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall provide the board, upon written demand, a copy of the written agreement with the local veterinary hospital or clinic required by this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1330 (October 1993), amended LR 23:969 (August 1997), LR 24:2123 (November 1998), LR 31:3162 (December 2005).

Wendy D. Parrish
Administrative Director

0512#064

RULE

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

Medical Transportation Program
Emergency Ambulance Services
Certification for Ambulance Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts 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 proposed 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 discontinues the requirement for completion of the medical transportation certification form for reimbursement of emergency ambulance services. In order to submit a claim for Medicaid reimbursement, the emergency ambulance trip must meet the definition of emergency response as defined by the Centers for Medicare and Medicaid Services. All claims for emergency ambulance services are subject to post pay review.

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

0512#097

RULE

**Department of Revenue
Policy Services Division**

**Donations to the Louisiana Military Family Assistance Fund
(LAC 61:III.1101)**

Under the authority of R.S. 47:120.31, 297.5, 306.2, and 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:III.1101 to provide for the administration of Acts 2005, No. 151, which authorizes donations to the Louisiana Military Family Assistance Fund by designation on state income and sales tax returns.

Title 61

REVENUE AND TAXATION

**Part III. Department of Revenue—Administrative
Provisions and Miscellaneous**

Chapter 11. Donations

**§1101. Donations to the Louisiana Military Family
Assistance Fund**

A. Taxpayers filing individual or corporate income or sales and use tax returns may designate all or any portion of a refund, credit, or vendor's compensation as a donation, or may donate an amount greater than the tax or refund due to the Louisiana Military Family Assistance Fund (Fund) at the time that the tax returns are submitted to the Department of Revenue.

1. For corporate and individual income tax, returns for tax periods beginning on or after January 1, 2005, may include a designated donation.

2. For sales and use tax, returns for tax periods beginning on or after January 1, 2006, may include a designated donation.

B. To make a donation to the fund, the taxpayer must comply with all of the requirements for proper payment of the tax due including filing a correct return and paying all taxes, interest, and penalties due.

1. The taxpayer must properly designate the amount of the donation intended on the tax return form.

2. The taxpayer may donate all or a portion of any refund, credit, or vendor's compensation to the fund by designating the amount to be donated on the appropriate line of the return.

3. The taxpayer may contribute additional amounts to the fund by increasing the amount of the payment made for taxes, interest, and penalties due and designating the amount to be donated on the appropriate line of the return. Any additional donation must accompany the return. Donations not accompanying the filing of a return will be returned.

4. Once a taxpayer has made the election to donate, the taxpayer may not change the donation amount after the tax return has been filed.

C. Adjustments to Donation Amounts

**1. Donation of Vendor's Compensation or
Overpayments**

a. If a taxpayer elects to donate all or any portion of an expected overpayment and the amount of the overpayment is reduced because of return errors or disallowance of vendor's compensation, the donation amount will be reduced accordingly.

b. If a taxpayer elects to donate all or any portion of their vendor's compensation or an expected overpayment and the taxpayer has other outstanding liabilities for other taxes or tax periods, the overpayment will first be applied to the outstanding tax liabilities and the donation amount will be reduced accordingly.

c. If a taxpayer elects to donate all or any portion of their vendor's compensation or an expected overpayment and the taxpayer is subject to other offsets, garnishments, liens, or seizures, the overpayment will first be applied to those legal responsibilities and the donation amount will be reduced accordingly.

2. Additional Donations. If a taxpayer elects to contribute additional amounts by increasing the amount of the tax return payment and the amount due on the return is increased because of return errors or disallowance of vendor's compensation or the taxpayer fails to pay in full the amount shown due on the return, the taxes due will not be considered properly paid as required by §1101.B and the donation amount will be reduced accordingly.

3. Taxpayers will be notified of any donation adjustments.

4. The department will not seek to collect amounts designated as a donation by the taxpayer if the donation amount is adjusted as provided by §1101.C.1-2.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:120.31, 297.5, 306.2 and 1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 31:3164 (December 2005).

Cynthia Bridges
Secretary

0512#002

RULE

**Department of State
Elections Division**

**Voter Registration and Voter Education
(LAC 31:II.Chapter 7)**

Under the authority of R.S. 18:18(A)(8)(a), Public Law 107-252 (Help America Vote Act of 2002), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Secretary of State hereby adopts uniform rules, regulations, forms, and instructions as to standards for effective non-partisan voter registration and voter education in the state of Louisiana.

