

# Rules

## RULE

### Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

#### Fumigation of Conifer or Hardwood Seedlings (LAC 7:XV.132)

The Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, hereby adopts regulations governing the use of methyl bromide as a fumigation treatment in seedling plant beds prior to seeding in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The adoption of this Rule will require the shipment of conifer or hardwood seedlings to be used for forestry purposes be accompanied by a certificate evidencing the apparent freedom of pests, diseases, and noxious plants. It further declares that the preferred method of treatment to aid in obtaining pest free status is fumigation with methyl bromide.

These rules are enabled by R.S. 3:1652.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XV. Plant Protection and Quarantine

##### Chapter 1. Crop Pests and Diseases

##### Subchapter B. Nursery Stock Quarantines

#### §132. Conifer and Hardwood Seedlings Used for Forestation Purposes

A. The premises of nurseries growing seedlings for afforestation or reforestation purposes must be inspected and found to be apparently free of pests, diseases, and noxious plants.

B. Any shipment of conifer or hardwood seedlings into or within the state for afforestation or reforestation purposes must be accompanied by a valid certificate issued by the department or the state of origin evidencing that the seedlings are apparently free of pests, diseases, and noxious plants.

C. To aid in obtaining seedlings that are free of pests, diseases, and noxious plants, the preferred method of treatment is fumigation using methyl bromide in seedling plant beds prior to seeding. All such treatments shall be accomplished by utilizing state and federally registered pesticides in accordance with the label.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 33:34 (January 2007).

Bob Odom  
Commissioner

0701#039

## RULE

### Department of Agriculture and Forestry Office of Agro-Consumer Services Weights and Measures Division

#### Chloramphenicol in Seafood, Seafood Products and Honey (LAC 7:XXXV.501, 503 and 505)

The Louisiana Department of Agriculture and Forestry, Weights and Measures Commission, adopts regulations regarding the testing for Chloramphenicol in seafood and honey. This Rule is adopted in accordance with R.S. 3:2A, 3:3B, 3:4608 and the rule making provisions of the Louisiana Administrative Procedure Act, (R.S. 49:950 et seq.).

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

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

This Rule is enabled by R.S. 3:2A, 3:3B, R.S. 3:4608.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXXV. Agro-Consumer Services

##### Chapter 5. Consumer Products—Testing and Labeling

##### Subchapter A. Chloramphenicol

#### §501. Definitions

A. As used in this Chapter the following terms shall have the meaning given to them except where the context expressly indicates otherwise.

*Chloramphenicol Region*—a geographic area where Chloramphenicol has been declared by the commissioner to be used on or administered to crabs, crawfish, or shrimp, or found in seafood, honey, or a product made from seafood or honey.

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

*Honey*—any raw or processed honey or any product that contains honey.

*Seafood*—any crab, crawfish or shrimp, whether whole, portioned, processed or shelled, or any item or product containing crab, crawfish or shrimp meat.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division, LR 33:34 (January 2007).

### **§503. Selling, Testing, Declarations, Records, Penalties**

A. No seafood or honey may be held, offered or exposed for sale, or sold in Louisiana if the seafood or honey is contaminated with Chloramphenicol.

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

C. No seafood or honey harvested from or produced, processed, or packaged in a Chloramphenicol region may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection F.

D. The commissioner may make or rescind declarations related to Chloramphenicol in accordance with this Subsection.

1. The commissioner may declare a geographic area to be a Chloramphenicol region, based upon information that would lead a reasonable person to believe that Chloramphenicol is being used on, administered to, or found in seafood or honey in that geographic area.

2. Any declaration made pursuant to this Subsection and any rescission of any prior declaration shall be by rule promulgated in accordance with the provisions of the Administrative Procedure Act.

#### **E. Declarations**

1. The commissioner declares the following geographic areas to be Chloramphenicol regions for the following named seafood or honey because he has information that would lead a reasonable person to believe that Chloramphenicol is being used on, administered to, or found in seafood or honey in or from these geographic area(s):

- a. crab:
  - i. China;
  - ii. Vietnam;
  - iii. Thailand;
  - iv. Mexico;
  - v. Malaysia;
- b. crawfish and shrimp:
  - i. China;
- c. honey:
  - i. China;
  - ii. Thailand.

F. Seafood or honey that comes from a Chloramphenicol region must meet the following requirements for sampling,

identification, sample preparation, testing, and analysis before being held, offered or exposed for sale, or sold in Louisiana.

#### **1. Sampling of Seafood**

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

- i. two samples are to be taken of any seafood that is in lots of 50 pounds or less;
- ii. four samples are to be taken of any seafood that is in lots of 51 to 100 pounds;
- iii. twelve samples are to be taken of any seafood that is in lots of 10 pounds up to 50 tons;
- iv. twelve samples for each 50 tons are to be taken of any seafood that is in lots of over 50 tons.

b. Samples of unpackaged seafood must be approximately 1 pound, (454 grams), of seafood per sample from randomly selected areas.

c. For packaged seafood, each sample shall be at least 6 ounces, (170.1 grams), in size and shall be taken at random throughout each lot of seafood.

#### **2. Sampling of Honey**

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

- i. Two samples are to be taken of any honey that is in lots of 50 pounds or less.
- ii. Four samples are to be taken of honey that is in lots of 51 to 100 pounds.
- iii. Twelve samples are to be taken of honey that is in lots of 101 pounds up to 50 tons.

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

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

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

4. A composite of the samples shall not be made. Each sample shall maintain a separate identity so that each sample may be tested individually. Each sample shall be clearly identifiable as belonging to a specific group. All seafood samples shall be kept frozen and delivered to the lab unless it adversely affects the sample quality or the ability to accurately test the sample.

#### **5. Sample Identification**

- a. Each sample shall be identified as follows:
- i. any package label;
  - ii. any lot or batch numbers;
  - iii. the country, province, state and city of origin;
  - iv. the name and address of the importing company;
  - v. unique sample number identifying the group or batch sample and sub sample extension number for each sub sample.

#### **6. Sample Preparation**

- a. Honey

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

b. Seafood

i. For small packages of seafood up to and including 1 pound, use the entire sample. Shell the seafood, exercising care to exclude all shells from sample. Grind sample with food processor type blender while semi-frozen or with dry ice. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer as a reserve.

7. Sample Analysis

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

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

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

8. Any qualified laboratory may perform the testing and analysis of the samples unless the laboratory is located in a Chloramphenicol region. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

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

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

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

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

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

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

G. Any person who attempts to ship into Louisiana or to hold, offer or expose for sale, or sell in Louisiana any seafood or honey required to be sampled and tested under this Section shall be responsible for having such seafood or honey sampled and tested in accordance with Subsection F. Any such person must, at all times, be in full and complete compliance with all the provisions of this Chapter.

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

I. If any test results are rejected by the commissioner then all persons attempting to ship into Louisiana or holding, offering or exposing for sale, or selling in Louisiana any seafood or honey that were subject to the testing will be notified immediately of such rejection and shall be issued a stop-sale, hold or removal order as to the seafood or honey. Thereafter, it will be the duty of all such persons to abide by such order until the commissioner lifts the order in writing. Any such person may have the seafood or honey retested, at his expense, in accordance with this Section. If the certified results of the retesting show that the seafood or honey is free of Chloramphenicol then an application may be made to the commissioner to lift the order.

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

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

L. All records and information regarding the distribution, purchase and sale of seafood or honey shall be maintained for two years and shall be open to inspection by the department.

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division, LR 33:35 (January 2007).

**§505. Labeling by Country of Origin**

A. All seafood or honey specifically listed in §503.E.1 of this Chapter, which is being shipped into Louisiana or held, offered or exposed for sale, or sold in Louisiana, and which come from a foreign country, shall indicate the country of origin, except as otherwise provided in this Section.

B. Every package or container that contains foreign seafood or honey specifically listed in §503.E.1 of this Chapter shall be marked or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of the package or container will permit so as to indicate to the ultimate retail purchaser of the seafood or honey the English name of the country of origin.

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

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

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

C. When foreign seafood or honey specifically listed in §503.E.1 of this Chapter are combined with domestic seafood or honey, the marking or label on the container or package or the sign included with any display shall clearly show the country of origin of the foreign seafood or honey.

D. In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, appear on any container or package containing foreign seafood or honey specifically listed in §503.E.1 of this Chapter, or any sign advertising such foreign seafood or honey for sale, and those words, letters or names may mislead or deceive the ultimate retail purchaser as to the actual country of origin, then the name of the country of origin preceded by "made in," "product of," or other words of similar meaning shall appear on the marking, label or sign.

1. The wording indicating that the seafood or honey is from a country other than the United States shall be placed in close proximity to the words, letters or name that indicates the seafood or honey is a product of the United States in a legible, indelible and permanent manner.

2. No provision of this Section is intended to or is to be construed as authorizing the use of the words "United States," "American," or the letters "U.S.A.," or any variation of such words or letters, or the name of any state, city or location in the United States, if such use is deceptive, misleading or prohibited by other federal or state law.

E. Foreign seafood or honey specifically listed in §503.E.1 of this Chapter shall not have to be marked or labeled with the country of origin if such seafood or honey is included as components in a product manufactured in the United States and the seafood or honey is substantially transformed in the manufacturing of the final product. In no event shall thawing, freezing, packing, packaging, re-packing, re-packaging, adding water, portioning, shelling, processing, peeling, partially cooking or combining with domestic seafood or honey shall be considered to be a substantial transformation.

F. The commissioner shall have all the powers granted to him by law, or in accordance with any cooperative endeavor with any other public agency, to enforce this Section, including the issuance of stop-sale, hold or removal

orders and the seizing of seafood or honey mislabeled or misbranded as to the country of origin.

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division, LR 33:36 (January 2007).

Bob Odom  
Commissioner

0701#041

## RULE

### Department of Agriculture and Forestry Office of Agro-Consumer Services Weights and Measures Division

#### Fluoroquinolones in Seafood (LAC 7:XXXV.511)

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

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

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

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

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

Toxicity can affect multiple organ systems and include peripheral neuropathies, seizures, phototoxicity, tendon rupture, fatal drug interactions and arthropathies in children. Fluoroquinolones should not be taken by pregnant and

lactating women due to concern over the potential effect on a developing fetus.

This Rule is enabled by R.S. 3:2.A, 3:3.B, R.S. 3:4608.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXXV. Agro-Consumer Services

### Chapter 5. Consumer Products—Testing and Labeling

#### Subchapter B. Fluoroquinolones

### §511. Fluoroquinolones in Seafood Prohibited; Testing and Sale of

#### A. Definitions

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

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

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

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

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

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

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

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

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

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

2. Each sample shall be identified as follows:

- a. any package label;
- b. any lot or batch numbers;

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

#### 3. Sample Preparation

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

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

#### 4. Sample Analysis

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

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

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

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

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

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

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

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

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

8. Upon actual receipt by the department of a copy of the certified test results and written documentation required to accompany the certified test results then the seafood may

be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

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

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

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

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

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

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

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

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

1. The geographic area or areas are:

a. the country of Vietnam.

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

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

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

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division, LR 33:38 (January 2007).

Bob Odom  
Commissioner

0701#040

## RULE

### Department of Agriculture and Forestry Structural Pest Control Commission

Structural Pest Control  
(LAC 7:XXV.101 and 105)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, amends regulations defining and setting requirements for the change of status of a permittee and the selling or transferring of wood destroying insect contracts and closure of a place of business.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to insure that those persons notify their customers with wood destroying insect contracts and the department of the change of status of the permittee or the closure of the place of business. These rules allow the department to better regulate the pest control industry by insuring that they keep their customers informed of the changes in their status and business.

These rules comply with and are enabled by R.S. 3:3203.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXV. Structural Pest Control

#### Chapter 1. Structural Pest Control Commission

#### §101. Definitions

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*Permittee*—any person who holds a place of business permit issued by the Louisiana Structural Pest Control Commission.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3362 and R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:954 (November 1989), LR 17:251 (March 1991), LR 23:855 (July 1997), LR 30:1143 (June 2004), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 31:26 (January 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control, LR 33:39 (January 2007).

**§105. Permit for Operation of Structural Pest Control Business; Changes in Structural Pest Control Business**

A. Every place of business engaged in structural pest control work must obtain a permit for operation from the commission prior to engaging in structural pest control work.

B. No permit for operation shall be issued by the commission unless there is a licensee domiciled at the business location for which the permit is sought.

C. Each permit for operation must be renewed annually, on or before June 30 of each year.

D. The fee for issuance of a permit for operation shall be \$125 for firms which employ two or less employees and \$175 for firms which employ three or more employees.

E. When two or more businesses which are separate legal entities, even though owned by the same individual or the same legal entity, are operated at one physical location, each separate entity must obtain a permit for operation.

F. Whenever a license is suspended or revoked under §131, the commission may also revoke the permit to operate. In such cases, the commission shall recall the permit and require the licensee to immediately return the permit to the commission.

G. Whenever a permit is recalled by the commission as provided in §105.F, no structural pest control work of any kind may be provided by persons domiciled at the location for which the recalled permit has been issued.

H. Except as provided in this Subsection, any change in the status of a permittee (e.g., death, retirement, prolonged illness, merger, sale, change of ownership, etc.) must be reported to the commission, in writing, within 14 days after the change in status occurs.

1. If the change in the permittees status would result in the non-renewal of the place of business permit or would require the commission to issue a new place of business permit, then the notice must be accompanied by the following information:

- a. the reason for the change in the status and the effective date of the change;
- b. the status of all licensee(s) and registered and certified technicians;

I. If a permittee sells or otherwise transfers any wood destroying insects contract then the commission and each customer whose contract was sold or transferred shall receive the following written notification.

1. The selling or transferring permittee and the person purchasing or receiving the wood destroying insects contract shall each provide the commission in writing the following information and statements.

a. If all the wood destroying insects contracts of the permittee selling or transferring such contracts are being purchased or transferred then a statement that all wood destroying insects contracts are being sold or transferred and that all the contracts shall remain in full force and effect in accordance with the terms and conditions of the customers' contracts shall be sufficient.

b. If all the wood destroying insects contracts are not being sold or transferred then the information provided to the commission shall include:

i. a statement that all wood destroying insects contracts are being sold or transferred except for the specific contracts listed;

ii. a list of the specific contracts that are not being sold or transferred;

iii. for each contract being sold or transferred, a statement that all contracts being sold or transferred shall remain in full force and effect in accordance with the terms and conditions of the customers' contracts.

2. The person acquiring a wood destroying insects contract by a sale or transfer shall notify the customer in writing, within 30 days after the sale or transfer of:

a. the effective date of the sale, transfer, or change in status; and

b. the name, address, and telephone number of the person acquiring the customer's wood destroying insects contract;

c. a statement that the customer's contract shall remain in full force and effect in accordance with the terms and conditions of the contract.

J. A permittee who is closing his business or is otherwise not going to honor or service existing wood destroying insects contracts shall, within 14 days of the time of the close of business or ceasing to honor or service existing wood destroying insects contracts shall provide certified written notification of the decision to affected customers along with the following information:

1. the commission's address and telephone number;
2. the date of closure or last date the contract will be honored or serviced;
3. a statement of bond coverage; and
4. the bond company's name, address, telephone number, and contact person.

K. Any person who fails to comply with the provisions of this Section shall personally come before the commission prior to that person being granted a registration, certification, license, or permit, or renewal thereof. The commission may deny or defer action on a request to grant a registration, certification, license or permit, or renewal thereof. The commission may deny a renewal or impose civil penalties for violation of this Section only after the person has been brought to an adjudicatory proceeding and found guilty of violating the provisions of this Section.

L. All information and all documents relating to written contracts transmitted to the commission in accordance with the requirements of this Section shall be confidential and shall be exempt from the Public Records Law, R.S. 44:1 et seq., as provided in R.S. 3:3370.E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:325 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:954 (November 1989), LR 33:40 (January 2007).

Bob Odom  
Commissioner

0701#042

## RULE

### Department of Economic Development Office of the Secretary Office of Business Development

#### Regional Awards and Matching Grant Program (LAC 13:III.Chapter 17)

The Department of Economic Development, Office of the Secretary and Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 36:104 and 36:108 hereby adopts the following Rule of the Regional Awards and Matching Grant Program, and to create LAC 13:III.Chapter 17.

The Department of Economic Development, Office of the Secretary and Office of Business Development, have found a need, since no such rules exist at this time, to provide rules for the creation and regulation of the Regional Awards and Matching Grant Program in order to provide assistance to eligible non-profit economic development organizations (EDOs) in their comprehensive and strategic marketing and/or recruitment plans for towns, cities, parishes and regions as a site for new Regional Awards and Matching Grant Awards, which will help to successfully secure the location, expansion, creation or retention of businesses for Louisiana and jobs for Louisiana citizens. This Rule will help to enhance the growth and stability of Louisiana's entrepreneurial business and/or industrial environment by making available regions to support this environment, and without this Rule the state may suffer the loss of business investment and economic development projects which would create or retain jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

#### Title 13

#### ECONOMIC DEVELOPMENT

#### Part III. Financial Assistance Programs

#### Chapter 17. Regional Awards and Matching Grant Program

##### §1701. General

A. Act 17 of the 2006 Louisiana Legislature, providing for the general appropriations for the state of Louisiana for fiscal year 2006-07, appropriated \$5,625,000 to the Louisiana Department of Economic Development ("LED" or "department") for the Regional Awards and Matching Grant Program ("program"). The following rules are for the purposes of implementation of the program and to provide funding for projects in accordance with the goals of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:41 (January 2007).

##### §1703. Program Description

A. The program is designed to provide assistance to eligible economic development organizations in their comprehensive and strategic marketing and/or recruitment plans for towns, cities, parishes and regions as a site for new and/or expanded business development. The program has two objectives:

1. Regional Awards; and
2. Matching Grant Awards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:41 (January 2007).

##### §1705. Eligible Participants

A. Eligible applicants for the benefits of this program shall be nonprofit economic development organizations ("EDO") established in accordance with Louisiana law and in good standing in the state of Louisiana. The EDO must have as one of its primary objectives promoting Louisiana to national and world markets for business and industrial location and expansion. Applicants must have federal and state tax identification numbers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:41 (January 2007).

##### §1707. Qualifications

A. Eligible applicants may qualify for grants in the manner hereinafter provided under this program through either:

1. regional awards that are to be administered through an association of the EDOs acting in concert to promote regional economic development strategies for the region; or through
2. matching grants to an EDO or a combination of EDOs from LED for a specific project marketing industrial location and expansion.

B. Under either regional awards or matching grants, funding the awards must be for implementation of new programs through the fulfillment of deliverables in accordance with the goals and objectives as shall be hereinafter provided.

C. Eligible funding shall be consistent with the examples of eligible funding as provided by LED as an exhibit to the Cooperative Endeavor Agreements ("CEA") for either the Regional Awards or the Matching Grant Program. Generally, the exhibits to the CEA will provide for funding of core production costs of marketing and promotional activities and may distinguish the availability of allowable recovery for administrative costs between Regional Awards and Matching Grant Program awards as hereinafter provided.

D. Award agreements shall be executed and performed in accordance with statutes, rules and Executive Orders as administered by the Louisiana State Division of Administration, Office of Contract Review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:41 (January 2007).

##### §1709. Regional Awards ("Tier 1")

A. Regional Awards shall total 33 percent of the total appropriation of the Louisiana Legislature to this program and shall be allocated to the eight regions of this state in accordance with the map to be provided by LED. The regions will closely approximate the regions of the state presently served by LED regional representatives. Subject to Paragraph C.7 below, each region shall receive such portion of the available amount in accordance with its percentage of

population of the state as established by the most recent census of the state. The Secretary of LED shall determine the association of the EDOs for each region with which the department will enter into a CEA through which deliverables reflective of the goals and objectives of this program shall be established. The EDO identified by the Regional Association and approved by LED as the fiduciary agent for the region shall be responsible for coordination within the region to provide for the delivery of certain administrative documents. The costs related to the production of these documents are to be paid for using funds provided by Louisiana Economic Development (LED).

B. Each region shall produce the following core deliverables as a minimum: A labor survey, (regional funds may also be used to pay for synchronist use fees), an inventory of industrial/commercial buildings, an inventory of industrial/commercial building sites, an inventory of industrial parks with available building sites, a comprehensive existing business and industry report (regional overview, major employers, etc.), a comprehensive feature attraction report, a comprehensive new infrastructure report, and all available annual reports from major institutions within the region (colleges, hospitals, etc.). LED, at its sole discretion, may also require additional deliverables from any region. The balance of regional funds available shall be spent based on a written plan submitted to and approved by LED. This plan will be approved by the issuance and execution of a Cooperative Endeavor Agreement which will be drafted by LED after submission of a Regional Award application.

C. At a minimum, each regional association shall demonstrate the following to the secretary of LED:

1. that its core responsibility is to market and promote the recruitment of new and diversified businesses in accordance with a regional marketing plan;
2. that it will act in a fiduciary manner for the EDOs of the region;
3. that it has the capacity to administer the cooperative endeavor agreements (CEAs) for the region;
4. that it has the capacity to act as a fiscal agent for the funds made available to the region in accordance with the CEA;
5. that it is constituted by EDOs representing a majority of the parishes and a majority of the population in the region;
6. that the terms of agreement through which the regional association operates provide for participation by the EDO of each parish of the region through rotation of duties and responsibilities in the administration of the deliverables, goals, objectives and funding of the CEA between the association and LED;
7. that it is acting to market and promote regional development in accordance with a Regional Marketing Plan that is either established by the association or is adoptive of the strategic marketing plans developed by the EDOs comprising the association; and
8. notwithstanding population percentages for each region, the minimum funding for any region is \$150,000 and the maximum amount of funding for any region is \$500,000.

D. LED and each regional association shall enter into agreements that shall include deliverables, goals and

objectives for projects to be funded by the regional association for eligible EDOs in the region. In addition to deliverables, goals and objectives and such other necessary terms and conditions as may be provided by the CEA between LED and the regional association, projects shall be funded only upon providing the following:

1. a detailed budget and complete description of fund use;
2. demonstration that regional marketing initiatives are being addressed through the funding;
3. use of no more than 20 percent of the funding for eligible administrative costs;
4. data base, labor surveys, real estate information, industrial site and building surveys and selection and other empirical data obtained or used in connection with the award shall be provided to the LED for its research and data collection use;
5. the secretary of LED may vary the terms and conditions of the CEA with regional associations including deliverables, goals and objectives and exhibits in order to accomplish necessary and appropriate marketing and promotion of business and industrial development and redevelopment in those regions including parishes of the state most affected by the hurricanes of 2005; and
6. the agreement shall provide for submission of projects meeting the goals and objectives of the agreement by the regional association for advance approval by LED and for funding of the project by LED upon completion of the project and the submission by the regional association of the deliverables in accordance with the goals and objectives of the agreement.

E. Tier 1—LED Regional Funds—Eligible Uses

<b>Tier 1—LED Regional Funds—Eligible Uses</b>
Examples of eligible projects to be included by exhibit to the cooperative endeavor agreements between LED and the regional economic development associations:
<ul style="list-style-type: none"> <li>• Specific, time-limited research studies.</li> </ul>
<ul style="list-style-type: none"> <li>• Up to 20 percent of funds may be used for administrative costs (e.g., salaries, benefits etc.).</li> </ul>
<ul style="list-style-type: none"> <li>• Promotion through inclusion in computer databases to targeted audiences such as relocation consultants.</li> </ul>
<ul style="list-style-type: none"> <li>• Direct mail pieces to targeted audiences such as relocation consultants (does not include postage).</li> </ul>
<ul style="list-style-type: none"> <li>• Trade show exhibit fees and/or registration fees for out-of-state events that support national or international strategic marketing events. Costs may include booth design, giveaway items or other show specific costs. No individual participant registration, travel or per diem costs.</li> </ul>
<ul style="list-style-type: none"> <li>• Production of printed materials, such as brochures and inserts.</li> </ul>
<ul style="list-style-type: none"> <li>• Production of slide presentations, videotapes, DVDs and CD ROMs intended for dissemination to relocation consultants, corporate executives, or other industry or business representatives involved in expansion or relocations activities.</li> </ul>
<ul style="list-style-type: none"> <li>• Advertising through mass media, including newspaper, magazines, radio, television, Internet and billboards.</li> </ul>
<ul style="list-style-type: none"> <li>• Public relations expenses related to the production of an event, such as production of media kits, media training, ongoing media contact, on-site coordination of media, set-up of interview area and media room, and costs associated with special broadcast media set-up requirements.</li> </ul>
<ul style="list-style-type: none"> <li>• Design of an Internet web site, not for ongoing Internet access or website hosting costs.</li> </ul>
<ul style="list-style-type: none"> <li>• Familiarization tours for site location consultants. To be used for consultant related expenses only, and may include consultant travel, meals, and lodging.</li> </ul>

F. Tier 1—LED Regional Funds—Ineligible Uses

<b>Tier 1—LED Regional Funds—Ineligible Uses</b>
Examples of ineligible projects to be included by exhibit to the cooperative endeavor agreements between LED and the regional economic development associations. Examples of ineligible projects or expenses:
<ul style="list-style-type: none"> <li>• Salaries, benefits or administrative fees exceeding 20 percent of funds provided.</li> </ul>
<ul style="list-style-type: none"> <li>• Entertainment.</li> </ul>
<ul style="list-style-type: none"> <li>• Overhead expenses (office space, furniture, fixtures, equipment, etc.).</li> </ul>
<ul style="list-style-type: none"> <li>• Travel, food, beverages, and/or lodging for any persons. This includes volunteers and paid staff of economic development organizations.</li> </ul>
<ul style="list-style-type: none"> <li>• Equipment purchases/rentals.</li> </ul>
<ul style="list-style-type: none"> <li>• Beauty pageants, parades, school advertising, local promotions, sponsorships and things of a similar nature.</li> </ul>
<ul style="list-style-type: none"> <li>• Promotional items, unless part of an out-of-state marketing activity.</li> </ul>
<ul style="list-style-type: none"> <li>• Stationery, toll-free numbers, membership solicitation literature.</li> </ul>
<ul style="list-style-type: none"> <li>• Unreasonable and excessive agency costs that exceed 25 percent of the total cost for printed material (Agency costs are costs not billed directly from prepress, printing, illustrations or photography by vendors.).</li> </ul>
<ul style="list-style-type: none"> <li>• Unreasonable or excessive technical costs.</li> </ul>
<ul style="list-style-type: none"> <li>• Construction costs.</li> </ul>
<ul style="list-style-type: none"> <li>• Activities or materials that violate the law.</li> </ul>
<ul style="list-style-type: none"> <li>• Internet access or web site hosting costs.</li> </ul>
<ul style="list-style-type: none"> <li>• Organization membership directories.</li> </ul>
<ul style="list-style-type: none"> <li>• Trade show/expo hosting or sponsorships.</li> </ul>
<ul style="list-style-type: none"> <li>• Alcoholic beverages.</li> </ul>
<ul style="list-style-type: none"> <li>• Infrastructure such as land, roads, utilities or buildings.</li> </ul>

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:41 (January 2007).

**§1711. Matching Grant Awards ("Tier 2")**

A. The remainder of funds available shall be for matching grant awards. Any eligible EDO or a combination of eligible EDOs may apply to LED for a matching grant award which shall include deliverables, goals and objectives for the marketing and promotion of business and industrial development consistent with regional and statewide strategic marketing for such development. Matching Grant applications demonstrating the use or development of new or innovative programs for the marketing and promotion of business and industrial development shall be given a preference in determining suitability for the matching grant.

B. The award agreement may provide such terms and conditions as are necessary to the fulfillment of the purposes of the award and shall include the following terms and conditions:

1. the award may not exceed \$100,000;
2. the award must be matched dollar for dollar or its equivalents by the EDO or combination of EDOs making application for the award;
3. a detailed budget and complete description of fund use;
4. data, surveys and/or other empirical information obtained or used in connection with the award shall be provided to the LED for its research and data collection use; and
5. the secretary of LED may vary the terms and conditions of the award including deliverables, goals and

objectives and exhibits in the parishes of the state most affected by the hurricanes of 2005 so as to use such grants or awards to achieve a stabilization of resources for the EDOs in the affected areas.

C. Tier 2—LED Matching Grant Funds—Eligible Uses

<b>Tier 2—LED Matching Grant Funds—Eligible Uses</b>
Examples of eligible projects to be included by exhibit to the cooperative endeavor agreements between LED and the direct grant recipients:
<ul style="list-style-type: none"> <li>• Specific, time-limited research studies.</li> </ul>
<ul style="list-style-type: none"> <li>• Promotion through inclusion in computer databases to targeted audiences such as relocation consultants.</li> </ul>
<ul style="list-style-type: none"> <li>• Direct mail pieces to targeted audiences such as relocation consultants (does not include postage).</li> </ul>
<ul style="list-style-type: none"> <li>• Trade show exhibit fees and/or registration fees for out-of-state events that support national or international strategic marketing events. Costs may include booth design, giveaway items or other show specific costs. No individual participant registration, travel or per diem costs.</li> </ul>
<ul style="list-style-type: none"> <li>• Production of printed materials, such as brochures and inserts.</li> </ul>
<ul style="list-style-type: none"> <li>• Production of slide presentations, videotapes, DVDs and CD ROMs intended for dissemination to relocation consultants, corporate executives, or other industry or business representatives involved in expansion or relocations activities.</li> </ul>
<ul style="list-style-type: none"> <li>• Advertising through mass media, including newspaper, magazines, radio, television, Internet and billboards.</li> </ul>
<ul style="list-style-type: none"> <li>• Public relations expenses related to the production of an event, such as production of media kits, media training, ongoing media contact, on-site coordination of media, set-up of interview area and media room, and costs associated with special broadcast media set-up requirements.</li> </ul>
<ul style="list-style-type: none"> <li>• Design of an Internet web site, not for ongoing Internet access or website hosting costs.</li> </ul>
<ul style="list-style-type: none"> <li>• Familiarization tours for site location consultants. To be used for consultant related expenses only, and may include consultant travel, meals, and lodging.</li> </ul>

D. Tier 2—LED Matching Grant Funds—Ineligible Uses

<b>Tier 2—LED Matching Grant Funds—Ineligible Uses</b>
Examples of ineligible projects to be included by exhibit to the cooperative endeavor agreements between LED and the direct grant recipients. Examples of ineligible projects or expenses:
<ul style="list-style-type: none"> <li>• Salaries, benefits or administrative fees.</li> </ul>
<ul style="list-style-type: none"> <li>• Entertainment.</li> </ul>
<ul style="list-style-type: none"> <li>• Overhead expenses (office space, furniture, fixtures, equipment, etc.).</li> </ul>
<ul style="list-style-type: none"> <li>• Travel, food, beverages, and/or lodging for any persons. This includes volunteers and paid staff of economic development organizations.</li> </ul>
<ul style="list-style-type: none"> <li>• Equipment purchases/rentals.</li> </ul>
<ul style="list-style-type: none"> <li>• Beauty pageants, parades, school advertising, local promotions, sponsorships and things of a similar nature.</li> </ul>
<ul style="list-style-type: none"> <li>• Promotional items, unless part of an out-of-state marketing activity.</li> </ul>
<ul style="list-style-type: none"> <li>• Stationery, toll-free numbers, membership solicitation literature.</li> </ul>
<ul style="list-style-type: none"> <li>• Unreasonable and excessive agency costs that exceed 25 percent of the total cost for printed material (Agency costs are costs not billed directly from prepress, printing, illustrations or photography by vendors.).</li> </ul>
<ul style="list-style-type: none"> <li>• Unreasonable or excessive technical costs.</li> </ul>
<ul style="list-style-type: none"> <li>• Construction costs.</li> </ul>
<ul style="list-style-type: none"> <li>• Activities or materials that violate the law.</li> </ul>
<ul style="list-style-type: none"> <li>• Internet access or web site hosting costs.</li> </ul>
<ul style="list-style-type: none"> <li>• Organization membership directories.</li> </ul>
<ul style="list-style-type: none"> <li>• Trade show/expo hosting or sponsorships.</li> </ul>
<ul style="list-style-type: none"> <li>• Alcoholic beverages.</li> </ul>
<ul style="list-style-type: none"> <li>• Infrastructure such as land, roads, utilities or buildings.</li> </ul>

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:43 (January 2007).

Michael J. Olivier  
Secretary

0701#046

**RULE**

**Department of Economic Development  
Office of the Secretary  
Office of Business Development  
Economic Development Corporation**

**Workforce Development and Training Program  
(LAC 13:III.303 and 311)**

The Department of Economic Development, the Office of the Secretary, the Office of Business Development, and the Louisiana Economic Development Corporation, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 51:2331 et seq., 36:104, 36:108 and 51:2312, hereby amends and supplements portions of LAC 13:Part III, Chapter 3, being the Rules of the Workforce Development and Training Program.

The Department of Economic Development, the Office of the Secretary, the Office of Business Development, and the Louisiana Economic Development Corporation, have found a need to amend and supplement the Rules for the regulation of the Workforce Development and Training Program in order to provide in Section 303 thereof a definition of the term "Quality Jobs"; and to amend and provide in Section 311, Subsection B.1, that the creation of jobs meeting Louisiana standards for quality jobs or the training of employees holding jobs meeting Louisiana standards for quality jobs satisfies the criteria for awards under this program. These revisions to these Rules will help to enhance the growth and stability of Louisiana's entrepreneurial business and/or industrial environment by making available awards under this program to businesses creating such quality jobs and/or training employees holding such quality jobs; and without these revisions the state may suffer the loss of business investment and economic development projects which would create or retain jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

**Title 13**

**ECONOMIC DEVELOPMENT**

**Part III. Financial Assistance Programs**

**Chapter 3. Workforce Development and Training Program**

**§303. Definitions**

\* \* \*

*Quality Jobs*—employed positions which are not temporary positions meeting the Louisiana standards for *quality jobs* as provided by the "Louisiana Quality Jobs Program Act", R. S. 51:2451 through 2462, as codified in the Louisiana Administrative Code, Title 13, Part I, Chapter 11, Sections 1101 through 1131, as amended.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq., 36:104, 36:108 and 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:44 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:242 (February 1999), LR 25:1665 (September 1999), LR 26:241 (February 2000), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:1065 (July 2003), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development, and Louisiana Economic Development Corporation, LR 33:44 (January 2007).

**§311. Criteria**

A. - A.4. ...

B. Pre-Employment, Upgrade and On-the-Job Training

1. Applicants must create in this state at least 10 net new full-time permanent jobs or at least 10 net new jobs meeting Louisiana standards for quality jobs, unless upgrade training is involved. Upgrade training must be provided to a minimum of 10 full-time permanent employees or to a minimum of 10 employees holding jobs meeting Louisiana standards for quality jobs.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq., 36:104, 36:108 and 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:45 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1642 (December 1997), LR 25:243 (February 1999), LR 25:1666 (September 1999), LR 26:242 (February 2000), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:1066 (July 2003), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development, and Louisiana Economic Development Corporation, LR 33:44 (January 2007).

Michael J. Olivier  
Secretary

0701#045

**RULE**

**Board of Elementary and Secondary Education**

**Bulletin 1674—Safety Manual for Career and Technical Education Programs (LAC 28:CXXXIII.Chapters 1-31)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted *Bulletin 1674—Safety Manual for Career and Technical Education Programs*. Bulletin 1674 will be printed in codified format as Part CXXXIII of the Louisiana Administrative Code. This document replaces any previously advertised versions. The Safety Manual for Career and Technical Education programs provides a guide for safety curriculum and instruction, and serves as a general reference checklist for safety and health concepts taught and adhered to within Louisiana career and technical education courses. It is also intended for school and district administrators and school board members to use as a vision for safety and health education and as a basis for planning resource allocations, materials purchases, local curriculum

development, teachers' professional development, and faculty recruitment.

**Title 28**  
**EDUCATION**

**Part CXXXIII. Bulletin 1674—Safety Manual for  
Career and Technical Education Programs  
Subpart 1. General Provisions**

**Chapter 1. Introduction**

**§101. Purpose**

A. Rapid changes are occurring in our world and economy. The increasing complexity of work that spans the entire work force of today's society demands that education for all students be made more relevant and useful to future careers.

B. To prepare Louisiana Agricultural Education, Technology Education and Trade and Industrial Education Students to meet the demands of society and the workplace in the twenty-first century, industry-based certification standards were developed to address content knowledge and the application of skills. These standards focus on what students should know, be able to do, and be able to demonstrate in the workplace. They promote and develop critical thinking processes, which students will use in the classroom and real work applications, address the diversity of educational needs of Louisiana students enrolled in Career and Technical Education courses, and address industry-based certification programs for employability. This must be accomplished in a safe environment.

C. The Safety Manual for Career and Technical Programs was written to fulfill the need for an up-to-date industry-based practical educational resource that focuses upon the needs of teachers, supervisors, and students involved in laboratory instruction at the secondary level in Louisiana public schools. It is also intended for use in:

1. universities;
2. career centers;
3. high schools; and
4. junior high school career and technical education laboratories.

D. Louisiana has made significant strides toward improving the education of our children. Our goal is to build our strengths as we continue to improve education in our state. By developing rigorous standards and challenging assessments that align with industry-based standards and by holding schools accountable for results, we are ensuring a better future for our children.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:45 (January 2007).

**§103. Intended Audience**

A. The Safety Manual for Career and Technical Programs is intended for a broad audience, including agriculture, technology, trade and industrial education teachers, parents, school and district administrators, school board members, policy makers, Louisiana Department of Education staff, college/university faculty/administrators, business/industry leaders, and government agency staff. The framework serves as a guide for safety curriculum and instruction, and as a general reference "checklist" to the safety and health concepts and skills taught and adhered to within Louisiana career and technical education courses. The intended users of the framework include:

1. career and technical education teachers to use in planning curriculum, instruction, and assessment;
2. parents to use as a means of assessing the safety and effectiveness of their children's career and technical laboratories;
3. school and district administrators and school board members to use as a vision for safety and health education and a basis for planning resource allocations, materials purchases, local curriculum development, teachers' professional development, and faculty recruitment;
4. policy makers and state education staff to use as a basis for:
  - a. developing and obeying laws;
  - b. health and safety policies;
  - c. professional development activities and materials;
  - d. assessment strategies; and
  - e. funding priorities to support local program development;
5. university faculty and administrators to use as a basis for the content and design of pre-service and in-service teacher education programs regarding safety and health instruction;
6. business/industry leaders and government agency staff to use as a basis for developing effective partnerships for supporting safety and health education programs and professional development.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:45 (January 2007).

**§105. How Teachers Should Use This Publication**

A. This Part outlines the appropriate content to be taught in Louisiana Career and Technical Education programs that require laboratories. Local needs will determine how this should be taught in local career and technical education programs. Teachers will be able to use this framework to guide them in the restructuring of their laboratory curricula. This document contains specific performance criteria essential to laboratory safety education. These specific assessment criteria must be supported on the local level by all individuals involved in the educational process.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:45 (January 2007).

**Chapter 3. Elements of a Successful Safety, Health and Environment Program**

**§301. Overview**

A. The key to preventing harm to school employees, students, and the environment is to establish a good occupational safety, health, and environmental program.

B. A good program may take years to put in place, but the guidelines below are a good place to begin. Start with individual items or parts of items. The guidelines are divided into five sections:

1. identify and prioritize potential hazards;
2. eliminate, prevent, and control hazards;
3. train employees, students, and management;
4. assure management commitment;
5. assure employee and student involvement:
  - a. the occupational safety, health, and environmental safety program should be tailored to the

needs of the school, department, or school system. Small schools with limited resources may form safety and health cooperatives with other schools to help manage all or parts of their programs.

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### **§303. Identify, Prioritize Potential Hazards in Designated Areas**

A. Designated Areas. Divide the school and associated structures into designated areas and sub-areas.

1. Designate structural or functional major areas of the school (i.e., administrative offices, classrooms, labs, etc.)

2. Designate sub-areas of each major area (i.e., specific office, classroom or lab, etc.).

B. Conduct walk-through inspections.

1. Each designated sub-area should be inspected to identify potential hazards associated with the equipment, materials and function of the area.

2. Checklists specific to the equipment, materials and function of the area (See Inspection Worksheets) can help identify hazards and determine whether the organization complies with applicable safety and health or environmental regulations.

C. Compile and/or update a hazardous material inventory.

1. Record:

a. the names and amounts of all hazardous materials used;

b. the means of their disposal; and

c. the occurrence of any spills or releases on the premises.

2. Collect and maintain Material Safety Data Sheets (MSDSs) for all hazardous materials listed in the inventory.

3. Determine which hazardous materials are regulated by federal, state or local agencies. These include:

a. the Occupational Safety and Health Administration (OSHA);

b. the Environmental Protection Agency (EPA); and

c. the Louisiana Department of Environmental Quality (LDEQ).

D. Maintain and update a process and equipment inventory.

1. Record the location of hazardous processes or equipment, and the dates when maintenance or monitoring must be performed.

2. Keep an inventory of safety equipment related to specific equipment and those who use it.

E. Establish a purchase screening procedure.

1. Establish a procedure for consideration of health and safety elements when purchasing goods and services and leasing new space. Avoiding a hazard is easier than controlling it.

2. Before any purchase of chemicals, equipment, or services, develop a system that may be reviewed by a safety representative or committee member.

3. Similarly, review plans for renovating, constructing, or leasing new facilities.

F. Investigate incidents, spills, and releases.

1. A safety representative or committee member should investigate every incident or release to determine how to prevent such a problem in the future.

2. A "Chemical Release" and other incident report forms should be developed. At a minimum, the form should have a space to answer, "What were the causes of the incident or release?" and "What precautions or controls could have prevented the incident or release?"

3. Employees and students should be encouraged to report *near hits* or *close calls* as well.

G. Record Evaluation

1. Evaluate injury and illness records.

a. The OSHA Log 300, a required employee occupational illness and injury record-keeping system, should be reviewed by persons responsible for safety and health on a regular basis.

b. Personal injury claims and workers' compensation claims may also identify whether certain classrooms, buildings, or processes pose an undue risk.

2. Evaluate environmental records.

a. Review existing records such as the hazard communication inventory, air permits, hazardous waste records, solid waste records, and medical waste records to identify chemicals or processes that should be substituted, recycled, or prevented.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:46 (January 2007).