Title 31

ELECTIONS

**Part II. Voter Registration and Voter Education
Chapter 7. Standards for Effective Non-Partisan
Voter Registration and Voter Education**

§701. Department of State's Outreach Activities

A. The department shall develop and update material to be utilized in the department's outreach efforts related to voter registration and voter education. In order to convey the department's outreach message, the department will: send out press releases statewide; make public awareness appearances at public meetings and at educational institutions; hold mock elections; conduct elections (e.g.,

schools, unions, etc.); and participate in media interviews on television programs and radio station programs.

B. With the passage of the Help America Vote Act of 2002 (HAVA), the department will be procuring a new electronic voting system. As a result, the department shall develop educational materials for voters regarding the use of the voting system in the form of instructional brochures and visual presentations. In accordance with the provisions of R.S. 18:563(C), voters are allowed only three minutes to vote on election day. Therefore, these educational materials will be vital to the successful operation of the voting system by the voters and the voting process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(8)(a), R.S. 18:563(C), Public Law 107-252, and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 31:3164 (December 2005).

§703. Registrars of Voters

A. All registrars of voters are required to participate in the state's annual voter registration week. The department will be required to provide uniform information to registrars of voters to use when conducting certain outreach activities. These activities shall encourage Louisiana citizens to register to vote, to exercise their right to vote, and to encourage participation of voters as election poll workers. In addition, new registrants and existing registrants will receive information on early voting in person, voting absentee by mail, and voting in person on election day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(8)(a), Public Law 107-252, and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 31:3165 (December 2005).

§705. Annual Voter Registration Week

A. Under the provisions of R.S. 18:18(A)(8)(b), the official state voter registration week shall be held annually during the last full week which occurs two weeks prior to the close of registration books for the regular fall primary election. Registrars of voters and their employees are an integral part of this process. Representatives from the Louisiana Registrars of Voters Association shall work with the department on the development of the outreach presentation for various groups of participants. The department will annually update registrars of voters on any legislative changes that will affect outreach activities and information.

B. Voter registration outreach activities should be structured to encourage participants who are not registered to vote to register. Participants should be provided the following information:

1. the requirements to register to vote;
2. how to update voter registration information (such as changes in name and address);
3. voter registration deadlines for scheduled election dates;
4. why a registrant may be removed from the voter registration roles; and
5. registration for individuals with disabilities and residents in nursing homes.

C. During the annual voter registration week, the focus of the department and registrars of voters will not only be on voter registration. Registrars of voters will be encouraging registered voters to go out and exercise their right to vote by informing citizens of the following:

1. the registrant's voting rights;
2. the procedures to follow during early voting in person or voting absentee by mail:
 - a. timing of early voting in person and location of early voting for various scheduled election dates during the year;
 - b. timing of voting absentee by mail;
 - c. type of identification required for early voting in person;
 - d. how to vote absentee by mail;
 - e. how to vote if the registrant is in the military or resides overseas;
 - f. special handicap program for individuals with disabilities; and
 - g. special program for residents of nursing homes;
3. how to vote in person on election day:
 - a. time the polls open and close;
 - b. type of identification required to vote at the polls;
 - c. how individuals with disabilities can vote;
 - d. election dates scheduled during the year; and
 - e. provisional balloting procedures for federal elections only;
4. how to cast a vote;
5. where to obtain a sample ballot;
6. how to use the voting system for that parish;
7. encouraging and recruiting voters to serve as election poll workers on election day;
8. procedures to follow to file a complaint; and
9. procedures to report election fraud or violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(8)(a), R.S. 18:18(A)(8)(b), Public Law 107-252, and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 31:3165 (December 2005).

§707. Funding for Outreach Efforts

A. The department shall pay for all outreach efforts conducted by employees of the department. If the department is asked to provide a voting system for a private election, the organization requesting the voting system will be responsible for the payment for the hauling of the voting system.

B. The department shall provide registrars of voters with printed materials on voter registration, voter education, voting rights, and the voting system for use during the annual voter registration week. In addition, the department will advertise the annual voter registration week in the official journal of every parish and issue a statewide public service announcement on the annual voter registration week.