### **§305. Eliminate, Prevent, and Control Hazards**

A. Hazard Elimination

1. Perform routine housekeeping.

a. Get rid of trash by disposing of it properly.

b. Make sure that hazardous chemicals and other materials are stored safely.

2. Provide regular equipment maintenance, repair, and replacement.

a. Equipment includes:

i. hazardous machinery;

ii. safety gear; and

iii. ventilation system.

b. Check that machine guards are in place.

c. Implement a maintenance and repair record-keeping system.

B. Hazard Control

1. Engineering Controls

a. The safety and health controls that are built into a process are referred to as "engineering controls". Engineering controls are the first in the hierarchy of controls that are used to reduce teachers' and students' exposure to a hazard.

b. Incorporate safety and health controls in the design of the process or operation rather than have students follow certain rules, wear protective gear, or clean up excess pollution.

c. Engineering controls may include:

i. substitution;

ii. isolation;

iii. enclosure; and

iv. ventilation of a process or equipment.

2. Work Practice Controls and/or Programs

a. Written safety procedures may be developed for specific operations or tasks to control or eliminate the associated hazards.

b. Written general programs for respiratory protection, vehicle safety, etc., will help to emphasize the importance of specific controls.

C. Hazard Protection

1. Provide personal protective equipment (PPE).

a. Respiratory Protections

i. Respiratory protection should be used only as a temporary or last-resort solution when engineering controls are inadequate to control the hazards.

ii. Respirators could be used routinely if job hazards require it.

b. Other forms of PPE could be required depending on the job and hazards involved and include:

i. hearing protection;

ii. welders' masks;

iii. hard hats;

iv. safety glasses or goggles.

c. Using PPE involves careful selection, maintenance, and user training.

2. Eyewash Facilities and Showers. Install eyewashes and/or showers near battery-changing stations, maintenance operations, heating and ventilating operations, and other processes that use corrosive chemicals or emit irritant aerosols.

D. Develop Emergency Response Plans and Procedures. (Additional guidance material may be found in Appendix F, Emergency Procedures, in the Safety Manual for Career and Technical Programs on the Louisiana Department of Education website (<http://www.doe.state.la.us/lde/index.html>).

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:46 (January 2007).

**§307. Employee, Management, and Student Training**

A. Train all new employees and students. This training can be built into basic orientation and the curriculum.

B. Provide mandated training programs to employees and students.

1. Depending on the types of classes the school provides, training may be required on the following:

a. emergency procedures;

b. fire prevention and the use of fire extinguishers;

c. respiratory protection;

d. occupational noise exposure;

e. woodworking machinery;

f. welding;

g. asbestos handling;

h. hazard communication;

i. hazardous waste handling.

2. Training is also recommended for video display terminal operators.

3. Direct supervisors should receive the same training as the students or subordinates.

C. Train safety representatives and hazard prevention committees.

1. Training can enhance the ability of students and employees to carry out the functions listed in Subparagraphs a-i above. In particular, they may wish to obtain training in:

a. computerizing the program;

b. investigation of injuries or other incidents;

c. safety and environmental record keeping;

d. hazard identification and control;

e. industrial hygiene fundamentals; or

f. environmental regulations.

2. Outside training opportunities provide an essential means for safety, health, and environmental personnel to network with and learn from programs in other schools.

D. Training assistance may be obtained from various safety and health organizations, local industry and regulating agencies.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:47 (January 2007).

**§309. Management Commitment**

A. Top administration must be involved. The school board, superintendent, school principal, and top school administrators should all be leaders in implementing the program. They should stay informed and involved.

B. Develop a written safety and health policy.

1. Top administration should issue a written policy supporting a safe and healthy environment in the schools.

2. This policy may take the form of one or more policy statements or a policy manual that covers issues ranging from safety procedures to energy conservation.

3. The policy should be posted and/or issued to all employees and students.

C. Assure adequate personnel resources.

1. Assign appropriate individuals responsibility for the functions listed in the remaining sections of this Chapter. It is important to select people who are competent and motivated, and who have the skills and adequate resources to do the job.

2. Make sure adequate time is given to do the job.

D. Assure adequate financial resources.

1. Money must be allocated for the safety and health program.

2. Make sure adequate time is given to do the job.

E. Evaluate program performance regularly.

1. The occupational safety and health and environmental safety program should be a part of all performance reviews, including those of top administration, teachers, and students.

2. Acknowledge those who have been involved in identifying and correcting hazards and working safely.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:47 (January 2007).

**§311. Employee and Student Involvement**

A. Establish a hazard prevention committee.

1. A Hazard Prevention Committee should be composed of:

a. representatives of management;

b. school employees; and

c. perhaps students.

2. For such a committee to succeed it should:

a. be selected carefully;

b. have a clear idea of its mission, power, and functions; and

c. be skilled in conducting effective meetings.

3. This committee can do the following:

a. take on many of the functions described below that are too much for any one person;

- b. seek immediate input from all areas of the school, such as:
  - i. the classroom;
  - ii. maintenance; and
  - iii. purchasing;
- c. brainstorm by creatively combining and modifying ideas from many perspectives;
- d. improve communication among the various representatives;
- e. prioritize hazard controls, training, and other activities in a way that is satisfactory to all parties;
- f. establish a procedure for reporting potential hazards using a written form.

**B. Communicate regularly.**

- 1. Use newsletters, bulletin boards, paycheck envelopes, and class time to communicate new procedures and new safety assignments and to introduce new committee members.
- 2. Keep the program on people's minds. Make safety, health, and the environment a regular item on the agenda of staff, board, union, and PTA meetings.
- 3. Post committee minutes, reports, surveys, and (especially) memos referring to problems, solutions, and achievements.

**C. Develop a hazard-reporting procedure.**

- 1. Students and employees should be encouraged to look for and report potential hazards to the safety and health coordinator, or to the chairperson of the Hazard Prevention Committee.
- 2. Students may also report hazards to a teacher, the school principal, or to another responsible adult. The person who discovers the hazard should then fill out the designated form and submit it to the safety and health coordinator for follow-up action.
- 3. Students should fill out this form with the help of the safety and health coordinator.

NOTE: Teachers, safety committees, and supervisors should not be discouraged if only small parts of an occupational safety and health environmental safety program are in place early in the program. It takes time, money, and persistence to have a good program. Each new step is a great improvement over the way things were run before the program was in place.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:47 (January 2007).

**Chapter 5. Curriculum Content**

**§501. Introduction**

A. Career and technical instruction is important not only for the knowledge and skills it provides for the learner but, perhaps even more so, for the attitudes it imparts to the learner. These attitudes will, in large part, influence the manner in which the learner will employ his/her newly gained knowledge and skills. They become a formidable influence for the remainder of the learner's life.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:48 (January 2007).

**§503. Two-Fold Objective**

A. One of the most important attitudes a young person can pick up is a healthy respect for safety and health on the job. This attitude affects not only the learner, but all of the others with whom he/she will associate. Someday their very

lives may depend on having assumed a deep-seated conviction that the only way to do a job is the safe way. Therefore, educators have a two-fold objective:

- 1. to provide the job knowledge base in the area of the educator's own expertise in the best possible manner possible. Both the manual and mental skills must be provided that will best prepare the future worker for his/her job in this increasingly complex, technical world; and
- 2. an integral part of the instructional process must be safe methods for doing each and every job. Students must be taught, not as the best way to do a job, but as the only way to do a job. In other words, if a job is not performed safely, it is not performed correctly.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:48 (January 2007).

**§505. Purposes of the Manual**

**A. The Manual serves two purposes.**

1. The Manual provides guidelines that can be used to develop inspection checklists that can be used for instructional facilities. Students will recognize the measures that have implemented to make a workplace safe. They can participate in the inspections. When they go into the workplace of their eventual employment, they will be equipped to recognize the safety measures that are already in place, and they will know how to add what needs to be done to complete the safety and health process. The guidelines are found in Subpart 3, Inspection Worksheets.

2. The Manual provides five basic elements, listed in §507, that should be incorporated into the instructional materials to teach principles of safety and health along with the technical content of the curriculum. These elements should become an integral part of the instructional method, as if it were the only way to teach and perform the job. Students should understand that there is no alternative way to work other than the safe way.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:48 (January 2007).

**§507. Curriculum Elements**

**A. Five Curriculum Elements**

1. Safe Job Procedures. Each lesson plan must include emphasis on the step-by-step procedures to accomplish the project. Students must learn that the only way to do the job is by following the procedures. Short cuts are not permitted. Changes in procedures are allowed only when it can be shown that they are as safe, or safer, than the original procedures. The instructor must both set the tone and demonstrate the example of how it is done by his/her own work. It must be exemplary. The instructor will be the most memorable influence students will have.

2. Clean Workplace. Workplace housekeeping is probably the clearest indicator of the amount of emphasis that a safety program is getting. Safety professionals learned long ago that the impressions they get in the first few minutes on the job regarding the general cleanliness and order of the work site are accurate predictors of the rest of the safety program. Each classroom lesson must emphasize the importance of complete and thorough cleanup at the end of each work period. The lesson should also point out that hazards, such as spills, etc., may be created while work

progresses, and when this occurs, the project should be halted temporarily while the situation is corrected. Then work can continue.

3. Well-Maintained Equipment and Machinery. Instruction must include how to inspect machinery for signs of wear and damage. It must include proper preventive maintenance intervals and techniques. It must also include the proper and safe way to remove a defective piece of equipment from service and to secure it so that it cannot be used until the repairs have been completed.

4. Proper Use of Machines and Equipment

a. Students must learn that machine guards have a critical purpose that must never, under any circumstances, be circumvented. A machine must never be operated without all of its guards in place. If a student feels awkward or clumsy using the guards, special attention should be provided until he/she feels comfortable with the guards in place.

b. A student should always be taught the importance of using the proper tool for the job, and the right way to use that tool. Operating parameters such as adjustments, speeds, and other important factors must all be included. New trainees should be taught with the objective in mind that they will become experts on the equipment, and they can take great pride in their work and their newly acquired skills.

5. Personal Responsibility and Integrity. The entire structure of workplace safety and health rests upon the two pillars of responsibility and integrity. Students must understand that honesty is not just the best policy—it is the only policy. They must learn that, where workplace safety and health are concerned, reporting accidents promptly and accurately is of paramount importance. Problems can be corrected and hazards eliminated only when there is adequate factual information. Hiding details to avoid taking responsibility leads to exercises in futility when trying to correct problems. Instructors contribute by helping the student understand that an accident investigation is not an attempt to lay blame upon someone, but rather, an effort to find the sequence of events that went wrong, and to correct them so they will not occur again.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:48 (January 2007).

**Subpart 3. Inspection Worksheets**

**Chapter 15. Emergency Procedures Worksheet**

**Subchapter A. Introduction**

**§1501. Worksheet Instructions**

A. Use the following worksheet as a guide to conduct a survey of instructional facilities. Answer each of the listed questions by circling the answer that applies to the condition at the facility. "Y" indicates "Yes," "N" indicates "No," and "N/A" indicates "Not Applicable." If any of the questions are answered "N" for "No," it is the sign of a condition that may indicate a possible hazard. For every "N" marked, write a brief description of the deficient condition observed in the space provided at the end of the worksheet.

1. Additional guidance material may be found in Appendix F, Emergency Procedures, in the Safety and Health Manual on the Louisiana Department of Education website (<http://www.doe.state.la.us/lde/index.html>).

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:49 (January 2007).

**Subchapter B. Hazard Identification**

**§1507. Injuries and Illnesses**

A. Medical Care

	Circle the Appropriate Answer
1. Are provisions made in advance of any project or class involving potential hazards for prompt medical attention in case of any injury?	Y N N/A
2. Is an injury/illness response program in place?	Y N N/A
3. Have persons with disabilities and/or chronic illnesses been identified?	Y N N/A
4. Are medical personnel available for advice and consultation?	Y N N/A
5. If emergency medical care is not readily available, is a certified person available to render first aid? <i>Certified Person</i> —a person who has a valid certificate in first-aid training from the American Red Cross, or equivalent training that can be verified by documentary evidence.	Y N N/A
6. Are first-aid supplies readily available?	Y N N/A
7. Are first-aid supplies in a weatherproof container with individual sealed packages for each type of item?	Y N N/A
8. Are first-aid supplies checked to replace expended items on a regular basis?	Y N N/A
9. Is transportation available for taking an injured or ill person to medical care if necessary, or is a communication system available for contacting an ambulance service?	Y N N/A
10. Are telephone numbers of physicians, hospitals, or ambulances conspicuously posted?	Y N N/A

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:49 (January 2007).

**§1509. Emergency Response**

A. Emergency Plans and Systems

	Circle the Appropriate Answer
1. Has an emergency action plan and procedures to respond to emergency situations been established?	Y N N/A
2. Have high potential hazards such as fire hazards, hazardous materials locations, hazardous equipment locations and other hazards and issues specific to the site been identified?	Y N N/A
3. Have emergency systems (i.e., fire alarms, sprinkler systems, etc.) and emergency equipment used for fire and spill control, etc., been identified?	Y N N/A
4. Is there a procedure to account for all persons on-site in the event of an emergency?	Y N N/A
5. Have personnel responsibilities for rescue and medical emergencies been established?	Y N N/A
6. Have mechanisms to report emergency situations to proper authorities been established?	Y N N/A

	Circle the Appropriate Answer
7. Are evacuation route maps posted in designated areas to display: a. emergency exists; b. primary and secondary exit routes; c. locations of: i. fire extinguishers; ii. fire alarm pull station locations; and iii. assembly points?	Y N N/A
8. Are all emergency procedures reviewed and updated on a regular basis?	Y N N/A

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:49 (January 2007).

**§1511. Training**

**A. Certification and Training**

	Circle the Appropriate Answer
1. Are all personnel and students instructed on injury, illness, emergency response procedures and their specific roles on a regular basis?	Y N N/A
2. Do designated certified persons obtain and maintain their certifications through the American Red Cross or other qualified organizations?	Y N N/A
3. Are periodic drills conducted to prepare students and personnel in the event of an emergency?	Y N N/A

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:50 (January 2007).

**Subchapter C. Hazard Evaluation and Prioritization**

**§1519. Relative Risk Factors**

**A. Introduction**

1. This part of the worksheet enables the instructor to examine each of the potential hazards (the "N" answers) that were identified in Subchapter B of this Chapter, Hazard Identification, and to assign it a value corresponding to its relative risk. *Relative Risk* is usually defined in terms of three factors:

- a. severity;
- b. frequency/probability; and
- c. exposure.

2. Each of the factors listed in Subparagraphs a-c is described in Subsections B-D.3 below and the point values are provided for the corresponding degree of risk.

NOTE: The greater the risk, the higher the point value.

**B. Severity.** Consider the potential losses or destructive and disruptive consequences that are most likely to occur if any of the hazards that have been identified in Subchapter B of this Chapter 15, Hazard Identification, result in an actual incident. The following point values are suggested.

- 1. Four Points—Catastrophic:
  - a. loss of life;
  - b. permanent disability;
  - c. loss of entire facility;
  - d. permanent.

- 2. Three Points—Critical:
  - a. severe injury or illness with lost time;
  - b. major property damage;
  - c. no permanent disability or fatality;
  - d. interruption of activities for extended period of time.
- 3. Two Points—Marginal:
  - a. minor injury or illness;
  - b. minor property damage;
  - c. interruption of activities for more than one day.
- 4. One Point—Negligible:
  - a. probably no injury or illness;
  - b. no loss other than interruption of activities for a short period of time.

**C. Frequency/Probability (Likelihood of Occurrence)**

- 1. Consider the probability that a loss would occur. Ask yourself the following key questions.
  - a. How likely is it that things will go wrong as a result of the hazard that has been identified?
  - b. How often is the activity which creates the hazard performed?
  - c. How often is the hazard present?
- 2. Use the following point values.
  - a. Three Points—high probability of occurrence.
  - b. Two Points—moderate probability of occurrence.
  - c. One Point—low probability of occurrence.

**D. Exposure.** Consider the number of persons (students and faculty) who could be potentially affected by a worse case scenario caused by each of the potential hazards that have been identified. The following point values are suggested.

- 1. Three Points—many persons are affected frequently.
- 2. Two Points—a few persons are affected frequently.
- 3. One Point—a few persons are affected up to a few times per day.

**E. Prioritization.** Based on the analysis above, and using the hazard prioritization matrix below, prioritize the hazards identified in Subchapter B of this Chapter, and evaluated in §1519.B-D.3.

- 1. Step One. List each of the hazardous conditions that were identified in Subchapter B of this Chapter 15 in the first column of the worksheet.
- 2. Step Two. Based on the criteria given above in §1519.B-D.3, assign a point value for each hazard in each of the three columns.
- 3. Step Three. Add up the point values, horizontally, for each of the hazards.
- 4. Step Four. Rearrange the hazards that were identified in descending order with the one with the highest total point value first, then the one with the next-highest point value; and so on.

Hazard Prioritization Matrix				
Hazard Identified	Severity	Probability	Exposure	Total Points

5. Step Five. A list has just been developed of the potentially hazardous conditions existing at the school facility, based on their relative priority.

F. The items on the prioritized list with the highest point value will generally be those that are most serious, and should receive the greatest attention in terms of resources expended to eliminate it. As with all organizations, especially educational institutions, resources are without limitations. There is a finite amount of money, time, and personnel available to solve these problems. By prioritizing the hazards and concentrating on those with the highest priority, concentration will be on the "worst first." This is the smart way to allocate limited resources. Even though instructors might not get all the way through the list, there will be the satisfaction and peace of mind that comes with dealing with the "really important" problems first.

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**Subchapter D. Hazard Control Measures**

**§1529. Control Categories**

A. This Subchapter D is to implement those control measures that will either eliminate or minimize hazards to the point where they will become acceptable. Also, these control measures will be applied to the most serious hazards first, then to the next-most-serious, and so on.

B. Most control measures fall into one or more of three categories. Paragraphs 1-3 below list the three types and also outline the preferred sequence for applying the controls, as engineering controls are the most effective way to control a hazard, followed by administrative controls and finally by personal protective equipment. Many times, the most effective controls are a blending of all three types. They are:

1. engineering controls;
2. administrative controls; and
3. personal protective equipment (PPE).

C. Engineering Controls. Usually engineering controls are considered the most effective because, if they are successful, they eliminate the hazard, or remove it from the presence of people. When applying engineering controls, look for ways to:

1. design or redesign hazardous situations or equipment;
2. substitute safer materials in the place of dangerous ones; and
3. install guards or other protective devices.

D. Management/Administrative Controls. Management/administrative controls are next in line to be applied in the control of a hazard because they are the direct responsibility of the persons who are operating the facility. In an educational environment, that means the administration and faculty. These controls involve such things as:

1. implementation and enforcement of safe policies and procedures;
2. limitations on the exposure to hazards through work assignments;
3. number of persons involved in an activity, etc.; and
4. similar approaches.

E. Personal Protective Equipment (PPE). The last approach to hazard control involves the use of PPE. This is

because PPE does not eliminate the hazard but, rather, only establishes a barrier or shield between the hazard and the exposed person. If the exposed person does not have the correct type of PPE, or does not use it properly, then that person will be exposed to the full effect of the hazard.

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**Chapter 17. Environmental Protection Worksheet**

**Subchapter A. Introduction**

**§1701. Worksheet Instructions**

A. Use the following worksheet as a guide to conduct a survey of the instructional facility. Answer each of the listed questions by circling the answer that applies to the condition at the facility. "Y" indicates "Yes," "N" indicates "No," and "N/A" indicates "Not Applicable." If any of the questions are answered "N" for "No," it is the sign of a condition that may indicate a possible hazard. For every "N" marked, write a brief description of the deficient condition observed in the space provided at the end of the worksheet.

1. Additional guidance material may be found in Appendix E, Indoor Air Quality, in the Safety and Health Manual on the Louisiana Department of Education website (<http://www.doe.state.la.us/lde/index.html>).

NOTE: See Appendix E: Indoor Quality for additional guidance material.

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**Subchapter B. Hazard Identification**

**§1707. Air Pollution Control**

A. Air Pollution Control Permits

	Circle the Appropriate Answer
1. Are air pollution permits on file for the equipment or operations permitted under state regulations?	Y N N/A
2. Is a procedure in place to ensure air pollution control permits and certificates are applied for and received before the installation and operation of new equipment?	Y N N/A

B. Requirements for Gasoline-Powered Engines

	Circle the Appropriate Answer
1. Is the removal of any emission control device from a gasoline-powered engine prohibited except during repairs or replacement activities?	Y N N/A
2. When catalytic converters are replaced on automobiles, are they only replaced by the same type of converter as the original (i.e., oxidation, three-way, or three-way plus oxidation), and are they the same type of converter specified by the vehicle catalog?	Y N N/A

C. Volatile Organic Compound (VOC) Surface Cleaners. Questions in this Subsection C are based on EPA Reasonable Available Control Technology (RACT) guidelines for solvent cleaners.

	Circle the Appropriate Answer
1. Are all tanks that contain VOC equipped with a lid to prevent evaporation or escape of vapors when the tank is not in use? (e.g., auto body shops, metalworking shops, etc.)	Y N N/A
2. Do all unheated open-top surface cleaners with openings between 6 and 25 square feet (auto body shops): a. have a high liquid mark to prevent overfilling; b. have a wand that produces mist or droplets or delivers spray below 15 pounds per square inch (psi); c. have a freeboard ratio of 0.5 or greater?	Y N N/A
3. Do all unheated open-top surface cleaners with openings >25 square feet have either: a. a freeboard ratio of 0.75 or greater; or b. a freeboard ratio of 0.5 or greater and separation from windows, exhaust systems, and other sources of drafts?	Y N N/A
4. Do all heated open-top and surface cleaners have the following: a. a thermostat that automatically maintains temperature below the boiling point of the liquid; b. a cover that is kept closed except when processing parts; c. no agitating system that can cause splashing; and d. a freeboard ratio >0.75?	Y N N/A
5. In addition to meeting the above conditions, do all conveyerized surface cleaners have: a. a condenser with heat removal capacity greater than the input into the bath; b. a freeboard chiller or a vapor control system; c. covers protecting the conveyor inlet; d. outlet ports for reduction of losses when the cleaner is not in use; and e. hanging flaps when the unit is in use?	Y N N/A
6. Do written standard operating procedures govern the proper use, inspection, and maintenance of all surface cleaners?	Y N N/A
7. Have all persons using this equipment been trained in these standard operating procedures?	Y N N/A
8. Are copies of the standard operating procedures located at the cleaner?	Y N N/A

#### D. Surface Coating and Graphic Arts

	Circle the Appropriate Answer
1. Are all surface-coating operations done with controls to prevent emissions of VOCs? (paint spray booths, graphic arts shops) [RACT Reference 2, RACT Reference 3]	Y N N/A

#### E. Dry Cleaning Operations

	Circle the Appropriate Answer
1. Are petroleum-using dry cleaning operations with a manufacturer's total dryer capacity equal to or greater than 84 pounds equipped with a cartridge filter?	Y N N/A

	Circle the Appropriate Answer
2. Are all solvent filtration systems operated so that cartridge filters are allowed to drain for eight hours before removal?	Y N N/A
3. Are all leaking washers, dryers, filters, etc., that could result in VOC emissions corrected immediately?	Y N N/A
4. Is information about leak inspection and repair procedures clearly posted?	Y N N/A

#### F. Dry Cleaning Operations Using Perchloroethylene

	Circle the Appropriate Answer
1. Are all dry cleaning machines connected to a properly operated and maintained air pollution control device?	Y N N/A
2. Are all transfer dry cleaning units operated in a room or enclosure that vents all solvent vapors to an air pollution control device?	Y N N/A
3. Are policies in place to prevent the venting or release of perchloroethylene vapors at any time?	Y N N/A
4. Is a complete check for leaks performed weekly?	Y N N/A
5. Are condenser control devices operated at less than 45°F?	Y N N/A
6. Are the exhaust emissions from carbon absorbers checked weekly?	Y N N/A

#### G. Toxic Substances

	Circle the Appropriate Answer
1. Do all cold-cleaning machines using toxic substances have a 1-inch layer of water on the solvent surface, or a freeboard ratio of 0.75 or more?	Y N N/A
2. Are all waste solvents stored in closed containers with pressure relief systems?	Y N N/A
3. Are all spills cleaned up immediately, and are the wipe rags stored in covered containers?	Y N N/A
4. Do all heated-vapor machines have a device to shut off the sump heater if the solvent levels drop to the heater coils?	Y N N/A
5. Are all heated-vapor machines provided with a pollution control device designed to keep emissions below 0.045 lbs/hour?	Y N N/A
6. Are standard operating procedures written for all open-top surface cleaners that contain toxic substances?	Y N N/A
7. Do all persons using this equipment receive training in and adhere to the standard operating procedures?	Y N N/A

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#### §1709. Indoor Air Quality

##### A. General

	Circle the Appropriate Answer
1. Is someone designated to develop and implement an indoor air quality management plan for your school district?	Y N N/A

	Circle the Appropriate Answer
2. Does your district have an indoor air quality management plan that includes steps for preventing and resolving indoor air quality problems?	Y N N/A
3. Has your school district been tested for radon, and have radon-mitigation systems been installed where needed?	Y N N/A
4. Does your school district use integrated pest management in all areas?	Y N N/A
5. Is spot-treatment of pesticides used to control infested areas?	Y N N/A
6. Are all pesticide applicators trained in the safe use of pesticides?	Y N N/A
7. Have painted surfaces in your district been tested for lead-based paint, and has a lead control or removal program been implemented?	Y N N/A
8. Are school buildings inspected once or twice each year for conditions that may lead to indoor air quality problems?	Y N N/A
9. Is a preventive maintenance schedule established and in operation for the heating, ventilation, and air conditioning (HVAC) system? Is the schedule in accordance with the manufacturer's recommendations or accepted practice for the HVAC system?	Y N N/A
10. Does the HVAC preventive maintenance schedule include the following: a. checking and/or changing air filters and belts; b. lubricating equipment parts; c. checking the motors; and d. confirming that all equipment is in operating order?	Y N N/A
11. Are damaged or inoperable components of the HVAC system replaced or repaired as appropriate?	Y N N/A
12. Are reservoirs or parts of the HVAC system with standing water checked visually for microbial growth?	Y N N/A
13. Are water leaks that could promote growth of biologic agents promptly repaired?	Y N N/A
14. Are damp or wet materials that could promote growth of biologic agents promptly dried, replaced, removed, or cleaned?	Y N N/A
15. Are microbial contaminants removed from ductwork, humidifiers, other HVAC, building system components, and from building surfaces (i.e., carpeting and ceiling tiles) when found during regular or emergency maintenance activities or visual inspection?	Y N N/A
16. Is general or local exhaust ventilation used where housekeeping and maintenance activities could reasonably be expected to result in exposure to hazardous substances above applicable exposure limits?	Y N N/A
17. When point sources generate airborne concentrations of contaminants above applicable limits, are local exhaust ventilation or substitution used to reduce the exposure concentrations to below the limits?	Y N N/A
18. When the carbon dioxide level exceeds 1,000 parts per million, is the HVAC system checked and repaired as necessary to ensure the system is operating properly?	Y N N/A
19. When the temperature is outside the range of 68° to 79°F, is the HVAC system checked and repaired as necessary to ensure the system is operating properly?	Y N N/A
20. Are humidity levels maintained between 30 percent to 60 percent relative humidity?	Y N N/A

	Circle the Appropriate Answer
21. When a contaminant is identified in the make-up air supply, is the source of the contaminant eliminated, or are the make-up inlets or exhaust air outlets relocated to avoid entry of the contaminant into the air system?	Y N N/A
22. If buildings do not have mechanical ventilation, are windows, doors, vents, stacks, and other portals used for natural ventilation operating properly?	Y N N/A
23. Are complaints promptly investigated that may involve a building-related illness?	Y N N/A

### B. Smoking

	Circle the Appropriate Answer
1. Is smoking in school buildings prohibited except as part of a classroom instruction or a theatrical production?	Y N N/A
2. Do written district board of education policies and procedures prohibit smoking in school buildings?	Y N N/A

### C. Renovations and Remodeling

	Circle the Appropriate Answer
1. During renovation work or new construction, are local ventilation or other protective devices used to safeguard employees and students from dust, stones, other small particles, and toxic gases, which may be harmful in certain quantities?	Y N N/A
2. Are renovation areas in occupied buildings isolated so that dust and debris is confined to the renovation or construction area?	Y N N/A
3. Are precautions implemented in case lead-based paint is disturbed during renovation or new construction?	Y N N/A
4. When renovating or during new construction, are product labels checked, or is information obtained on whether paints, adhesives, sealants, solvents, insulation, particleboard, plywood, floor coverings, carpet backing, textiles, or other materials contain volatile organic compounds that could be emitted during regular use?	Y N N/A
5. Are employees notified at least 24 hours in advance, or promptly in emergency situations, of work to be performed on the building that may introduce air contaminants into their work area?	Y N N/A

### D. Shafting

	Circle the Appropriate Answer
1. Is the maintenance schedule updated to show all maintenance performed on the building systems?	Y N N/A
2. Does the maintenance schedule include the dates that the building systems maintenance was performed and the names of the persons or companies performing the work?	Y N N/A

	Circle the Appropriate Answer
3. Are maintenance schedules retained for at least three years?	Y N N/A

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**§1711. Hazardous Waste Management**

**A. Generators of Regulated Amounts of Hazardous Waste**

	Circle the Appropriate Answer
1. Does the container storing hazardous waste meet U.S. Department of Transportation container requirements?	Y N N/A
2. Is the container storing hazardous waste in good condition?	Y N N/A
3. Is the container storing hazardous waste compatible with the waste material? (For instance, solvents and paint waste should be placed in steel drums, but acidic or alkaline waste should not be placed in steel drums.)	Y N N/A
4. Is the container storing hazardous waste kept securely closed when not in use?	Y N N/A
5. Are unused keyways filled up or covered?	Y N N/A
6. Is the container storing hazardous waste at or near the point of generation and under the operator's control?	Y N N/A
7. Is the container storing hazardous waste marked with the words "Hazardous Waste"?	Y N N/A
8. If the container is being shipped for disposal, have arrangements been made for a licensed treatment, storage, and disposal (TSD) facility to accept the hazardous waste? <i>Note: Although the school is responsible for completing manifest forms, the TSD facility handling the waste should be consulted about completing the paperwork necessary to ship hazardous waste.</i>	Y N N/A
9. If the container is being shipped for disposal, have arrangements with the registered hazardous waste hauler been made for transport of wastes to the TSD facility?	Y N N/A
10. Have hazardous waste manifests been completed for all shipments of hazardous wastes within your state (or other state's manifest for shipments to other states)?	Y N N/A
11. Has a copy of the manifest with the signature of the initial transporter and date of shipment been retained by the school?	Y N N/A
12. Has the hauler been supplied with all remaining copies of the manifest?	Y N N/A
13. Have "Land Ban" forms been completed prohibiting land disposal of affected wastes unless treated below regulatory levels?	Y N N/A
14. Have appropriate markings and labels been affixed to containers prior to shipment?	Y N N/A
15. Has the hauler's vehicle been inspected by the generator (or his/her designee) to ensure proper placarding before leaving the generator's premises?	Y N N/A

	Circle the Appropriate Answer
16. Has the school kept a copy of each signed manifest for at least three years, or until a copy is received from the owner and operator of the facility that received the waste, for at least three years?	Y N N/A
17. Has the school prepared and submitted a copy of a Biennial Report to the EPA regional administrator by March 1 of each even numbered year for all hazardous waste shipped off-site for treatment, storage, or disposal?	Y N N/A

**B. Satellite Accumulation Sites**

	Circle the Appropriate Answer
1. Is the quantity of acutely toxic waste less than 55 gallons or less than one quart for acutely toxic waste?	Y N N/A
2. If the quantities of hazardous waste exceed the amounts in question 1 above, are the containers moved within three days to a less than 90-day accumulation area, or off-site to an authorized facility?	Y N N/A

**C. Small Quantity-Generator (Generate between 100 and 1,000 Kilograms of Hazardous Waste Per Month)**

	Circle the Appropriate Answer
1. Have hazardous waste containers been accumulated at your facility for 180 days or less? <i>Note: If you store hazardous waste for more than 180 days, additional regulations apply which are not covered in this checklist. Contact your state environmental agency for additional information. The quantity of waste accumulated on-site may never exceed 6,000 kilograms. Wastes may be stored longer than 180 days for certain situations.</i>	Y N N/A
2. Are containers marked with accumulation start date?	Y N N/A
3. Are container labels visible?	Y N N/A
4. Are containers segregated according to waste type?	Y N N/A
5. Are the containers inspected weekly?	Y N N/A
6. Is there adequate aisle space between container rows? <i>Note: 18 inches between single stacked drums and 30 inches between double or triple stacked drums.</i>	Y N N/A
7. Is there immediate access to communication or alarm systems whenever hazardous waste is poured, mixed, or handled?	Y N N/A
8. Is there an adequate supply of fire extinguishers and spill control equipment in the accumulation area?	Y N N/A
9. Is there adequate water pressure to supply fire hoses?	Y N N/A
10. Is the fire fighting equipment, communications and alarm equipment, and decontamination equipment, spill control and water supply tested and maintained?	Y N N/A

	Circle the Appropriate Answer
11. Have the police, fire department, and emergency response teams been familiarized with the layout of the facility?	Y N N/A
12. Are there written agreements with emergency response contractors and equipment suppliers?	Y N N/A
13. Have arrangements been made with the local hospitals to familiarize them with the properties of the hazardous waste handled at your facility and the types of injuries, which may result from contact with these wastes? (This is usually a letter to the local hospitals identifying the wastes generated and the types of injuries that result from contact with the waste.)	Y N N/A
14. Is there an emergency coordinator on site or on call who is available to respond to an emergency? <i>Note: The emergency coordinator or his designee must respond to any emergencies that arise.</i>	Y N N/A
15. Is the following information posted next to the telephone: a. the name and address of the emergency coordinator; b. the location of fire extinguishers and spill control material, and if present, fire alarm; and c. the telephone number of the fire department, unless the facility has a direct alarm? <i>Note: In the event of a fire, explosion, or other release which could threaten human health outside the facility, or when the generator has knowledge that a spill has reached surface water, the generator must immediately notify the National Response Center (using their 24-hour toll free number 800-424-8802).</i>	Y N N/A
16. Are all employees thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies?	Y N N/A
17. Has the school notified the EPA regional administrator of any manifests that were not received for shipments made to a designated facility within 60 days?	Y N N/A

**D. Large Quantity Generator (Generate More than 1,000 Kilograms of Hazardous Wastes per Month)**

	Circle the Appropriate Answer
1. Have hazardous waste containers been accumulated at your facility for 90 days or less? <i>Note: If you store hazardous wastes for more than 90 days, additional regulations apply which are not covered in this checklist. Contact the Louisiana Department of Environmental Quality (LDEQ) at 225-342-1234 for additional information.</i>	Y N N/A
2. Are containers marked with accumulation start dates?	Y N N/A
3. Are container labels visible?	Y N N/A
4. Are containers segregated according to waste type?	Y N N/A
5. Are the containers inspected weekly?	Y N N/A

	Circle the Appropriate Answer
6. Are containers of ignitable and reactive wastes located greater than 50 feet from the facility's property line?	Y N N/A
7. Is there adequate aisle space between container rows?	Y N N/A
8. Is there immediate access to communication or alarm systems whenever hazardous waste is poured, mixed, or handled?	Y N N/A
9. Is there an adequate supply of fire extinguishers and spill control equipment in the accumulation area?	Y N N/A
10. Is there adequate water pressure to supply fire hoses?	Y N N/A
11. Is the fire fighting equipment, spill control and water supply tested and maintained?	Y N N/A
12. Have the police, fire department and emergency response teams been familiarized with the layout of the facility?	Y N N/A
13. Are there written agreements with emergency response contractors and equipment suppliers?	Y N N/A
14. Have arrangements been made with the local hospitals to familiarize them with the properties of the hazardous waste handled at your facility and the types of injuries, which may result from contact with these wastes? (This is usually a letter to the local hospitals identifying the wastes generated and the types of injuries that result from contact with the waste.)	Y N N/A
15. Has a contingency plan been developed describing the actions to be taken by facility personnel in the event of a fire, explosion or hazardous materials release?	Y N N/A
16. Does the plan describe arrangements with local authorities including fire police, and emergency medical services personnel, for handling such emergencies?	Y N N/A
17. Does the plan list telephone numbers for the emergency coordinator and alternates?	Y N N/A
18. Does the plan list the locations and capabilities of emergency equipment kept at the school including fire extinguishers, spill control equipment and communications and alarm systems and decontamination systems?	Y N N/A
19. Does the plan include primary and alternate evacuation routes for students and faculty?	Y N N/A
20. Is a copy of the plan available at the school for inspection?	Y N N/A
21. Has a copy of the plan been forwarded to local emergency agencies including: a. police; b. fire emergency medical; c. the local emergency planning committee; and d. any emergency response contractors who may be called upon during an accident?	Y N N/A
22. Are there provisions for updating the contingency plan as operations and/or personnel change?	Y N N/A
23. Is the training program directed by a person trained in hazardous waste management procedures?	Y N N/A

	Circle the Appropriate Answer
24. Is the training program designed to ensure that personnel are able to respond effectively?	Y N N/A
25. Does the training program include: a. procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment; b. key parameters for automatic waste feed cut-off systems; c. communications for alarm systems; d. response to fires or explosions; e. response to ground-water contamination incidents; and f. shutdown of operations?	Y N N/A
26. Does the plan include provisions for: a. the use of personnel safety equipment; b. procedures for using facility emergency and monitoring equipment; c. procedures for utilizing communications or alarm systems; d. response procedures for fires and explosions; e. ground water contamination response procedures?	Y N N/A
27. Is training provided for all employees of this facility within six months of the date of employment, or assignment to an area involving the handling of hazardous waste?	Y N N/A
28. Is training reviewed annually?	Y N N/A
29. Is training documented with the following information: a. job title for each position and the name of the person filling each job; b. a written job description; c. a description of the training given; and d. documentation of actual training?	Y N N/A
30. Are training records maintained for at least three years?	Y N N/A
31. Has the school contacted the transporter and/or owner or operator of the designated facility of any manifests which were not received for shipments made to a designated facility within 35 days?	Y N N/A
32. Has an Exception Report been submitted to the EPA regional administrator if the generator has not received a copy of the manifest within 45 days?  <i>Note: Efforts to obtain the manifest must be documented.</i>	Y N N/A
33. Are Biennial Reports and Exception Reports kept on file for three years?	Y N N/A

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### Subchapter C. Hazard Evaluation and Prioritization §1721. Relative Risk Factors

#### A. Introduction

1. This part of the worksheet enables the instructor to examine each of the potential hazards (the "N" answers) that were identified in Subchapter B of this Chapter 17, Hazard Identification, and to assign it a value corresponding to its relative risk. Relative risk is usually defined in terms of three factors:

- a. severity;
- b. frequency/probability; and
- c. exposure.

2. Each of the factors listed in Subparagraphs a-c is described in Subsections B-D.3 below, and the point values are provided for the corresponding degree of risk.

NOTE: The greater the risk, the higher the point value.

B. Severity. Consider the potential losses or destructive and disruptive consequences that are most likely to occur if any of the hazards that have been identified in Subchapter B of this Chapter 17, Hazard Identification, result in an actual incident. The following point values are suggested.

1. Four Points—Catastrophic:

- a. loss of life;
- b. permanent disability;
- c. loss of entire facility;
- d. permanent.

2. Three Points—Critical:

- a. severe injury or illness with lost time;
- b. major property damage;
- c. no permanent disability or fatality;
- d. interruption of activities for extended period of time.

3. Two Points—Marginal:

- a. minor injury or illness;
- b. minor property damage;
- c. interruption of activities for more than one day.

4. One Point—Negligible:

- a. probably no injury or illness;
- b. no loss other than interruption of activities for a short period of time.

C. Frequency/Probability (Likelihood of Occurrence)

1. Consider the probability that a loss would occur. Ask yourself the following key questions.

- a. How likely is it that things will go wrong as a result of the hazard that has been identified?
- b. How often is the activity which creates the hazard performed?
- c. How often is the hazard present?

2. Use the following point values.

- a. Three Points—high probability of occurrence.
- b. Two Points—moderate probability of occurrence.
- c. One Point—low probability of occurrence.

D. Exposure. Consider the number of persons (students and faculty) who could be potentially affected by a worst case scenario caused by each of the potential hazards that have been identified. The following point values are suggested.

1. Three Points—many persons are affected frequently.

2. Two Points—a few persons are affected frequently.

3. One Point—a few persons are affected up to a few times per day.

E. Prioritization. Based on the analysis above, and using the hazard prioritization matrix below, prioritize the hazards identified in Subchapter B of this Chapter and evaluated in §1721.B-D.3.

1. Step One. List each of the hazardous conditions that were identified in Subchapter B of this Chapter 17 in the first column of the worksheet.

2. Step Two. Based on the criteria given above in §1721.B-D.3, assign a point value for each hazard in each of the three columns.

3. Step Three. Add up the point values, horizontally, for each of the hazards.

4. Step Four. Rearrange the hazards that were identified in descending order with the one having the highest total point value first, then the one with the next-highest point value; and so on.

Hazard Prioritization Matrix				
Hazard Identified	Severity	Probability	Exposure	Total Point

5. Step Five. A list has just been developed of the potentially hazardous conditions existing at the school facility based on their relative priority.

F. The items on the prioritized list with the highest point value will generally be those that are most serious, and should receive the greatest attention in terms of resources expended to eliminate it. As with all organizations, especially educational institutions, resources are not without limitations. There is a finite amount of money, time, and personnel available to solve these problems. By prioritizing the hazards, and concentrating in order on those with the highest priority, concentration will be on the "worst first." This is the smart way to allocate limited resources. Even though instructors might not get all the way through the list, there will be the satisfaction and peace of mind that comes with dealing with the "really important" problems first.

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#### Subchapter D. Hazard Control Measures

##### §1731. Control Categories

A. This Subchapter D is to implement those control measures that will either eliminate or minimize hazards to the point where they will become acceptable. Also, these control measures will be applied to the most serious hazards first, then to the next-most-serious, and so on.