C. Although not mandatory, registrars of voters are encouraged to provide other outreach activities and materials tailored toward their individual communities. The registrar of voters must receive advance written approval by the commissioner of elections for the department to pay the expense. If the commissioner of elections gives prior approval, the procurement of said service or materials must be procured in accordance with state or parish purchasing procedures and guidelines. The department, upon receipt of the original invoice and supporting documents, shall pay the expense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(8) and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 31:3165 (December 2005).

§709. Reporting Requirements

A. Report on Voter Education Programs

1. The commissioner of elections shall develop and provide a report form to be utilized by the registrars of voters in fulfilling the responsibilities of R.S. 18:18(A)(8). This report form shall require the registrar to provide the following information:

a. a listing of all voter registration and voter education events/activities held by the registrar's office, the location, the amount of time spent on the event/activity, the estimated amount of citizen participation, and any other detailed information describing such event/activity;

b. a listing of any group or organization that requested voter registration information or registration forms and the number of completed voter applications received; and

c. any other relevant voter registration activities.

B. Report Deadlines

1. Registrars of voters must submit the report on voter education programs to the department prior to the close of business on December 15 of each year. If December 15 falls on a weekend or holiday, the report form will be due on the last business work day prior to December 15.

2. The department is required to submit a consolidated annual report on the effectiveness of the state's non-partisan voter registration and voter education programs by January 31 of each year. Information gathered from the annual reports submitted by the registrars of voters, statistical information generated by the statewide voter registration system, and the information generated by the department's outreach division will be utilized to produce this comprehensive report.

3. Under the provisions of R.S. 18:18(8)(a), copies of this comprehensive annual report shall be submitted to the governor, the president of the Senate, and the speaker of the House of Representatives. In addition, the department shall submit copies of this report to the members of the House and Governmental Affairs Committee, members of the Senate and Governmental Affairs Committee, members of the State Board of Election Supervisors, and all registrars of voters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(8) and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 31:3166 (December 2005).

Al Ater
Secretary of State

0512#081

RULE

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

2005 Reef Fish Harvest (LAC 76:VII.335)

The Wildlife and Fisheries Commissions hereby amends a Rule (LAC 76:VII.335) modifying size limits, establishing a closed commercial season and modifying recreational creel and possession limits for vermilion snapper, which are parts of the existing rule for daily take, possession, and size limits for reef fishes set by the commission, and provides that all persons fishing in the federal exclusive economic zone

(EEZ) shall comply with all applicable federal and state laws and regulations. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), 56:320.2, 56:326.1 and 56:326.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§335. Reef Fish—Harvest Regulations

A. Recreational bag limits regarding the harvest of reef fish—triggerfishes, amberjacks, grunts, wrasses, snappers, groupers, sea basses, tilefishes, and porgies, within and without Louisiana's territorial waters.

Species	Recreational Bag Limits
* * *	
3. Vermilion snapper, lane snapper, gray triggerfish, almaco jack, goldface tilefish, tilefish, blackline tilefish, anchor tilefish, blueline tilefish	20 per person per day (in aggregate) with not more than 10 vermilion snapper per person
* * *	

B. - D.3. ...

E. Recreational and commercial minimum and maximum size limits, unless otherwise noted.

Species	Minimum Size Limits
* * *	
5. Vermilion snapper	11 inches total length
* * *	

F. ...

G. Seasons

1. Seasons for the commercial harvest of reef fish species or groups shall be closed within and without Louisiana's territorial waters during the periods listed below. Possession of reef fish in excess of the daily bag limit while on the water is prohibited during the specified closed season. Any reef fish harvested during the closed season shall not be purchased, sold, traded, bartered or exchanged or attempted to be purchased, sold, traded, bartered or exchanged. This prohibition on sale/purchase does not apply to reef fish that were harvested, landed ashore, sold and purchased prior to the closed season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing reef fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6. The provisions of §335.G apply to fish taken within or without Louisiana's territorial waters.

Species or Group	Closed Season
a. Greater Amberjack	March 1 through May 31
b. Gag, Black and Red Grouper	February 15 through March 15
c. Vermilion Snapper	April 22 through May 31

2. Persons aboard a vessel for which the permits indicate both charter vessel/headboat for Gulf reef fish and commercial Gulf reef fish may continue to retain reef fish under the recreational take and possession limits specified in §335.A and size limits specified in §335.E, provided the vessel is operating as a validly licensed charter vessel or

headboat with prepaid recreational charter fishermen aboard the vessel. The provisions of §335.G.2 apply to fish taken within or without Louisiana's territorial waters.

H. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15, for reef fishes while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange reef fishes within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:320.2(C), 56:326.1, and 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998), LR 24:1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005).

Dwight Landreneau
Secretary

0512#077

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2006 Turkey Season (LAC 76:XIX.113, 115, and 117)

The Wildlife and Fisheries Commission does hereby amend the turkey rules and regulations for the 2006 season.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§113. Turkey Hunting Regulations

A. Daily limit is one gobbler, two gobblers per season. Taking of hen turkeys, including bearded hens, is illegal. Still hunting only. Use of dogs, baiting, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzleloading shotguns, using shot not larger than #2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited.

B. No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys.

C. A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or

indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed.

D. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closure.

E. The Department of Wildlife and Fisheries strongly discourages feeding agricultural grains to wild turkeys as this practice increases the risk of birds contracting potentially lethal diseases. Repeatedly placing grain in the same area may expose otherwise healthy birds to disease contaminated soils, grain containing lethal toxins and other diseased turkeys using the same feeding site. Properly distributed food plots (clovers, wheat, millet and chufa) are far more desirable for turkeys and have the added benefit of appealing to a wide variety of wildlife.

F. It is unlawful to take from the wild or possess in captivity any live wild turkeys or their eggs. No pen raised turkeys from within or without the state shall be liberated (released) within the state.

G. All licensed turkey hunters are required to have a Turkey License in their possession while turkey hunting in addition to basic and big game hunting licenses. Additionally, a WMA Hunting Permit is required of any person (age 18-59) who hunts on land administered by the Department of Wildlife and Fisheries, including Wildlife Management Areas, Wildlife Refuges, and Habitat Conservation Areas.

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 25:2263 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2375 (November 2002), LR 29:2512 (November 2003), LR 30:2874 (December 2004), LR 31:3167 (December 2005).

§115. Statewide Turkey Hunting Areas—Resident Game Birds and Animals

A. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

Species	Season Dates	Daily Bag Limit	Possession Limit
Turkey	See Schedule	1	2/Season

B. Turkey season will open in designated areas on the fourth Saturday in March. The Area A turkey season will be 30 consecutive days in length, the Area B turkey season will be 23 consecutive days in length, and the Area C turkey season will be 9 consecutive days in length. Wildlife Management Areas, National Forests, National Wildlife Refuges, and U.S. Army Corps of Engineers land may vary from this framework. Deviation from this framework may occur in those years when the fourth Saturday in March falls the day before Easter.

C. Statewide Youth Turkey and Physically Challenged Season on private lands shall be the weekend prior to the statewide turkey season. Only youths younger than 16 years of age or hunters possessing a Physically Challenged Hunter Permit with wheelchair classification may hunt. Youth must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the

accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults accompanying youth may not possess a firearm or bow. Youths may possess only one firearm or bow while hunting. Legal weapons and shot are the same as described for the turkey season. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt. Only one gobbler per day may be taken and any gobbler taken by the hunter during this special season counts towards their seasonal bag limit of 2. Contact regional offices for a Physically Challenged Hunter Permit application.

D. 2006 Turkey Hunting Schedule

Area	Season Dates
A	March 25-April 23
B	March 25-April 16
C	March 25-April 2
Private Lands Youth and Physically Challenged Hunter (Wheelchair Confined Hunt)	March 18-19

E. 2006 Turkey Hunting Season—Open Only in the Following Areas

1. Area A—March 25-April 23

- a. All of the following parishes are open:
- i. Beauregard;
 - ii. East Baton Rouge;
 - iii. East Feliciana;
 - iv. LaSalle;
 - v. Livingston;
 - vi. Natchitoches (Exception—See Federal Lands

Hunting Schedule for Kisatchie National Forest dates);

- vii. Sabine;
- viii. St. Helena;
- ix. St. Tammany;
- x. Tangipahoa;
- xi. Vernon (Exception—See Federal Lands

Hunting Schedule for Kisatchie National Forest dates);

- xii. Washington;
- xiii. West Baton Rouge;
- xiv. West Feliciana (including Raccourci Island);
- xv. Winn (Exception—See Federal Lands Hunting