B. Most control measures fall into one or more of three categories. Paragraphs 1-3 below list the three types and also outline the preferred sequence for applying the controls, as engineering controls are the most effective way to control a hazard, followed by administrative controls and finally by PPE. Many times, the most effective controls are a blending of all three types. They are:

1. engineering controls;
2. administrative controls; and
3. personal protective equipment (PPE).

C. Engineering Controls. Usually engineering controls are considered the most effective because, if they are successful, they eliminate the hazard, or remove it from the presence of people. When applying engineering controls look for ways to:

1. design or redesign hazardous situations or equipment;

2. substitute safer materials in the place of dangerous ones; and

3. install guards or other protective devices.

D. Management/Administrative Controls. Management/administrative controls are next in line to be applied in the control of a hazard because they are the direct responsibility of the persons who are operating the facility. In an educational environment, that means the administration and faculty. These controls involve such things as:

1. implementation and enforcement of safe policies and procedures;

2. limitations on the exposure to hazards through work assignments, number of persons involved in an activity, etc.; and

3. similar approaches.

E. Personal Protective Equipment (PPE). The last approach to hazard control involves the use of PPE. This is because PPE does not eliminate the hazard but, rather, only establishes a barrier or shield between the hazard and the exposed person. If the exposed person does not have the correct type of PPE, or does not use it properly, then that person will be exposed to the full effect of the hazard.

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#### Chapter 19. Hazard Communication Worksheet Subchapter A. General Provisions

##### §1901. Definitions

*Article*—a manufactured item other than a fluid or particle that:

1. is formed to a shape or design during manufacture;

2. has end use function(s) dependent in whole or in part on its shape or design during end use; and

3. under normal conditions of use does not release more than very small quantities, e.g., minute or trace amounts of a hazardous chemical, and does not pose a physical hazard or health risk to employees.

*Hazardous Chemical*—any chemical that is a physical hazard or a health hazard.

*Health Hazard*—a chemical for which statistically significant evidence exists that acute or chronic health effects may occur in exposed employees. This evidence must be based on at least one study conducted in accordance with established scientific principles.

*Physical Hazard*—a chemical for which scientifically valid evidence exists that it is:

1. a combustible liquid;
2. a compressed gas;
3. explosive;
4. flammable;
5. an organic peroxide;
6. an oxidizer;
7. pyrophoric (self igniting);
8. unstable (reactive) or water-reactive.

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**§1903. Worksheet Instructions**

A. Use the following worksheet as a guide to conduct a survey of the instructional facility. Answer each of the listed questions by circling the answer that applies to the condition at the facility. "Y" indicates "Yes," "N" indicates "No," and "N/A" indicates "Not Applicable." If any of the questions are answered "N" for "No," it is the sign of a condition that may indicate a possible hazard. For every "N" marked, write a brief description of the deficient condition observed in the space provided at the end of the worksheet.

1. Additional guidance material may be found in Appendix K, Material Safety Data Sheets Guidelines, in the Safety and Health Manual on the Louisiana Department of Education website (<http://www.doe.state.la.us/lde/index.html>).

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**Subchapter B. Hazard Identification**

**§1911. Elements of a Hazard Communication Program**

A. Hazard Communication Program

	Circle the Appropriate Answer
1. Has a written hazard communication program been developed, implemented, and maintained at your worksite?	Y N N/A
2. Has a list of known hazardous chemicals at your facility been prepared?	Y N N/A
3. Have methods been developed to inform personnel and students of the hazards of non-routine tasks? <i>Note: Such tasks may include emergency response or equipment.</i>	Y N N/A
4. Are methods developed for communicating hazards to outside contractors or vendors who may be exposed to hazardous chemicals at your facility?	Y N N/A

B. Labels

	Circle the Appropriate Answer
1. Are all containers of hazardous chemicals in the workplace labeled, tagged, or marked with the identity of the hazardous chemical(s)?	Y N N/A
2. Are all containers of hazardous chemicals in the workplace labeled, tagged, or marked with the appropriate warnings?	Y N N/A
3. Are all containers of hazardous chemicals in the facility labeled, tagged, or marked with the name and address of the chemical manufacturer, importer, or other responsible party?	Y N N/A

	Circle the Appropriate Answer
4. If a container is received without a hazard warning label, is a good faith effort made to obtain the missing information from the manufacturer or supplier? <i>Note: Manufacturers are required to affix labels to all containers of hazardous chemicals when they are shipped. The following hazardous chemicals are exempt from this labeling requirement, although subject to other labeling requirements:</i> i. pesticides; ii. foods; iii. food additives; iv. color additives; v. drugs; vi. cosmetics vii. medical devices; viii. alcoholic beverages; ix. consumer products; x. hazardous waste; xi. tobacco products; and xii. wood products.	Y N N/A
5. Is removal or defacing of labels on incoming containers of hazardous chemicals prohibited?	Y N N/A
6. Are labels or other forms of warning legible in English and prominently displayed?	Y N N/A

C. Material Safety Data Sheets

	Circle the Appropriate Answer
1. Are material safety data sheets on hand for each hazardous chemical used and identified on the hazardous chemicals list?	Y N N/A
2. If a hazardous chemical has no material safety data sheet, are attempts made to obtain one from the chemical manufacturer or imported as soon as possible?	Y N N/A
3. Are material safety data sheets for the hazardous chemical kept in the facility and made readily accessible to personnel and students?	Y N N/A

D. Information and Training

	Circle the Appropriate Answer
1. Is information and training on hazardous chemicals in the worksite provided on initial assignment and whenever new physical hazards or health hazards are introduced into a facility area?	Y N N/A
2. Does the information provided include the operations performed at the worksite where hazardous chemicals are present?	Y N N/A
3. Does the information provided include the location and availability of the written hazard communication program, including the list of hazardous chemicals and material safety data sheets?	Y N N/A

	Circle the Appropriate Answer
4. Does the training provided include information about the methods and observations that may be used to detect the presence or release of a hazardous chemical in a work area such as: a. monitoring conducted by the employer; b. continuous monitoring devices; c. visual appearance or odor of hazardous chemicals when being released; d. etc.?	Y N N/A
5. Does the training provided include information about the physical hazards and health hazards of the chemicals in the work area?	Y N N/A
6. Does the training provided include information about the measures employees can take to protect themselves from these hazards, including procedures the school has implemented to protect employees from exposures to hazardous chemicals: a. appropriate work practices; b. emergency procedures; and c. personal protective equipment?	Y N N/A
7. Does the training provided include information about the details of the hazard communication program developed by the school, including: a. explanations of the labeling system; b. material safety data sheets; and c. how employees can obtain and use the appropriate hazard information?	Y N N/A

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 33:58 (January 2007).

### Subchapter C. Hazard Evaluation and Prioritization

#### §1921. Relative Risk Factors

##### A. Introduction

1. This part of the worksheet enables the instructor to examine each of the potential hazards (the "N" answers) that were identified in Subchapter B of this Chapter 19, Hazard Identification, and to assign it a value corresponding to its relative risk. Relative risk is usually defined in terms of three factors:

- a. severity
- b. frequency/probability; and
- c. exposure.

2. Each of the factors listed in Subparagraphs a-c is described in Subsections B-D.3 below, and the point values are provided for the corresponding degree of risk.

**NOTE:** The greater the risk, the higher the point value.

B. Severity. Consider the potential losses or destructive and disruptive consequences that are most likely to occur if any of the hazards that have been identified in Subchapter B of this Chapter 19, Hazard Identification, result in an actual incident. The following point values are suggested.

1. Four Points—Catastrophic:
  - a. loss of life;
  - b. permanent disability;
  - c. loss of entire facility;
  - d. permanent.
2. Three Points—Critical:
  - a. severe injury or illness with lost time;
  - b. major property damage;
  - c. no permanent disability or fatality;

d. interruption of activities for extended period of time.

3. Two Points—Marginal:

- a. minor injury or illness;
- b. minor property damage;
- c. interruption of activities for more than one day.

4. One Point—Negligible:

- a. probably no injury or illness;
- b. no loss other than interruption of activities for a short period of time.

##### C. Frequency/Probability (Likelihood of Occurrence)

1. Consider the probability that a loss would occur. Ask yourself the following key questions.

a. How likely is it that things will go wrong as a result of the hazard that has been identified?

b. How often is the activity which creates the hazard performed?

c. How often is the hazard present?

2. Use the following point values.

a. Three Points—high probability of occurrence.

b. Two Points—moderate probability of occurrence.

c. One Point—low probability of occurrence.

D. Exposure. Consider the number of persons (students and faculty) who could be potentially affected by a worst case scenario caused by each of the potential hazards that have been identified. The following point values are suggested.

1. Three Points—many persons are affected frequently.

2. Two Points—a few persons are affected frequently.

3. One Point—a few persons are affected up to a few times per day.

E. Prioritization. Based on the analysis above, and using the hazard prioritization matrix below, prioritize the hazards identified in Subchapter B of this Chapter 19 in the first column of the worksheet.

1. Step One. List each of the hazardous conditions that were identified in this Chapter 19, Subchapter B of the worksheet in the first column.

2. Step Two. Based on the criteria given above in §1921.B-D.3, assign a point value for each hazard in each of the three columns.

3. Step Three. Add up the point values, horizontally, for each of the hazards.

4. Step Four. Rearrange the hazards that were identified in descending order with the one having the highest total point value first, then the one with the next-highest point value; and so on.

Hazard Prioritization Matrix				
Hazard Identified	Severity	Probability	Exposure	Total Points

5. Step Five. A list has just been developed of the potentially hazardous conditions existing at the school facility based on their relative priority.

F. The items on the prioritized list with the highest point value will generally be those that are most serious, and should receive the greatest attention in terms of resources expended to eliminate it. As with all organizations, especially educational institutions, resources are not without limitations. There is a finite amount of money, time, and personnel available to solve these problems. By prioritizing the hazards and concentrating in order on those with the highest priority, concentration will be on the "worst first." This is the smart way to allocate limited resources. Even though instructors might not get all the way through the list, there will be the satisfaction and peace of mind that comes with dealing with the "really important" problems first.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:59 (January 2007).

#### Subchapter D. Hazard Control Measures

##### §1931. Control Categories

A. This Subchapter D is to implement those control measures that will either eliminate or minimize hazards to the point where they will become acceptable. Also, these control measures will be applied to the most serious hazards first, then to the next-most-serious, and so on.

B. Most control measures fall into one or more of three categories. Paragraphs 1-3 below list the three types, and also outline the preferred sequence for applying the controls, as engineering controls are the most effective way to control a hazard, followed by administrative controls and finally by personal protective equipment. Many times, the most effective controls are a blending of all three types. They are:

1. engineering controls;
2. administrative controls; and
3. personal protective equipment (PPE).

C. Engineering Controls. Usually engineering controls are considered the most effective because, if they are successful, they eliminate the hazard, or remove it from the presence of people. When applying engineering controls, look for ways to:

1. design or redesign hazardous situations or equipment;
2. substitute safer materials in the place of dangerous ones; and
3. install guards or other protective devices.

D. Management/Administrative Controls. Management/administrative controls are next in line to be applied in the control of a hazard because they are the direct responsibility of the persons who are operating the facility. In an educational environment, that means the administration and faculty. These controls involve such things as:

1. implementation and enforcement of safe policies and procedures;
2. limitations on the exposure to hazards through work assignments, number of persons involved in an activity, etc.; and
3. similar approaches.

E. Personal Protective Equipment (PPE). The last approach to hazard control involves the use of PPE. This is because PPE does not eliminate the hazard but, rather, only establishes a barrier or shield between the hazard and the exposed person. If the exposed person does not have the correct type of PPE, or does not use it properly, then that person will be exposed to the full effect of the hazard.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:60 (January 2007).

#### Chapter 21. Fire Prevention and Protection Worksheet

##### Subchapter A. General Provisions

##### §2101. Worksheet Instructions

A. Use the following worksheet as a guide to conduct a survey to determine the level of fire prevention and protection readiness for the instructional facility. Answer each of the listed questions by circling the answer that applies to the condition at the facility. "Y" indicates "Yes," "N" indicates "No," and "N/A" indicates "Not Applicable." If any of the questions are answered "N" for "No," it is the sign of a condition that may indicate a possible hazard. For every "N" marked, write a brief description of the deficient condition observed in the space provided at the end of the worksheet.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:60 (January 2007).

##### Subchapter B. Hazard Identification

##### §2111. Facilities

##### A. Buildings and Functions

	Circle the Appropriate Answer
1. Are classroom and laboratory facilities separated?	Y N N/A
2. Are classes being conducted in more than one part of the building at a time?	Y N N/A
3. Do classrooms, laboratories, offices, lavatories, and other facilities empty into a common interior hallway?	Y N N/A
4. Does the building have more than one level or floor?	Y N N/A
5. If the building is multi-level, is there more than one stairway leading to egress (exit) from the building?	Y N N/A
6. Are means of egress (exit) from the building clearly marked?	Y N N/A
7. In the event of loss of power to the building, is there battery-powered emergency lighting that will be turned on automatically?	Y N N/A
8. Are exit facilities inspected daily to make sure that all stairways, doors, and other exists are in proper working condition?	Y N N/A
9. Are all exit paths free and unobstructed? <i>Note: Exit doors must not be locked, barred, or blocked in such a way as to prevent exit from the building.</i>	Y N N/A
10. Are wedges or devices holding exit doors open prohibited?	Y N N/A
11. Are all fire escapes, stairs, passageways, doors, and windows free of obstructions that would interfere with the operation of the fire department?	Y N N/A
12. Are all fire doors tight fitting and in good operational condition?	Y N N/A
13. Are all classroom doors self closing?	Y N N/A
14. Are openings in the walls, floors, or ceilings that would contribute to the spread of fire from one room to another repaired?	Y N N/A
15. Is the vertical clearance between sprinklers and material below (such as head deflectors) at least 18 inches?	Y N N/A

	Circle the Appropriate Answer
16. Are accumulations of flammable or combustible waste materials and residues removed so that they will not contribute to a fire? <i>Note: Examples of violations include open boxes of papers stored under the stairs and stored empty cardboard boxes.</i>	Y N N/A
17. Is adequate clearance maintained between stored materials and light fixtures to prevent possible ignition?	Y N N/A
18. Is the clearance between stored materials and unit heaters, radiant space heaters, furnace ducts, and flues not less than 3 feet in all directions or in accordance with the clearances shown on the approval agency label?	Y N N/A
19. Are furnishings or decorations of an explosive or highly flammable character prohibited?	Y N N/A
20. Are decorative materials such as curtains, draperies, streamers, and fabrics flame resistant?	Y N N/A
21. Do teaching materials and children's artwork cover 20 percent or less of the wall area?	Y N N/A

**B. Occupants**

	Circle the Appropriate Answer
1. Are any of the occupants handicapped in anyway?	Y N N/A
2. Are there ever any individuals in the facility who are not part of the regular occupants of the buildings?	Y N N/A
3. Are there ever times when there are only one or two occupants in the building/	Y N N/A

**C. Applicable Codes**

	Circle the Appropriate Answer
1. Have the NFPA Building, Life, Safety, and Electrical Codes been identified and consulted for applicability to this building and its purpose?	Y N N/A
2. Have municipality and school board safety codes been identified and consulted for applicability to this building and its purpose?	Y N N/A
3. Are all applicable codes being followed regarding the occupation use of this building?	Y N N/A
4. Are all applicable codes being followed regarding the installation, use and maintenance of equipment within the building?	Y N N/A

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:60 (January 2007).

**§2113. Materials and Equipment**

**A. Flammable and Combustible Materials**

	Circle the Appropriate Answer
1. Are flammable materials of any kind stored or used in the Area? a. Flammable materials are usually in either the liquid or gas form and include, but are not limited to: i. fuels; ii. welding gases; iii. paints; iv. solvents; v. thinners; vi. etc. b. These fuels are usually considered quite volatile, i.e., they are very watery and they evaporate rapidly.	Y N N/A
2. Are combustible materials of any kind stored or used in the area? a. Combustible materials are usually in the solid form and include, but are not limited to: i. wood; ii. plastics; iii. paper; iv. etc. b. Combustible materials may also include heavier liquid fuels such as lubricating oils and heating oils.	Y N N/A

**B. Potential Ignition Sources**

	Circle the Appropriate Answer
1. Is all electrical equipment, such as switches, portable power tools, motors, and other devices which may serve as a source of ignition, either prohibited in areas where flammable materials are stores or used, or allowed only when special procedures such as a "Hot Work Permit" are in force?	Y N N/A
2. Is internal-combustion-engine powered equipment located so that their exhausts are well away from combustible materials?	Y N N/A
3. When internal combustion engine exhausts are piped outside the building, is a clearance of at least 6 inches maintained between such piping and combustible materials?	Y N N/A
4. Are temporary heating devices used and stored away from flammable and combustible materials?	Y N N/A

**C. Fire Protection Equipment**

	Circle the Appropriate Answer
1. Are telephone numbers and other means for summoning the fire department clearly posted and available for all to use?	Y N N/A
2. Is access to firefighting equipment maintained at all times?	Y N N/A
3. Is firefighting equipment conspicuously located and visible, and is each location marked and identified?	Y N N/A

	Circle the Appropriate Answer
4. Is firefighting equipment periodically inspected and maintained and operating?	Y N N/A
5. Is a fire extinguisher, rated not less than 2A provided for each 3,000 square feet of protected building area?	Y N N/A
6. Is the travel distance to each fire extinguisher 100 feet or less?	Y N N/A
7. Are one or more fire extinguishers, rated not less than 2A provided on each floor?	Y N N/A
8. In multistory facilities, is at least one fire extinguisher located adjacent to the stairway?	Y N N/A
9. If more than 5 gallons of flammable or combustible liquid, or five pounds or more of flammable gas are present, is a fire extinguisher rated not less than 10B provided within 50 feet?	Y N N/A
10. Are portable fire extinguishers selected according to the classes of anticipated fires and the size and degree of hazards?	Y N N/A

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:61 (January 2007).

### §2115. Work Methods

#### A. Material Handling Use

	Circle the Appropriate Answer
1. Are volatile, flammable materials used in such a way that gases and vapors from such materials are not allowed to escape the storage container, or are gases or vapors vented to a safe area?	Y N N/A
2. When not in use, are flammable and combustible materials kept in containers that are specifically designed for holding and storing such materials?	Y N N/A

#### B. Material Storage—Outdoor

	Circle the Appropriate Answer
1. Is stability maintained when combustible materials are piled?	Y N N/A
2. Are weeds and grass kept down and a regular procedure provided for periodic cleanup of outside storage areas?	Y N N/A

#### C. Material Storage—Indoor

	Circle the Appropriate Answer
1. Are indoor materials stored so that they do not obstruct or adversely affect the means of exit?	Y N N/A
2. Are indoor materials stored, handled, and piled to minimize the spread of fire, and permit convenient access for firefighting?	Y N N/A
3. Where sprinkler systems are installed, are indoor materials stored so that a clearance of at least 36 inches is maintained between the top level of stored materials and the sprinkler deflectors?	Y N N/A

	Circle the Appropriate Answer
4. Is proper clearance maintained around lights and heating units to prevent ignition of combustible materials?	Y N N/A
5. Is a clearance of at least 24 inches maintained around the path of travel of fire doors, unless a barricade is provided?	Y N N/A
6. Are materials stored more than 36 inches away from a fire door opening?	Y N N/A

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:62 (January 2007).

### Subchapter C. Hazard Evaluation and Prioritization §2127. Relative Risk Factors

#### A. Introduction

1. This part of the worksheet enables the instructor to examine each of the potential hazards (the "N" answers) that were identified in Subchapter B of this Chapter 21, Hazard Identification, and to assign it a value corresponding to its relative risk. Relative risk is usually defined in terms of three factors:

- severity;
- frequency/probability; and
- exposure.

2. Each of the factors listed in Subparagraphs a-c is described in Subsections B-D.3 below, and the point values are provided for the corresponding degree of risk.

NOTE: The greater the risk, the higher the point value.

B. Severity. Consider the potential losses or destructive and disruptive consequences that are most likely to occur if any of the hazards that have been identified in Subchapter B of this Chapter 21, Hazard Identification, result in an actual incident. The following point values are suggested.

#### 1. Four Points—Catastrophic:

- loss of life;
- permanent disability;
- loss of entire facility;
- permanent.

#### 2. Three Points—Critical:

- severe injury or illness with lost time;
- major property damage;
- no permanent disability or fatality;
- interruption of activities for extended period of time.

#### 3. Two Points—Marginal:

- minor injury or illness;
- minor property damage;
- interruption of activities for more than one day.

#### 4. One Point—Negligible:

- probably no injury or illness;
- no loss other than interruption of activities for a short period of time.

#### C. Frequency/Probability (Likelihood of Occurrence)

1. Consider the probability that a loss would occur. Ask yourself the following key questions.

- How likely is it that things will go wrong as a result of the hazard that has been identified?
- How often is the activity which creates the hazard performed?
- How often is the hazard present?

2. Use the following point values.
  - a. Three Points—high probability of occurrence.
  - b. Two Points—moderate probability of occurrence.
  - c. One Point—low probability of occurrence.

D. Exposure. Consider the number of persons (students and faculty) who could be potentially affected by a worst case scenario caused by each of the potential hazards that have been identified. The following point values are suggested.

1. Three Points—many persons are affected frequently.
2. Two Points—a few persons are affected frequently.
3. One Point—a few persons are affected up to a few times per day.

E. Prioritization. Based on the analysis above, and using the hazard prioritization matrix below, prioritize the hazards identified in Subchapter B of this Chapter and evaluated in §2127.B-D.3.

1. Step One. List each of the hazardous conditions that were identified in Subchapter B of this Chapter 21 in the first column of the worksheet.

2. Step Two. Based on the criteria given above in §2127.B-D.3, assign a point value for each hazard in each of the three columns.

3. Step Three. Add up the point values, horizontally, for each of the hazards.

4. Step Four. Rearrange the hazards that were identified in descending order with the one having the highest total point value first, then the one with the next-highest point value; and so on.

Hazard Prioritization Matrix				
Hazard Identified	Severity	Probability	Exposure	Total Points

5. Step Five. A list has just been developed of the potentially hazardous conditions existing at the school facility based on their relative priority.

F. The items on the prioritized list with the highest point value will generally be those that are most serious, and should receive the greatest attention in terms of resources expended to eliminate it. As with all organizations, especially educational institutions, resources are not without limitations. There is a finite amount of money, time, and personnel available to solve these problems. By prioritizing the hazards and concentrating in order on those with the highest priority, concentration will be on the "worst first." This is the smart way to allocate limited resources. Even though instructors might not get all the way through the list, there will be the satisfaction and peace of mind that comes with dealing with the "really important" problems first.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:62 (January 2007).

## Subchapter D. Hazard Control Measures

### §2135. Control Categories

A. This Subchapter D is to implement those control measures that will either eliminate or minimize hazards to the point where they will become acceptable. Also, these control measures will be applied to the most serious hazards first, then to the next-most-serious, and so on.

B. Most control measures fall into one or more of three categories. Paragraphs 1-3 below list the three types and also outline the preferred sequence for applying the controls, as engineering controls are the most effective way to control a hazard, followed by administrative controls and finally by personal protective equipment. Many times, the most effective controls are a blending of all three types. They are:

1. engineering controls;
2. administrative controls; and
3. personal protective equipment (PPE).

C. Engineering Controls. Usually engineering controls are considered the most effective because, if they are successful, they eliminate the hazard, or remove it from the presence of people. When applying engineering controls, look for ways to:

1. design or redesign hazardous situations or equipment;
2. substitute safer materials in the place of dangerous ones; and
3. install guards or other protective devices.

D. Management/Administrative Controls. Management/administrative controls are next in line to be applied in the control of a hazard because they are the direct responsibility of the persons who are operating the facility. In an educational environment, that means the administration and faculty. These controls involve such things as:

1. implementation and enforcement of safe policies and procedures;
2. limitations on the exposure to hazards through work assignments, number of persons involved in an activity, etc.; and
3. similar approaches.

E. Personal Protective Equipment (PPE). The last approach to hazard control involves the use of PPE. This is because PPE does not eliminate the hazard but, rather, only establishes a barrier or shield between the hazard and the exposed person. If the exposed person does not have the correct type of PPE, or does not use it properly, then that person will be exposed to the full effect of the hazard.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:63 (January 2007).

## Chapter 23. Hearing Conservation and Noise Protection Worksheet

### Subchapter A. General Provisions

#### §2301. Worksheet Instructions

A. Use this worksheet as a guide to conduct a survey of the instructional facilities. Answer each of the listed questions by circling the answer that applies to the condition at the facility. "Y" indicates "Yes," "N" indicates "No," and "N/A" indicates "Not Applicable." If any of the questions are answered "N" for "No," it is the sign of a condition that may indicate a possible hazard. For every "N" marked, write a brief description of the deficient condition observed in the space provided at the end of the worksheet.

NOTE: The Occupational Safety and Health Administration (OSHA) and other regulatory agencies specify that persons exposed to noise levels of 85 dBA over an eight-hour period must wear hearing protection, and be provided with and trained in the use of hearing protection. In order to provide a margin of safety and simplify the evaluation process, any equipment or operation found to expose persons to a noise level of 85 dBA or above over any time period should be considered a hazard, and hearing protection should be required.

1. Additional guidance material may be found in Appendix H, Hearing Conservation and Noise Control in the Safety and Health Manual on the Louisiana Department of Education website (<http://www.doe.state.la.us/lde/index.html>).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:63 (January 2007).

### Subchapter B. Hazard Identification

#### §2311. Facilities and Equipment

##### A. Evaluation

	Circle the Appropriate Answer
1. Have all operations or equipment believed to be excessively noisy (85 dBA or above) been measured to determine their noise levels?	Y N N/A
2. Are noise measurements repeated when a change in operations or equipment may increase noise exposure?	Y N N/A

##### B. Training

	Circle the Appropriate Answer
1. Does the school administer a continuing, effective hearing conservation program?	Y N N/A
2. Do all students or employees exposed to 85 dBA or above receive hearing conservation training at least annually?	Y N N/A
3. Are training materials and literature on hearing conservation available to employees or students?	Y N N/A

##### C. Noise Control and Hearing Protection

	Circle the Appropriate Answer
1. Have feasible engineering and/or administrative controls been used to reduce operation or equipment noise levels determined to be excessive (85 dBA or above)?	Y N N/A
2. Are hearing protectors evaluated to verify that they effectively reduce noise to levels below 85 dBA?	Y N N/A
3. Are hearing protectors available to all persons exposed to noise levels at or above 85 dBA?	Y N N/A

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:64 (January 2007).

### Subchapter C. Hazard Evaluation and Prioritization

#### §2321. Relative Risk Factors

##### A. Introduction

1. This part of the worksheet enables the instructor to examine each of the potential hazards (the "N" answers) that were identified in Subchapter B of this Chapter 23, Hazard Identification, and to assign it a value corresponding to its relative risk. Relative risk is usually defined in terms of three factors:

- a. severity;
- b. frequency/probability; and
- c. exposure.

2. Each of the factors listed in Subparagraphs a-c is described in Subsections B-D.3 below, and the point values are provided for the corresponding degree of risk.

NOTE: The greater the risk, the higher the point value.

B. Severity. Consider the potential losses or destructive and disruptive consequences that are most likely to occur if any of the hazards that have been identified in Subchapter B of this Chapter 23, Hazard Identification, result in an actual incident. The following point values are suggested.

1. Four Points—Catastrophic:

- a. loss of life;
- b. permanent disability;
- c. loss of entire facility;
- d. permanent.

2. Three Points—Critical:

- a. severe injury or illness with lost time;
- b. major property damage;
- c. no permanent disability or fatality;
- d. interruption of activities for extended period of time.

3. Two Points—Marginal:

- a. minor injury or illness;
- b. minor property damage;
- c. interruption of activities for more than one day.

4. One Point—Negligible:

- a. probably no injury or illness;
- b. no loss other than interruption of activities for a short period of time.

C. Frequency/Probability (Likelihood of Occurrence)

1. Consider the probability that a loss would occur. Ask yourself the following key questions.

- a. How likely is it that things will go wrong as a result of the hazard that has been identified?
- b. How often is the activity which creates the hazard performed?
- c. How often is the hazard present?

2. Use the following point values.

- a. Three Points—high probability of occurrence.
- b. Two Points—moderate probability of occurrence.
- c. One Point—low probability of occurrence.

D. Exposure. Consider the number of persons (students and faculty) who could be potentially affected by a worst case scenario caused by each of the potential hazards that have been identified. The following point values are suggested.

1. Three Points—many persons are affected frequently.
2. Two Points—a few persons are affected frequently.
3. One Point—a few persons are affected up to a few times per day.

E. Prioritization. Based on the analysis above, and using the hazard prioritization matrix below, prioritize the hazards identified in Subchapter B of this Chapter and evaluated in §2321.B-D.3.

1. Step One. List each of the hazardous conditions that were identified in Subchapter B of this Chapter 23 in the first column of the worksheet.

2. Step Two. Based on the criteria given above in §2321.B-D.3, assign a point value for each hazard in each of the three columns.

3. Step Three. Add up the point values, horizontally, for each of the hazards.

4. Step Four. Rearrange the hazards that were identified in descending order with the one having the highest total point value first, then the one with the next-highest point value; and so on.

Hazard Prioritization Matrix				
Hazard Identified	Severity	Probability	Exposure	Total Points

5. Step Five. A list has just been developed of the potentially hazardous conditions existing at the school facility based on their relative priority.

F. The items on the prioritized list with the highest point value will generally be those that are most serious, and should receive the greatest attention in terms of resources expended to eliminate it. As with all organizations, especially educational institutions, resources are not without limitations. There is a finite amount of money, time, and personnel available to solve these problems. By prioritizing the hazards and concentrating in order on those with the highest priority, concentration will be on the "worst first." This is the smart way to allocate limited resources. Even though instructors might not get all the way through the list, there will be the satisfaction and peace of mind that comes with dealing with the "really important" problems first.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:64 (January 2007).

**Subchapter D. Hazard Control Measures**

**§2331. Control Categories**

A. This Subchapter D is to implement those control measures that will either eliminate or minimize hazards to the point where they will become acceptable. Also, these control measures will be applied to the most serious hazards first, then to the next-most-serious, and so on.

B. Most control measures fall into one or more of three categories. Paragraphs 1-3 below list the three types, and also outline the preferred sequence for applying the controls, as engineering controls are the most effective way to control a hazard, followed by administrative controls and finally by personal protective equipment. Many times, the most effective controls are a blending of all three types. They are:

1. engineering controls;

2. administrative controls; and
3. personal protective equipment (PPE).

C. Engineering Controls. Usually engineering controls are considered the most effective because, if they are successful, they eliminate the hazard, or remove it from the presence of people. When applying engineering controls, look for ways to:

1. design or redesign hazardous situations or equipment;
2. substitute safer materials in the place of dangerous ones; and
3. install guards or other protective devices.

D. Management/Administrative Controls. Management/administrative controls are next in line to be applied in the control of a hazard because they are the direct responsibility of the persons who are operating the facility. In an educational environment, that means the administration and faculty. These controls involve such things as:

1. implementation and enforcement of safe policies and procedures;
2. limitations on the exposure to hazards through work assignments, number of persons involved in an activity, etc.; and
3. similar approaches.

E. Personal Protective Equipment (PPE). The last approach to hazard control involves the use of PPE. This is because PPE does not eliminate the hazard but, rather, only establishes a barrier or shield between the hazard and the exposed person. If the exposed person does not have the correct type of PPE, or does not use it properly, then that person will be exposed to the full effect of the hazard.

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

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**Chapter 25. Mechanical Hazards Worksheet**

**Subchapter A. General Provisions**

**§2501. Worksheet Instructions**

A. Use this worksheet as a guide to conduct a survey of the instructional facility. Answer each of the listed questions by circling the answer that applies to the condition at the facility. "Y" indicates "Yes," "N" indicates "No," and "N/A" indicates "Not Applicable." If any of the questions are answered "N" for "No," it is the sign of a condition that may indicate a possible hazard. For every "N" marked, write a brief description of the deficient condition observed in the space provided at the end of the worksheet.

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**Subchapter B. Hazard Identification**

**§2511. General Requirements**

	Circle the Appropriate Answer
1. Are all machines guarded to protect the operator and other people in the machine area from hazards such as those created by point of operation, ingoing nip points, rotating parts, flying chips, and sparks?	Y N N/A

	Circle the Appropriate Answer
2. Is the point of operation guarded in conformity with appropriate standards, if operation of machinery exposes individuals to injury? <i>Note: In the absence of applicable specific standards, guarding shall be so designed and constructed as to prevent the operator from having any part of his/her body in the danger zone during the operating cycle. Examples of cited violations include:</i> i. paper cutters had no finger guards; ii. a radial arm saw's blade protruded beyond the edge of the cutting table during its operating cycle; iii. bench and pedestal drills had no bit guards; and iv. lathes had no shields.	Y N N/A
3. Are guards attached to the machine when possible, and if that is not possible, attached elsewhere?	Y N N/A
4. If hand tools are used for placing or removing material, are they designed to be easily handled without a need to place hands in a danger zone? <i>Note: Such tools are not a substitute for guarding. They can only be used as supplemental protection.</i>	Y N N/A
5. Are all revolving drums, barrels, and containers guarded by an enclosure that is interlocked so that containers cannot revolve unless the enclosure is in place?	Y N N/A
6. Are all fans less than 7 feet from the floor equipped with guards that have openings no larger than 1/2 inch? <i>Note: Examples of cited violations include:</i> i. exhaust fan blades and floor fans were not provided with protective guards; ii. a portable table fan had a blade guard whose openings were approximately 1 inch in width; and iii. a guard was broken creating a hole approximately 4" x 2".	Y N N/A
7. Is all machinery designed for a fixed location securely anchored to prevent "walking" or "moving"?	Y N N/A
8. Are all machines constructed, installed and maintained as to be free from excessive vibration or play?	Y N N/A
9. Are all machines and equipment requiring the presence of an operator not left unattended while in operation or still in motion?	Y N N/A
10. Are all machines provided with a power cutoff switch that can be reached from the operating position?	Y N N/A
11. Is all fixed motorized machinery equipped with a magnetic-type switch designed to prevent automatic restarting of machinery when power is restored after a power failure or electrical cutoff?	Y N N/A
12. Are all machine operating controls easily reachable from the standard operating position and away from any hazardous point of operation?	Y N N/A
13. Are all electrically powered machines provided with a positive means for rendering the motor starting controls inoperative while repairs or tool changes are being made?	Y N N/A

	Circle the Appropriate Answer
14. Is your shop or lab equipped with two or more push-type emergency cut-out switches, provided at appropriate locations for each (maximum) 1,000 square feet of shop floor areas, for de-energizing the electrical supply to non-portable machinery? <i>Note: The switch must have a clear unobstructed access of at least 36 inches. In addition, the reset of the switch must be key operated.</i>	Y N N/A
15. Are all power tools and machines which generate dust connected to a dust collection system?	Y N N/A
16. If required in your state, are dust collection systems permitted by the appropriate state agency?	Y N N/A

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

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### §2513. Control of Hazardous Energy Sources (Lockout/Tagout)

#### A. General Energy Control

	Circle the Appropriate Answer
1. Does the program require that all hazardous energy sources be isolated, locked or tagged, and otherwise disabled before anyone performs any activity where the unexpected energization, startup, or release of stored energy could occur and cause injury?	Y N N/A
2. Have procedures been developed, documented, and implemented for the control of hazardous energy when working with such equipment?	Y N N/A
3. Do the procedures clearly outline the scope, purpose, responsibility, authorization, rules, and techniques to be applied to the control of hazardous energy, and measures to enforce compliance?	Y N N/A
4. Do procedures exist for shutting down, isolating, blocking, and securing (locks and tags) energy?	Y N N/A
5. Do procedures exist and is someone assigned responsibility for removing and transferring locks and tags?	Y N N/A

#### B. Protective Materials and Hardware

	Circle the Appropriate Answer
1. Are locks, tags, chains, adapter pins, or other hardware available for securing or blocking energy sources?	Y N N/A
2. Are these devices standardized in either color, shape, size, or format?	Y N N/A
3. Do these devices have a provision for identifying the person applying the device?	Y N N/A

	Circle the Appropriate Answer
4. Do tagout devices or danger tags warn against hazardous conditions if the equipment is re-energized? <i>Note: Acceptable wording includes Do Not Open, Do Not Start, Do Not Close and Do Not Energize</i>	Y N N/A

C. Inspection

	Circle the Appropriate Answer
1. Are inspections conducted at least annually by an authorized person (other than the ones using the energy control procedures) to ensure control procedures are being implemented?	Y N N/A
2. Is each inspection certified by identifying: a. the machine or equipment on which the energy control procedure was being used; b. the date of the inspection; and c. the person performing the inspection?	Y N N/A

D. Training and Communication

	Circle the Appropriate Answer
1. Is training provided and documented to ensure that: a. the purpose and function of the energy control procedures are understood; and b. the knowledge and skills required for the safe application and removal of energy controls are acquired?	Y N N/A
2. Is this training repeated periodically when changes or deviations occur in the energy control procedure?	Y N N/A

E. Energy-Isolating Devices

	Circle the Appropriate Answer
1. Are all energy-isolated devices operated only by authorized persons or under the direct supervision of an authorized person?	Y N N/A

F. Notification of Employees

	Circle the Appropriate Answer
1. Are all employees notified of the application and removal of lockout and tagout controls whenever such controls directly affect their work activities?	Y N N/A

G. Application of Control

	Circle the Appropriate Answer
1. Does the application of energy control follow the sequence listed below? Step 1. Machine or equipment shutdown by authorized personnel. Step 2. Machine or Equipment Isolation. All energy-isolated devices that are needed shall be located and operated in a manner that isolates the machine or equipment from the energy source(s). Step 3. Lockout and Tagout Application i. Lockout devices shall be affixed in a manner that will hold the energy-isolating device in a safe or off position. ii. Tagout devices shall be affixed in a manner that clearly indicates that the operation or movement of energy isolating devices from the safe or off position is prohibited. iii. If a tag cannot be affixed directly to the energy isolating device, the tag shall be located as close as safely permissible to the device, in a position that will be immediately obvious to anyone operating the device. Step 4. Stored Energy. Following the application of lockout and tagout devices, all hazardous, stored, or residual energy shall be relieved, disconnected, restrained, or otherwise rendered safe. Step 5. Verification of Isolation. Before starting work on the isolated equipment or process, an authorized person must verify that isolation and de-energization of the machine or equipment has been accomplished.	Y N N/A
2. Has the work area been inspected before the removal of lockout and tagout devices?	Y N N/A
3. Has the lockout and tagout device been removed by the person who put it on? <i>Note: This rule has some limited exceptions.</i>	Y N N/A
4. Are outside servicing personnel informed of the lockout and tagout procedures before equipment is serviced?	Y N N/A

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:66 (January 2007).

§2515. Mechanical Power-Transmission Devices

A. Care of Equipment

	Circle the Appropriate Answer
1. Is all power-transmission equipment inspected every 60 days or less and kept in good working condition at all times?	Y N N/A

	Circle the Appropriate Answer
2. Are hangers inspected to make certain that all supporting bolts and screws are tight and that supports of hanger boxes are adjusted properly?	Y N N/A
3. Is machinery oiled wherever possible when not in motion?	Y N N/A
4. Do regular oilers wear tight fitting clothing?	Y N N/A

### B. Prime-Mover Guards

	Circle the Appropriate Answer
1. When exposed to contact, are flywheels guarded by an enclosure, guard rail, or toeboard?	Y N N/A
2. Are crank and connecting rods guarded when exposed to contact?	Y N N/A
3. Are tail rods or extension piston rods guarded?	Y N N/A

### C. Shafting

	Circle the Appropriate Answer
1. Is each continuous line of shafting secured against excessive end movement?	Y N N/A
2. Are inclined and vertical shafts (particularly inclined idler shafts) securely held in position against end-wise thrust?	Y N N/A
3. For horizontal shafting 7 feet or less above the floor or working platform, are all exposed parts protected by: <ul style="list-style-type: none"> <li>a. a stationary casing completely enclosing the shafting; or</li> <li>b. a trough enclosing the side and top, or sides and bottom of the shafting (as the location requires)?</li> </ul>	Y N N/A
4. Is shafting under bench machinery enclosed by: <ul style="list-style-type: none"> <li>a. stationary casing; or</li> <li>b. a trough at sides and top, or sides and bottom (as the location requires)?</li> </ul> <p><i>Note: The sides of the trough shall come within at least 6 inches of the underside of the table, or within 6 inches of the floor if shafting is near the floor. In every case, the sides of the trough shall extend at least 2 inches beyond the shafting or protuberance.</i></p>	Y N N/A
5. Is vertical or inclined shafting that is 7 feet or less from the floor or working platform (except maintenance runways) enclosed with a stationary casing?	Y N N/A
6. Do projecting shaft ends have a smooth edge and end?	Y N N/A
7. Are shaft ends that project more than one-half of the diameter of the shaft guarded by non-rotating caps or safety sleeves?	Y N N/A
8. Are unused keyways filled up or covered?	Y N N/A
9. Is shafting kept in alignment and free from rust and excess oil or grease?	Y N N/A

### D. Pulleys

	Circle the Appropriate Answer
1. Are pulleys 7 feet or less from the floor guarded?	Y N N/A
2. Are pulleys with cracks or pieces broken out of the rims taken out of service?	Y N N/A
3. Are pulleys kept in proper alignment to prevent belts from running off?	Y N N/A

### E. Belt, Rope, and Chain Drives

	Circle the Appropriate Answer
1. Are horizontal belts 7 feet or less from the floor level guarded?	Y N N/A
2. Are belts, lacings, and fasteners inspected and maintained in good repair?	Y N N/A

### F. Gears, Sprockets, and Chains

	Circle the Appropriate Answer
1. Are all gears fully guarded?	Y N N/A
2. Are all sprocket wheels and chains that are less than 7 feet above the floor or platform fully guarded?	Y N N/A
3. Are openings with hinged or sliding self-closing covers provided when frequent oiling must be done on gears, sprockets, and chains?	Y N N/A

### G. Keys, Set-Screws, and Other Projections

	Circle the Appropriate Answer
1. Are all projecting keys, set-screws, and other projections in revolving parts guarded by metal covers or made flush?	Y N N/A