Schedule for Kisatchie National Forest dates).

b. Portions of the following parishes are also open:

i. Allen—north of LA 104, west of LA 26 south of junction of LA 104 to US 190, north of US 190 east of Kinder, west of US 165 south of Kinder;

ii. Avoyelles—that portion bounded on the east by the Atchafalaya River, on the north by Red River to the Brouillette Community, on the west by LA 452 from Brouillette to LA 1, on the south by LA 1, eastward to Hamburg, thence by the West Atchafalaya Basin Protection levee southward;

iii. Calcasieu—north of I-10;

iv. Caldwell—west of Ouachita River southward to Catahoula Parish line;

v. Catahoula—west of Ouachita River southward to LA 559 at Duty Ferry, north of LA 559 to LA 124, south and west of LA 124 from Duty Ferry to LA 8 at

Harrisonburg and north and west of LA 8 to LaSalle Parish line. ALSO that portion lying east of LA 15;

vi. Concordia—that portion east of LA 15 and west of US 65 from its juncture with LA 15 at Clayton;

vii. Evangeline—north and west of LA 115, north of LA 106 from St. Landry to LA 13, west of LA 13 from Pine Prairie to Mamou and north of LA 104 west of Mamou;

viii. Franklin: That portion lying east of LA 17 and east of LA 15 from its juncture with LA 17 at Winnsboro;

ix. Grant—all of the parish except that portion of land that lies north of the Red River between US 71 and LA 8. Exception—see Federal Lands Hunting Schedule for Kisatchie National Forest dates;

x. Iberville—west of LA 1. Exception—see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;

xi. Jefferson Davis—north of US 190 from junction with LA 26 to Kinder, west of US 165 and north of I-10 west from junction of US 165;

xii. Madison—that portion lying east of US 65 from East Carroll Parish line to US 80 and south of US 80. Also, all lands east of the main channel of the Mississippi River;

xiii. Pointe Coupee—all of the parish except that portion bounded on the north by LA Hwy. 1, from Innis to the junction of LA Hwy 417, on the west by LA Hwy. 417 southward toward McCrea, on the south by LA Hwy. 417 from McCrea to its juncture with Delhi Lane, then by Delhi Lane to LA Hwy. 418, then LA Hwy. 418 northward to LA Hwy. 1 at Innis. Exception—see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;

xiv. Rapides—all of the parish except that portion of lands that lies north of the Red River and south of US 71 from its juncture with the Red River northward to the Grant Parish line. Exception—see Federal Lands Hunting Schedule for Kisatchie National Forest season dates;

xv. Richland—that portion south of US 80 and east of LA 17;

xvi. St. Landry—that portion bounded on the west by the West Atchafalaya Basin Protection Levee and on the east by the Atchafalaya River. Exception—the Indian Bayou Area, see Federal Lands Hunting Schedule for Indian Bayou Area dates;

xvii. Upper St. Martin—all within the Atchafalaya Basin. EXCEPTIONS: Sherburne WMA and Indian Bayou Area, see WMA Turkey Hunting Schedule for special season dates on all state, federal and private lands within Sherburne WMA boundaries and see Federal Lands Hunting Schedule for Indian Bayou dates;

xviii. Tensas—that portion west of US 65 from the Concordia Parish line to its juncture with LA 128, north of LA 128 to St. Joseph; west and north of LA 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands east of the main channel of the Mississippi River.

2. Area B—March 25-April 16

a. All of the following parishes are open:

i. Bienville;

ii. Caddo;

iii. Claiborne (Exception—see Federal Lands Hunting Schedule for Kisatchie National Forest dates);

iv. DeSoto;