### H. Collars and Couplings

	Circle the Appropriate Answer
1. Are shaft couplings constructed so they do not present hazards from bolts, nuts, set-screws, or revolving surfaces? <i>Note: Bolts, nuts, and set-screws are permitted if covered with safety sleeves.</i>	Y N N/A

### I. Bearings and Facilities for Oiling

	Circle the Appropriate Answer
1. Are all drip cups and pans securely fastened?	Y N N/A
2. Are bearings kept in alignment and properly adjusted?	Y N N/A

J. Guards

	Circle the Appropriate Answer
1. Are all metal guards free from burrs and sharp edges?	Y N N/A
2. Are all metal guards securely fastened to the floor or to frame of the machine?	Y N N/A
3. Are all guards rigidly braced every 3 feet or fractional part of their height to a fixed part of machinery or building structure?	Y N N/A

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**§2517. Abrasive Wheel Machinery**

A. General Requirements

	Circle the Appropriate Answer
1. Do grinding wheels fit freely on the spindle?	Y N N/A
2. Is forcing the grinding wheel on the spindle prohibited?	Y N N/A
3. Are all wheels closely inspected and sounded by the user (ring test) to make sure they have not been damaged before being mounted? <i>Note: Before mounting the wheel, make sure the spindle speed of the machine does not exceed the maximum operating speed marked on the wheel.</i>	Y N N/A
4. Is the spindle nut-tightened only enough to hold the wheel in place?	Y N N/A
5. Are all grinding wheel operators required to use eye protection?	Y N N/A
6. Are all contact surfaces of the wheel, blotters, and flanges flat and free of foreign material?	Y N N/A
7. When a bushing is used in the wheel hole, is it positioned so it does not exceed the width of the wheel nor make contact with the flange?	Y N N/A

B. Floor and Bench-Grinding Machines

	Circle the Appropriate Answer
1. Are all floor- and bench-mounted abrasive wheels equipped with safety guards?	Y N N/A
2. Does the safety guard cover the spindle end, nut, and flange projections?	Y N N/A
3. Is the maximum angular exposure of the grinding wheel and side 90° or less? Exception. When work requires contact with the wheel below the horizontal plane of the spindle, the angular exposure shall not exceed 125°. In either case, the exposure shall begin at not more than 65° above the horizontal plane of the spindle.	Y N N/A
4. Are work rests provided which are rigidly supported and readily adjustable?	Y N N/A
5. Are work rests kept adjusted closely to the wheel with a maximum opening of 1/8 inch to prevent the work from being jammed between the wheel and the rest?	Y N N/A

C. Portable and Other Abrasive Wheels

	Circle the Appropriate Answer
1. Do all machines with abrasive wheels greater than 2 inches in diameter have safety guards? <i>Note: Some abrasive wheels may be equipped with flanges.</i>	Y N N/A
2. Is the maximum exposure angle on all grinding wheels 180° or less?	Y N N/A
3. When in use, is the guard on right angle head or vertical portable grinders located between the operator and the wheel?	Y N N/A
4. Is the guard on right angle head or vertical portable grinders adjusted so that pieces of a broken wheel will be deflected away from the operator?	Y N N/A
5. Is the top half of the wheel on other grinders always enclosed?	Y N N/A

D. General Requirements for Guards

	Circle the Appropriate Answer
1. Are the guard and its fastenings strong enough to retain fragments of the wheel in case of breakage?	Y N N/A
2. Are guards mounted to maintain proper alignment with the wheel?	Y N N/A
3. Are tongue guards at the top of the wheel bench, floor stand, and cylindrical grinders adjusted to the decreasing diameter of the wheel so that the gap is never more than one-fourth of an inch?	Y N N/A

E. Ping Test

1. Wheels should be tapped gently with a light nonmetallic implement, such as the handle of a screwdriver for light wheels, or a wooden mallet for heavier wheels. Tap wheels about 45° each side of the vertical centerline and about 1 or 2 inches from the edge of the wheel. Then rotate the wheel 45° and repeat the test. A sound and undamaged wheel will give a clear metallic tone. If cracked, there will be a dead sound and not a clear "ring."

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**§2519. Woodworking Machinery**

A. General Machine Construction

	Circle the Appropriate Answer
1. Is each machine constructed and installed so it is free from sensible vibration when the largest tool is mounted and run at full speed?	Y N N/A
2. Are arbors and mandrels constructed to have firm and secure bearing and be free from play?	Y N N/A
3. Are saw frames on tables constructed with lugs cast on the frame or with equivalent means to limit the size of the saw blade that can be mounted? <i>Note: This is done to avoid overspeed caused by mounting a saw larger than intended.</i>	Y N N/A

	Circle the Appropriate Answer
4. Are circular saw fences constructed so they can be firmly secured to the table without changing their alignment with the saw?	Y N N/A
5. Are circular saw gauges constructed so they slide in grooves or tracts that are securely machined, to ensure exact alignment with the saw for all positions on the guide?	Y N N/A
6. Are hinged table saws constructed so that the table can be firmly secured in any position and in true alignment with the saw?	Y N N/A
7. Are all belts, pulleys, gears, shafts, and moving parts guarded?	Y N N/A
8. Is each woodworking machine provided with a disconnect switch that can be locked in the off position? <i>Note: The construction standard 1926-304 permits a disconnect switch that can be tagged in the off position.</i>	Y N N/A
9. Are the frames of all exposed non-current-carrying metal parts grounded?	Y N N/A
10. If the possibility exists of contacting part of a circular saw either beneath or behind the table, is that part covered with either an exhaust hood or guard?	Y N N/A
11. Are revolving double arbor saws fully guarded?	Y N N/A
12. Is the placement and mounting of saws, cutter heads, or tool collars on machine arbors accomplished when the tool has been accurately machined to size and shape to fit the arbor?	Y N N/A
13. Are combs (featherboards) or suitable higs provided at the shop or lab for use when a standard guard cannot be used, as in dadoing, grooving, joining, moulding, and rabbetting?	Y N N/A
14. Is the operating speed etched or otherwise permanently marked on all circular saws over 20 inches in diameter and operating at over 10,000 peripheral feet per minute?	Y N N/A
15. Do woodworking tools and machinery meet the American National Standards Institute (ANSI) codes for safety? <i>Note: A label on the equipment or manufacturer's literature might indicate that it meets ANSI's standards. If in doubt, the manufacturer of the equipment should be contacted.</i>	Y N N/A

### B. Machine Controls and Equipment

	Circle the Appropriate Answer
1. Are mechanical or electrical power controls provided on each machine to make it possible for the operator to cut off the power without leaving his or her operating position?	Y N N/A
2. On machines driven by belts and shaftings, is a locking type belt shifter or equivalent positive device used?	Y N N/A
3. Is each operating treadle protected against unexpected tripping?	Y N N/A
4. Are automatic feeding devices installed on machines whenever the nature of the work permits?	Y N N/A
5. Do feeder attachments have the feed rolls or other moving parts covered or guarded to protect the operator from hazardous points?	Y N N/A

### C. Inspection and Maintenance of Woodworking Machinery

	Circle the Appropriate Answer
1. Are dull, badly set, improperly filed, or improperly tensioned saws immediately removed from service before they cause the material to stick, jam, or kickback when it is fed to the saw at normal speed?	Y N N/A
2. Are all knives and cutting heads of woodworking machines kept sharp, properly adjusted, and firmly secured?	Y N N/A
3. Are all bearings well lubricated and kept free from lost motion?	Y N N/A
4. Are arbors of circular saws free from play?	Y N N/A
5. Is sharpening or tensioning of saw blades or cutters done only by people with demonstrated skill in this kind of work?	Y N N/A
6. Is cleanliness maintained around woodworking machinery so guards function properly and fire hazards are prevented in switch enclosures, bearings, and motors?	Y N N/A
7. Are all cracked saws immediately removed from service? <i>Note: Dispose of cracked saws in a manner that will prevent injury to anyone handling the discarded saws.</i>	Y N N/A
8. Is inserting wedges between the saw disk and the collar to form what is commonly known as a wobble saw prohibited?	Y N N/A
9. Are push sticks or blocks provided at workplaces in several sizes and types suitable for the work to be done?	Y N N/A

### D. Hand-Fed Ripsaws

	Circle the Appropriate Answer
1. Is each circular hand-fed ripsaw guarded by a hood that completely encloses the portions of the saw that are above the table and above the material being cut?	Y N N/A
2. Is the hood and mounting arranged so that the hood will automatically adjust itself to the thickness of the material and remain in contact with the material being cut? <i>Note: The hood should not offer considerable resistance to insertion of the material.</i>	Y N N/A
3. Is each hand-fed circular ripsaw furnished with a spreader to prevent material from squeezing the saw or being thrown back on the operator?	Y N N/A
4. Is each hand-fed circular ripsaw provided with non-kickback fingers or dogs located to oppose the thrust or tendency of the saw to pick up the material or throw it back toward the operator?	Y N N/A

### E. Hand-Fed Crosscut Table Saws

	Circle the Appropriate Answer
1. Is each hand-fed crosscut table saw guarded by a hood that completely encloses portions of the saw that are above the table and above the material being cut?	Y N N/A

	Circle the Appropriate Answer
2. Is the hood and mounting arranged so that the hood will automatically adjust itself to the thickness of and remain in contact with the material being cut? <i>Note: The hood should not offer considerable resistance to insertion of the material.</i>	Y N N/A

#### F. Circular Resaws

	Circle the Appropriate Answer
1. Is each circular resaw guarded by a hood or shield of metal above the saw?	Y N N/A
2. Does each circular resaw have a spreader fastened securely behind the saw?	Y N N/A

#### G. Self-Feed Circular Saws

	Circle the Appropriate Answer
1. Are feed rolls and saws protected by a hood or guard to prevent the hands of the operator from coming into contact with the in-running rolls at any point? <i>Note: The guard must be constructed of heavy material (preferable metal), and the bottom of the guard must come down to within 3/8 inch of the plane formed by the bottom or working surfaces of the feed rolls. This distance may be increased to 3/4 inch, provided the lead edge of the hood is extended to at least 5-1/2 inches in front of the nip point between the front roll and the work.</i>	Y N N/A
2. Is each self-feed circular rip saw provided with sectional non-kickback fingers for the full width of the feed rolls?	Y N N/A

#### H. Swing and Sliding Cutoff Saws

	Circle the Appropriate Answer
1. Are swing and sliding cutoff saws provided with a hood that completely encloses the upper half of the saw, the arbor end, and the point of operation of all positions of the saw? <i>Note: The hood must be constructed to protect the operator from flying splinters and broken saw teeth. It must automatically cover the lower portion of the blade so that when the saw is returned to the back of the table, the hood will rise on top of the fence, and when the saw is moved forward, the hood will drop on top of and remain in contact with the table or material being cut.</i>	Y N N/A
2. Are swing and sliding cutoff saws equipped with an effective device to return the saw automatically to the back of the table when released at any point of its travel?	Y N N/A

	Circle the Appropriate Answer
3. Are swing and sliding cutoff saws equipped with limit chains or other equally effective devices to prevent the saw from swinging beyond the front or back edges of the table, or beyond a forward position where the gullets of the lowest saw teeth rise above the table top?	Y N N/A
4. Are inverted swing cutoff saws provided with a hood that covers the part of the saw that protrudes above the table or above the material being cut? <i>Note: The hood must automatically adjust itself to the thickness of the material and remain in contact with the material being cut.</i>	Y N N/A

#### I. Radial Saws

	Circle the Appropriate Answer
1. Does the upper hood completely enclose the upper portion of the blade down to the point that will include the end of the saw arbor?	Y N N/A
2. Are the sides of the lower exposed portion of the blade guarded to the full diameter of the blade by a device that automatically adjusts itself to the thickness of the stock? Does this device remain in contact with the stock being cut to give maximum protection for the operation being performed?	Y N N/A
3. Are radial saws used for ripping provided with non-kickback fingers or dogs located on both sides of the saw to oppose the thrust or tendency of the saw to throw material back toward the operator?	Y N N/A
4. Is an adjustable stop provided that prevents the forward travel of the blade beyond the position necessary to complete the cut in repetitive operations?	Y N N/A
5. Is the installation designed so that the front end of the unit is slightly higher than the rear? (This design causes the cutting head to return gently to the starting position when released by the operator.) <i>Note: The cutting head should be fitted with an automatic return device.</i>	Y N N/A
6. Is the direction of saw rotation conspicuously marked on the hood?	Y N N/A
7. Is a permanent label (at least 1/2 inch by 3/4 inch) affixed to the rear of the guard at approximately the level of the arbor that reads as follows? <b>Danger: Do not rip or plow from this end.</b>	Y N N/A

#### J. Bandsaws and Band Resaws

	Circle the Appropriate Answer
1. Are all portions of the band saws and band resaws enclosed or guarded, except for the working portion of the blade between the bottom of the guide rolls and the table?	Y N N/A

	Circle the Appropriate Answer
2. Does a self-adjusting guard raise and lower the guide?	Y N N/A
3. Is each bandsaw machine provided with a tension control device to indicate the proper tension for the standard saws used on the machine?	Y N N/A
4. Are feed rolls of band resaws protected with a suitable guard to prevent the hands of the operator from coming in contact with the in-going rolls at any point?	Y N N/A

#### K. Jointers

	Circle the Appropriate Answer
1. Is each hand-fed planer or jointer with a horizontal head equipped with a cylindrical cutting head? <i>Note: The knife projection of the cylindrical cutting head cannot exceed 1/8 inch beyond the cylindrical body of the head.</i>	Y N N/A
2. Is the opening in the table kept as small as possible? <i>Note: The clearance between the edge of the rear table and the cutting head shall be 1/8 inch or less. The table throat opening shall not be more than 1 1/2 inches when tables are set or aligned with each other for a zero cut.</i>	Y N N/A
3. Does each hand-fed jointer with a horizontal cutting head have an automatic guard that covers all sections of the head on the working side of the fence or gauge?	Y N N/A
4. Does each wood jointer with a vertical head have either an exhaust hood or other guard arranged so it completely encloses the revolving head, except for a slot wide enough for the material to be jointed?	Y N N/A
5. Is the knife blade of jointers installed and adjusted so that it does not protrude more than 1/8 inch beyond the cylindrical body of the head?	Y N N/A

#### L. Tenoning Machines

	Circle the Appropriate Answer
1. Are feed chains and sprockets of double-end tenoning machines completely enclosed, except for the portion of chain used for conveying the stock?	Y N N/A
2. Are sprockets and chains at the rear ends of frames guarded at the sides by plates projecting beyond the edges of sprockets and lugs?	Y N N/A
3. If used on tenoning machines, are cutting heads and saws covered by metal guards? <i>Note: The guards must cover at least the unused part of the periphery of the cutting head. If the guard is made of sheet metal, the material used must be at least 1/16 inch thick, and if it is cast iron, it must be at least 3/16 inch thick.</i>	Y N N/A

	Circle the Appropriate Answer
4. If an exhaust system is used on a tenoning machine, is the guard part of the exhaust hood?	Y N N/A

#### M. Boring and Mortising Machines

	Circle the Appropriate Answer
1. Are safety-bit chucks with projecting-set screws prohibited?	Y N N/A
2. Are boring bits provided with a guard that encloses all portions of the bit and chuck above the material being worked?	Y N N/A
3. Is the top of the cutting chain and driving mechanism enclosed?	Y N N/A
4. When a counterweight is used, is one of the following (or equivalent means) used to prevent its dropping? a. It is bolted to the bar by a bolt passing through both bar and counterweight. b. A bolt is put through the extreme end of the bar. c. Where the counterweight does not encircle the bar, a safety chain is attached to it. d. Other types of counterweights are suspended by chain or wire rope and shall travel in a pipe (or other suitable enclosure) if they might fall and cause injury.	Y N N/A
5. Are universal joints on spindles of boring machines completely enclosed to prevent contact by the operator?	Y N N/A
6. Is each operating treadle covered by an inverted U-shaped metal guard, fastened to the floor, and of adequate size to prevent tripping?	Y N N/A

#### N. Wood Shapers and Similar Equipment

	Circle the Appropriate Answer
1. Is the cutting head of each wood shaper or hand-fed panel raiser (or other similar machine that is not automatically fed) enclosed with a cage or adjustable guard designed to keep the operator's hand away from the cutting edge?	Y N N/A

#### O. Planing, Molding, Sticking, and Matching Machines

	Circle the Appropriate Answer
1. Is each planing, molding, sticking, and matching machine equipped with a metal guard covering the cutting heads?	Y N N/A
2. When an exhaust system is used, does the guard form part of the exhaust hood? <i>Note: If the guard is constructed of sheet metal, the material used shall be at least 1/16 inch thick, and if it is constructed of cast iron, it must be at least 3/16 inch thick.</i>	Y N N/A

	Circle the Appropriate Answer
3. Are feed rolls guarded by a hood or suitable guard to prevent the hands of the operator from contacting the in-running rolls?	Y N N/A
4. Do the surfaces and planers (provided with the sectional infeed rolls) give sufficient feeding contact pressure on the stock thickness?	Y N N/A

P. Profile and Swing-Head Lathes and Wood Heel Turning Machines

	Circle the Appropriate Answer
1. Are the cutting heads of each profile and swing head lathe covered by a metal guard?	Y N N/A
2. Are cutting heads on wood-turning lathes covered as much as possible by hoods or shields?	Y N N/A
3. Do the following have hoods enclosing the cutter blades completely? (except at the contact points where the stock is being cut): a. shoe last and spoke lathes; b. doweling machines; c. wood heel-turning machines; and d. other automatic wood-turning lathes of the rotating knife type.	Y N N/A
4. Are lathes used for turning long pieces of wood stock held only between the two centers equipped with long, curved guards extending over the tops of the lathe? <i>Note: This is to prevent the work pieces from being thrown out of the machine if they become loose.</i>	Y N N/A
5. When an exhaust system is used, does the guard form part or all of the exhaust hood? <i>Note: If the guard is constructed of sheet metal, the material used must be at least 1/16 inch thick, and if it is constructed of cast iron, it must be at least 3/16 inch thick.</i>	Y N N/A

Q. Sanding Machines

	Circle the Appropriate Answer
1. Are the feed rolls of self-feeding sanding machines protected with a semi-cylindrical guard to prevent contact with the in-running rolls?	Y N N/A
2. Does the bottom guard come to within 3/8 inch of a plane formed by the bottom or contact face of the feed roll where it touches the stock?	Y N N/A
3. Is each drum-sanding machine equipped with an exhaust hood or other guard if no exhaust hood is required?	Y N N/A
4. Does each disk-sanding machine enclose the revolving disk (except for the portion of the disk above the table if a table is used)?	Y N N/A
5. Is each belt-sanding machine provided with guards at each nip point where the sanding belt runs onto a pulley?	Y N N/A

R. Veneer, Cutting and Wringers

	Circle the Appropriate Answer
1. Are veneer-slicer knives guarded at the front and ready to prevent contact with the knife edge?	Y N N/A
2. Do veneer clippers have automatic feeds, or are they provided with a guard that makes it impossible to place a finger or fingers under the knife while feeding or removing the stock?	Y N N/A
3. Are sockets on chain or slat-belt conveyors enclosed?	Y N N/A
4. Are hand and foot power guillotine veneer cutters provided with rods or plates or other satisfactory means, arranged on the feeding side so that the hands cannot reach the cutting edge of the knife while feeding or holding the stock in place?	Y N N/A
5. Is the operator required to make sure that the machine is clear and that other people are not in a hazardous position before starting or restarting the machine? (For example, when veneer slivers or rotary veneer-cutting machines have been shut down to insert logs or to make adjustments.)	Y N N/A

S. Miscellaneous Woodworking Machinery

	Circle the Appropriate Answer
1. Are the feed rolls of roll-type glue spreaders guarded by a semi-cylindrical guard? <i>Note: The bottom of the guard shall come to within 3/8 inch of a plane formed by the bottom or contact face of the feed roll where it touches the stock.</i>	Y N N/A
2. Is each point of operation for combination or universal woodworking machines guarded as required for such a tool in a separate machine?	Y N N/A

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:69 (January 2007).

**Subchapter C. Hazard Evaluation and Prioritization §2529. Relative Risk Factors**

A. Introduction

1. This part of the worksheet enables the instructor to examine each of the potential hazards (the "N" answers) that were identified in Subchapter B of this Chapter 25, Hazard Identification, and to assign it a value corresponding to its relative risk. Relative risk is usually defined in terms of three factors:

- a. severity
- b. frequency/probability; and
- c. exposure.

2. Each of the factors listed in Subparagraphs a-c is described in Subsections B-D.3 below, and the point values are provided for the corresponding degree of risk.

NOTE: The greater the risk, the higher the point value.

B. Severity. Consider the potential losses or destructive and disruptive consequences that are most likely to occur if any of the hazards that have been identified in Subchapter B of this Chapter 25, Hazard Identification, result in an actual incident. The following point values are suggested.

1. Four Points—Catastrophic:
  - a. loss of life;
  - b. permanent disability;
  - c. loss of entire facility;
  - d. permanent.
2. Three Points—Critical:
  - a. severe injury or illness with lost time;
  - b. major property damage;
  - c. no permanent disability or fatality;
  - d. interruption of activities for extended period of time.
3. Two Points—Marginal:
  - a. minor injury or illness;
  - b. minor property damage;
  - c. interruption of activities for more than one day.
4. One Point—Negligible:
  - a. probably no injury or illness;
  - b. no loss other than interruption of activities for a short period of time.