- v. Jackson;
- vi. Lincoln;
- vii. Red River;
- viii. Union;
- b. Portions of the following parishes are open:
 - i. Ascension—all east of the Mississippi River;
 - ii. Bossier—all open except that portion bounded on the north by I-20 on the west by LA 164, on the south by LA 164, and on the east by the Webster Parish Line;
 - iii. East Carroll—east of US 65 from Arkansas state line to Madison Parish line;
 - iv. Iberville—all east of the Mississippi River;
 - v. Ouachita—east of LA 143 from Union Parish line to US 80 in West Monroe, north of US 80 to LA 139, west of LA 139 to the Morehouse Parish line;
 - vi. Morehouse—west of US 165 from the Arkansas line to Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to US 165, north of US 165 to LA 139, west of LA 139 to Ouachita Parish line.
 - vii. Webster—all except that portion bounded on the north by I-20, on the east by U.S. 371, on the south by LA 164, and on the west by the Bossier Parish Line (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
- 3. Area C—March 25-April 2
 - a. Portions of the following parishes are open:
 - i. Catahoula—that portion lying south of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to LA 8 at Harrisonburg, west and north of LA 8 to LA 15, west of LA 15 to Deer Creek;
 - ii. Concordia—north and east of Sugar Mill Chute (Concordia Parish) from the state line westward to Red River, east of Red River northward to Cocodrie Bayou, east of Cocodrie Bayou northward to US 84, south of US 84 eastward to LA 15 (Ferriday), east of LA 15 northward to US 65 (Clayton), east of US 65 northward to Tensas Parish line;
 - iii. Franklin—that portion lying west of LA 17, from Richland Parish line to LA 577 at Crowville, north of LA 577 to LA 15 at Baskin, east of LA 15 to Big Creek, and south and east of Big Creek to Richland Parish line. Also, that portion east of Turkey Creek Lake, Turkey Creek and Boeuf River, north of Deer Creek, west of LA 15 and south of LA 562;
 - iv. Richland—west of LA 17 from Franklin Parish line to Ringle Road, south of Ringle Road to Ferguson Road, south of Ferguson Road to Little Road, south of Little Road to Big Creek, east of Big Creek to Franklin Parish line;
 - v. Tensas—east and south of US 65 from Concordia Parish line to LA 128, south of LA 128 to St. Joseph, east and south of LA 605, 604 and 3078 northward to Port Gibson Ferry.

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 25:2264 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2376 (November 2002), LR 29:2512 (November 2003), LR 30:2875 (December 2004), LR 31:3167 (December 2005).

§117. 2006 Wildlife Management Area Turkey—Hunting Regulations

A. General

1. The following rules and regulations concerning management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject the individual to citation and/or expulsion from the management area.

2. Only those Wildlife Management Areas listed are open to turkey hunting.

3. ATVs, ATCs and motorcycles cannot be left overnight on WMAs EXCEPT in designated camping areas. ATVs are prohibited from two hours after sunset to 3 a.m. All roads including trails and roads designated as ATV only trails shall be closed to ATVs from March 1 through August 31 unless otherwise specified. ATV off-road or off-trail travel is prohibited. Certain trails may be open during this time period to provide access for fishing or other purposes. These trails will be marked by signs at the entrance of the trail. Otherwise, only walk-in hunting is permitted (bicycles permitted).

4. Bag limits on WMAs are part of the season bag limit. Only one turkey is allowed to be taken during special lottery hunts.

5. WMAs with youth turkey hunts are closed to all activities except turkey hunting by authorized youth hunt participants and fishing on the day(s) of the youth hunt.

B. Permits

1. Self-Clearing Permits. All turkey hunts, including lottery hunts, are self-clearing. Hunters must check in daily by obtaining a permit from a self-clearing station prior to hunting. The self-clearing permit must be in the hunter's possession while hunting. Upon completion of each days hunt, the hunter must check out by completing and depositing the hunter report portion of the permit in the check-out box at a self-clearing station before exiting the WMA.

2. Lottery Hunts. Bayou Macon, Boise-Vernon, Loggy Bayou, Sabine, Sherburne, Sicily Island, Tunica Hills, Union and West Bay WMAs are restricted to those persons selected as a result of the pre-application lottery. Special youth only lottery hunts will be held on Big Lake, Bens Creek, Fort Polk/Peason Ridge, Jackson-Bienville, Loggy Bayou, Sherburne, Spring Bayou, Thistlewaite, Union and West Bay WMAs. Deadline for receiving complete applications in the Baton Rouge office for all lottery hunts is 4:30 p.m. February 15, 2006. An application fee of \$5 must be sent with each application. Applicants for WMA youth hunts must be at least 8 years old on the day of the hunt. Applicants may submit only one application and will be selected for one WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Contact any district office for applications. Hunters must abide by self-clearing permit requirements. Youths chosen for special youth only hunts will be guided by members of the Louisiana Chapter of the National Wild Turkey Federation. One family member may accompany the youth and guide, but may not hunt.

C. Wildlife Management Area Turkey Hunting Schedule*

WMA	Season Dates	Permit Requirements	Lottery Dates**
Bayou Macon	April 8-9	Self-Clearing	April 8-9
Bens Creek ¹	March 25-April 9	Self-Clearing	None
Big Lake	March 25-April 2	Self-Clearing	None
Bodcau	March 25-April 9	Self-Clearing	None
Boeuf	March 25-April 2	Self-Clearing	None
Clear Creek (formerly Boise Vernon)	March 25-26 April 1-23	Self-Clearing	March 25-26 April 1-2
Camp Beauregard	March 25-April 9	Self-Clearing	None
Fort Polk	March 25-April 23	Self-Clearing	None
Grassy Lake	March 25-April 9	Self-Clearing	None
Hutchinson Creek	March 25-April 23	Self-Clearing	None
Jackson-Bienville	March 25-April 9	Self-Clearing	None
Lake Ramsey	March 25-April 9	Self-Clearing	None
Little River	March 25-April 9	Self-Clearing	None
Loggy Bayou	April 15-16	Self-Clearing	April 15-16
Peason Ridge	March 25-April 23	Self-Clearing	None
Red River	March 25-April 2	Self-Clearing	None
Sabine	March 25-26 April 1-2	Self-Clearing	March 25- 26 April 1-2
Sandy Hollow ¹	March 25-April 9	Self-Clearing	None
Sherburne ²	March 25-April 2	Self-Clearing	March 25-26 March 27-29
Sicily Island	March 25-April 2	Self-Clearing	March 25-27 March 28-30 March 31-April 2
Three Rivers	March 25-April 2	Self-Clearing	None
Tunica Hills South Tract	March 25-26 April 1-2 April 8-9 April 10-16	Self-Clearing	March 25-26 April 1-2 April 8-9
Tunica Hills Angola Tract ³	March 25-26 April 1-2 April 8-9 April 10-16	Self-Clearing	March 25-26 April 1-2 April 8-9
Union	April 8-9	Self-Clearing	April 8-9
Walnut Hills	March 25-April 23	Self-Clearing	None
West Bay	March 25-26 April 1-2	Self-Clearing	March 25-26 April 1-2

*Only those Wildlife Management Areas listed have a turkey hunting season. All other areas are closed.

**The deadline for receiving applications for all turkey Lottery Hunts on WMAs is February 15, 2006.

¹No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

²All turkeys harvested on Sherburne WMA must be weighed and checked at WMA headquarters.

³Area closed to all users April 17–August 31.

D. Wildlife Management Area Youth Hunts

WMA	Lottery Youth Hunt Date
Bens Creek	March 18
Big Lake	March 18
Fort Polk/Peason Ridge	March 18
Jackson-Bienville	March 18
Loggy Bayou	April 8
Sherburne	March 18 and 19
Spring Bayou	March 18
Thistlewaite	April 8
Union	April 1
West Bay	March 18

E. Federal Lands Turkey Hunting Schedule

1. Kisatchie National Forest (KNF) Turkey Hunting Schedule. Caney Ranger District, March 25-April 9; all remaining KNF lands, March 25-April 16 (including Catahoula and Red Dirt National Wildlife Management Preserves).

2. U.S. Army Corps of Engineers Turkey Hunting Schedule. Indian Bayou Area, March 18 handicap only hunt, March 25-April 2, lottery hunt only on March 25-26 and March 27-29. Contact USCOE at 337-585-0853 for further information. Old River Control and Lock Areas, March 25-April 2. Contact U.S.C.O.E.(225)492-2690 for further information.

3. National Wildlife Refuges. Bogue Chitto NWR, March 25-April 23; Lake Ophelia NWR, March 25-31, April 8-23; Tensas NWR, March 18-19 (youth lottery only), March 25-April 9; Upper Ouachita NWR, March 18-19 (youth lottery only). Contact the U.S. Fish and Wildlife Service for information regarding NWR hunts.

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 25:2265 (November 1999), amended LR 26:2636 (November 2000), LR 27:2272 (December 2001), LR 28:2377 (November 2002), LR 29:2514 (November 2003), LR 30:2876 (December 2004), LR 31:3169 (December 2005).

Wayne J. Sagrera
Chairman

0512#076