C. Frequency/Probability (Likelihood of Occurrence)

1. Consider the probability that a loss would occur. Ask yourself the following key questions.
  - a. How likely is it that things will go wrong as a result of the hazard that has been identified?
  - b. How often is the activity which creates the hazard performed?
  - c. How often is the hazard present?
2. Use the following point values.
  - a. Three Points—high probability of occurrence.
  - b. Two Points—moderate probability of occurrence.
  - c. One Point—low probability of occurrence.

D. Exposure. Consider the number of persons (students and faculty) who could be potentially affected by a worst case scenario caused by each of the potential hazards that have been identified. The following point values are suggested.

1. Three Points—many persons are affected frequently.
2. Two Points—a few persons are affected frequently.
3. One Point—a few persons are affected up to a few times per day.

E. Prioritization. Based on the analysis above, and using the hazard prioritization matrix below, prioritize the hazards identified in Subchapter B of this Chapter and evaluated in §2529.B-D.3.

1. Step One. List each of the hazardous conditions that were identified in Subchapter B of this Chapter 25 in the first column of the worksheet.
2. Step Two. Based on the criteria given above in §2529.B-D.3, assign a point value for each hazard in each of the three columns.
3. Step Three. Add up the point values, horizontally, for each of the hazards.
4. Step Four. Rearrange the hazards that were identified in descending order with the one having the highest total point value first, then the one with the next-highest point value; and so on.

Hazard Prioritization Matrix				
Hazard Identified	Severity	Probability	Exposure	Total Points

5. Step Five. A list has just been developed of the potentially hazardous conditions existing at the school facility based on their relative priority.

F. The items on the prioritized list with the highest point value will generally be those that are most serious, and should receive the greatest attention in terms of resources expended to eliminate it. As with all organizations, especially educational institutions, resources are not without limitations. There is a finite amount of money, time, and personnel available to solve these problems. By prioritizing the hazards and concentrating in order on those with the highest priority, concentration will be on the "worst first." This is the smart way to allocate limited resources. Even though instructors might not get all the way through the list, there will be the satisfaction and peace of mind that comes with dealing with the "really important" problems first.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:73 (January 2007).

**Subchapter D. Hazard Control Measures**  
**§2537. Control Categories**

A. This Subchapter D is to implement those control measures that will either eliminate or minimize hazards to the point where they will become acceptable. Also, these control measures will be applied to the most serious hazards first, then to the next-most-serious, and so on.

B. Most control measures fall into one or more of three categories. Paragraphs 1-3 below list the three types, and also outline the preferred sequence for applying the controls, as engineering controls are the most effective way to control a hazard, followed by administrative controls and finally by personal protective equipment. Many times, the most effective controls are a blending of all three types. They are:

1. engineering controls;
2. administrative controls; and
3. personal protective equipment (PPE).

C. Engineering Controls. Usually engineering controls are considered the most effective because, if they are successful, they eliminate the hazard, or remove it from the presence of people. When applying engineering controls, look for ways to:

1. design or redesign hazardous situations or equipment;
2. substitute safer materials in the place of dangerous ones; and
3. install guards or other protective devices.

D. Management/Administrative Controls. Management/administrative controls are next in line to be applied in the control of a hazard because they are the direct responsibility of the persons who are operating the facility. In an

educational environment, that means the administration and faculty. These controls involve such things as:

1. implementation and enforcement of safe policies and procedures;
2. limitations on the exposure to hazards through work assignments, number of persons involved in an activity, etc.; and
3. similar approaches.

E. Personal Protective Equipment (PPE). The last approach to hazard control involves the use of PPE. This is because PPE does not eliminate the hazard but, rather, only establishes a barrier or shield between the hazard and the exposed person. If the exposed person does not have the correct type of PPE, or does not use it properly, then that person will be exposed to the full effect of the hazard.

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

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**Chapter 27. Walking, Working, Surfaces/Stairs/Railings Worksheet**

**Subchapter A. General Provisions**

**§2701. Worksheet Instructions**

A. Use this worksheet as a guide to conduct a survey of the instructional facilities. Answer each of the listed questions by circling the answer that applies to the condition at the facility. "Y" indicates "Yes," "N" indicates "No," and "N/A" indicates "Not Applicable." If any of the questions are answered "N" for "No," it is the sign of a condition that may indicate a possible hazard. For every "N" marked, write a brief description of the deficient condition observed in the space provided at the end of the worksheet.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:75 (January 2007).

**Subchapter B. Hazard Identification**

**§2711. Facilities**

A. Stairs

	Circle the Appropriate Answer
1. Are fixed stairs (rather than ladders or other means of access) provided where access to elevation is necessary on a daily or regular basis?	Y N N/A
2. Do fixed stairs have a minimum width of 22 inches?	Y N N/A
3. Are fixed stairs installed at angles to the horizontal between 30° and 50°?	Y N N/A
4. Are all treads reasonably slip-resistant with the front protruding edge of the tread of a non-slip finish?	Y N N/A
5. Do fixed stairs have a uniform rise height and tread width throughout the flight of stairs?	Y N N/A
6. Are stairway landing platforms no less than the width of the stairway and a minimum of 30 inches long measured in the direction of travel?	Y N N/A
7. Are standard railings provided on all open sides of exposed stairways and stair platforms?	Y N N/A
8. Is a vertical clearance above the stair tread to an overhead obstruction that is at least 7 feet measured from the edge of the tread?	Y N N/A

B. Classrooms, Lavatories, etc.

	Circle the Appropriate Answer
1. Are all changes in classroom use and alterations, repairs, construction, or installation of new equipment reviewed with the appropriate state and local agencies that have jurisdiction over school modifications?	Y N N/A
2. Is an electric solenoid key-operated gas shut-off switch installed on each gas supply line to your shop, lab or instructional area?	Y N N/A
3. Are classrooms kept clean and free from debris to the greatest extent practical given the types of activities being performed?	Y N N/A
4. Are waste materials that are prone to rotting placed in leak-proof receptacles with tight fitting covers and removed daily for disposal?	Y N N/A
5. Are classrooms maintained, as far as reasonably practicable, to prevent the entrance or harborage of rodents, insects, and other vermin?	Y N N/A
6. Is water available that is suitable for drinking, personal hygiene, food preparation or cleaning?	Y N N/A
7. Are all non-drinking water outlets clearly marked as such?	Y N N/A
8. Are lavatories equipped with hot and cold running water, hand soap, and towels or driers?	Y N N/A
9. Where showers are required, are soap, hot and cold running water through a common discharge line, and individual towels provided?	Y N N/A
10. Is the consumption of food and beverages prohibited in or near toilet rooms or areas containing toxic materials?	Y N N/A
11. Is storage of food or beverages prohibited in toilet rooms or in an area exposed to a toxic material?	Y N N/A
12. Where employees are required to wear protective clothing, are change rooms provided with storage facilities for street clothes and separate storage facilities for the protective clothing?	Y N N/A
13. Is material stored so as not to create a hazard? <i>Note: Bags, containers, bundles, etc., stored in tiers must be stacked, blocked, interlocked, and limited in height so that they are stable and secured against sliding and collapse.</i>	Y N N/A
14. Are storage areas kept free from hazards that may cause tripping, fire, explosion, or pest harborage?	Y N N/A
15. Is sufficient safe clearance available through aisles, loading docks, turns, or doorways when mechanical handling equipment is used?	Y N N/A
16. Are head clearance warning signs provided where needed?	Y N N/A
17. Are all passageways, work areas, storerooms, and washing facilities kept orderly and sanitary? <i>Note: Examples of violations include floor areas strewn with lumber, tires, books, and boxes.</i>	Y N N/A
18. Are all floors kept clean and as far as possible dry?	Y N N/A
19. If floors are likely to get wet (such as in food preparation), are platforms, mats, or other dry standing places provided where practicable?	Y N N/A

	Circle the Appropriate Answer
20. Are floors kept free of protruding nails, splinters, holes, or loose boards?	Y N N/A
21. Are aisles and passageways kept clear and in good repair, with no obstructions that could create a hazard?	Y N N/A
22. Are covers and/or guardrails provided to protect people from falling into pits, tanks, vats, ditches, etc.?	Y N N/A
23. Are areas used for storage of materials marked with conspicuous signs that indicate the load-bearing capacity of the floor?	Y N N/A
24. Is the weight of stored materials assessed to ensure that it is below the load-bearing capacity of the floor?	Y N N/A

### C. Guarding Floors, Stairs and Other Openings

	Circle the Appropriate Answer
1. Is every skylight floor opening and hole guarded by a standard skylight screen or a fixed standard railing on all exposed sides?	Y N N/A
2. Are all floor openings to stairways, ladderways, hatchways, chutes, or manholes guarded by a standard railing and toeboard (on all sides except the entrance) or other protective cover?	Y N N/A
3. Is every temporary floor opening guarded by a standard railing or constantly attended by someone?	Y N N/A
4. Is every floor hole into which a person could fall guarded by either a standard railing and toeboard or floor hole cover?	Y N N/A
5. Is every floor hole into which a person could not fall (because of fixed machinery, equipment, or walls) protected by a cover that leaves no openings more than 1 inch wide? <i>Note: The cover must be securely held in place to prevent tools or materials from falling through.</i>	Y N N/A
6. Where doors or gates open directly onto a stairway, does a platform allow an effective width of at least 20 inches when the door swings open?	Y N N/A
7. Is every open-sided floor or platform that is 4 feet or more above the adjacent floor ground level guarded by a standard railing on all open sides?	Y N N/A
8. Is every runway guarded by a standard railing on all open sides that are 4 feet or more above the floor or ground level?	Y N N/A
9. Regardless of height, are all open-sided floors, walkways, platforms, or runways guarded with a standard railing and toeboard if they are above or adjacent to any dangerous equipment or operation?	Y N N/A
10. Is every open-sided floor or platform that is 4 feet or more above the adjacent floor ground level guarded by a toeboard if, beneath the open sides: a. people could pass; b. machinery could move; or c. equipment could create a hazard of falling materials?	Y N N/A
11. Is every wall opening from which the drop is more than 4 feet guarded with a standard railing or other barriers?	Y N N/A

	Circle the Appropriate Answer
12. Is every window wall opening guarded by slats, grill work, or standard railing if: a. it is at a stairway landing, floor, platform, or balcony from which the drop is more than 4 feet; and b. the bottom of the opening is less than 3 feet above the platform or landing?	Y N N/A
13. Is every flight of stairs with four or more risers equipped with standard stair railings or standard handrails as specified below? a. On stairways less than 44 inches wide with both sides enclosed, at least one handrail is required, preferably on the right hand side descending. b. On stairways less than 44 inches wide with one open side, at least one stair railing must be on the open side. c. On stairways less than 44 inches wide with both sides open, one stair railing is required on each side. d. On stairways more than 44 inches wide but less than 88 inches wide, one handrail on each enclosed side and one stair railing on each open side is required. e. On stairways 88 or more inches wide, one handrail on each enclosed side, one side railing on each open side, and one intermediate stair railing located approximately midway of the width is required.	Y N N/A
14. Where standard railings are provided, do they meet the following specifications? a. The rail must consist of a top rail at a height of 42 inches and a mid rail at approximately 21 inches. b. The top rail must be smooth surfaced throughout the length of the railing. It must be able to withstand a force of 200 pounds in any direction with a deflection of less than 2 inches.	Y N N/A
15. Are all stair railings between 30 and 34 inches from the top of the rail to the surface of the tread in line with the face of the riser at the forward edge of tread?	Y N N/A
16. If wooded railings are used for guardrails, are the posts at least 2 inch by 4 inch and spaced less than 6 feet apart? <i>Note: The top rail and intermediate rails must also be at least 2 inches by 4 inches stock.</i>	Y N N/A
17. If pipe railings are used, are posts and top and intermediate rails at least 1 1/2 inches nominal diameter with posts spaced less than 8 feet on centers?	Y N N/A
18. If structural steel is used for guardrails, are the posts and top and intermediate rails: a. at least 2 inches by 3/8 inch angle irons; or b. other metal shapes of equivalent bending strength with posts spaced not more than 8 feet on centers?	Y N N/A
19. Is the guardrail anchored and of such construction that it is capable of withstanding a load of at least 200 pounds applied in any direction at any point on the top rail?	Y N N/A
20. Are standard toeboards at least 4 inches in height provided at the floor of the guardrail?	Y N N/A
21. Are handrails constructed so that they can be easily grasped (i.e., rounded)?	Y N N/A

	Circle the Appropriate Answer
22. Are all handrails and railings provided with a clearance of at least 3 inches between the handrail or railing and any other object? <i>Note: A distance less than this would make it difficult to get a good grasp in an emergency.</i>	Y N N/A
23. Are skylight screens constructed so that they are capable of withstanding a load of at least 200 pounds applied perpendicularly to any area on the screen? <i>Note: Sometimes people get on the roof and fall through skylight screens that are not designed to prevent this type of fall.</i>	Y N N/A
24. Are wall opening barriers (rails, rollers, picket fences, and half doors) constructed and mounted so that the barrier is capable of withstanding a load of at least 200 pounds applied in any direction (except upward) at any point on the top rail or corresponding member?	Y N N/A

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:75 (January 2007).

**Subchapter C. Hazard Evaluation and Prioritization**

**§2721. Relative Risk Factors**

A. Introduction

1. This part of the worksheet enables the instructor to examine each of the potential hazards (the "N" answers) that were identified in Subchapter B of this Chapter 27, Hazard Identification, and to assign it a value corresponding to its relative risk. Relative risk is usually defined in terms of three factors:

- a. severity;
- b. frequency/probability; and
- c. exposure.

2. Each of the factors listed in Subparagraphs a-c is described in Subsections B-D.3 below, and the point values are provided for the corresponding degree of risk.

NOTE: The greater the risk, the higher the point value.

B. Severity. Consider the potential losses or destructive and disruptive consequences that are most likely to occur if any of the hazards that have been identified in Subchapter B of this Chapter 27, Hazard Identification, result in an actual incident. The following point values are suggested.

- 1. Four Points—Catastrophic:
  - a. loss of life;
  - b. permanent disability;
  - c. loss of entire facility;
  - d. permanent.
- 2. Three Points—Critical:
  - a. severe injury or illness with lost time;
  - b. major property damage;
  - c. no permanent disability or fatality;
  - d. interruption of activities for extended period of time.
- 3. Two Points—Marginal:
  - a. minor injury or illness;
  - b. minor property damage;
  - c. interruption of activities for more than one day.
- 4. One Point—Negligible:
  - a. probably no injury or illness;
  - b. no loss other than interruption of activities for a short period of time.

- C. Frequency/Probability (Likelihood of Occurrence)
  - 1. Consider the probability that a loss would occur. Ask yourself the following key questions.
    - a. How likely is it that things will go wrong as a result of the hazard that has been identified?
    - b. How often is the activity which creates the hazard performed?
    - c. How often is the hazard present?
  - 2. Use the following point values.
    - a. Three Points—high probability of occurrence.
    - b. Two Points—moderate probability of occurrence.
    - c. One Point—low probability of occurrence.
- D. Exposure. Consider the number of persons (students and faculty) who could be potentially affected by a worst case scenario caused by each of the potential hazards that have been identified. The following point values are suggested.

- 1. Three Points—many persons are affected frequently.
- 2. Two Points—a few persons are affected frequently.
- 3. One Point—a few persons are affected up to a few times per day.

E. Prioritization. Based on the analysis above, and using the hazard prioritization matrix below, prioritize the hazards identified in Subchapter B of this Chapter and evaluated in §2721.B-D.3.

- 1. Step One. List each of the hazardous conditions that were identified in Subchapter B of this Chapter 27 in the first column of the worksheet.
- 2. Step Two. Based on the criteria given above in §2721.B-D.3, assign a point value for each hazard in each of the three columns.
- 3. Step Three. Add up the point values, horizontally, for each of the hazards.
- 4. Step Four. Rearrange the hazards that were identified in descending order with the one having the highest total point value first, then the one with the next-highest point value; and so on.

Hazard Prioritization Matrix				
Hazard Identified	Severity	Probability	Exposure	Total Points

5. Step Five. A list has just been developed of the potentially hazardous conditions existing at the school facility based on their relative priority.

F. The items on the prioritized list with the highest point value will generally be those that are most serious, and should receive the greatest attention in terms of resources expended to eliminate it. As with all organizations, especially educational institutions, resources are not without limitations. There is a finite amount of money, time, and personnel available to solve these problems. By prioritizing the hazards and concentrating in order on those with the highest priority, concentration will be on the "worst first." This is the smart way to allocate limited resources. Even

though instructors might not get all the way through the list, there will be the satisfaction and peace of mind that comes with dealing with the "really important" problems first.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:77 (January 2007).

**Subchapter D. Hazard Control Measures**

**§2933. Control Categories**

A. This Subchapter D is to implement those control measures that will either eliminate or minimize hazards to the point where they will become acceptable. Also, these control measures will be applied to the most serious hazards first, then to the next-most-serious, and so on.

B. Most control measures fall into one or more of three categories. Paragraphs 1-3 below list the three types, and also outline the preferred sequence for applying the controls, as engineering controls are the most effective way to control a hazard, followed by administrative controls and finally by personal protective equipment. Many times, the most effective controls are a blending of all three types. They are:

1. engineering controls;
2. administrative controls; and
3. personal protective equipment (PPE).

C. Engineering Controls. Usually engineering controls are considered the most effective because, if they are successful, they eliminate the hazard, or remove it from the presence of people. When applying engineering controls, look for ways to:

1. design or redesign hazardous situations or equipment;
2. substitute safer materials in the place of dangerous ones; and
3. install guards or other protective devices.

D. Management/Administrative Controls. Management/administrative controls are next in line to be applied in the control of a hazard because they are the direct responsibility of the persons who are operating the facility. In an educational environment, that means the administration and faculty. These controls involve such things as:

1. implementation and enforcement of safe policies and procedures;
2. limitations on the exposure to hazards through work assignments, number of persons involved in an activity, etc.; and
3. similar approaches.

E. Personal Protective Equipment (PPE). The last approach to hazard control involves the use of PPE. This is because PPE does not eliminate the hazard but, rather, only establishes a barrier or shield between the hazard and the exposed person. If the exposed person does not have the correct type of PPE, or does not use it properly, then that person will be exposed to the full effect of the hazard.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:78 (January 2007).

**Chapter 29. Means of Egress/Escapes**

**Subchapter A. General Provisions**

**§2901. Worksheet Instructions**

A. Use this worksheet as a guide to conduct a survey of the instructional facilities. Answer each of the listed questions by circling the answer that applies to the condition

at the facility. "Y" indicates "Yes," "N" indicates "No," and "N/A" indicates "Not Applicable." If any of the questions are answered "N" for "No," it is the sign of a condition that may indicate a possible hazard. For every "N" marked, write a brief description of the deficient condition observed in the space provided at the end of the worksheet.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:78 (January 2007).

**Subchapter B. General**

**§2911. Self-Inspection**

**A. Checklist**

	<b>Circle the Appropriate Answer</b>
1. Are exits provided to permit the prompt escape of occupants in case of fire or other emergency?	Y N N/A
2. Is every exit, way of approach, and way to travel from the exit to the street continuously maintained and free of all obstructions or impediments? <i>Note: The following items, if they block fire exists, are examples of violations:</i> i. boxes of light tubes; ii. empty boxes; iii. a cart; iv. metal fence posts; v. lawnmowers; vi. steel racks; vii. wood; viii. tools; ix. scales; x. ball racks; xi. soccer balls; xii. stored equipment; xiii. machines on the floor; and xiv. tripping hazards such as electric cords, tools, lumber, and hoses.	Y N N/A
3. Are exits maintained so as to provide free and unobstructed egress or escape when the room is occupied? <i>Note: No locks, chains, or fastenings to prevent free escape from the inside are permitted.</i>	Y N N/A
4. Does every building or area have two exits if one exit could be blocked because of fire, smoke, or other emergency?	Y N N/A
5. Do exits discharge directly onto a street, yard, court, or other open space that gives safe access to a public way?	Y N N/A
6. Do exit doors swing in the direction of travel when an area is occupied by more than 50 people or where hazardous operations are conducted?	Y N N/A
7. Are all exit doors and paths of exit 28 inches or more in width? <i>Note: Examples of violations include a stack of wood restricting the exit to 14 inches, a space of only 17 inches between the desk and the wall, and a space of only 14 inches between desks.</i>	Y N N/A
8. Are means of egress or exit designed and maintained to provide adequate head room, with the ceiling height at least 7 1/2 feet and any projection from the ceiling more than 6 feet 8 inches from the floor?	Y N N/A
9. Is every exit clearly visible and the route to it conspicuously indicated so everyone readily knows the direction of escape from any point?	Y N N/A

	Circle the Appropriate Answer
10. In areas equipped for artificial illumination, do all exit paths have adequate and reliable illumination?	Y N N/A
11. Are exits prohibited through bathrooms or other rooms subject to locking?	Y N N/A
12. Is storage of flammable or combustible materials in exit corridors prohibited?	Y N N/A
13. Is the use of highly flammable furnishings or decorations prohibited?	Y N N/A

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:78 (January 2007).

**§2913. Exit Marking**

**A. Exit Signs**

	Circle the Appropriate Answer
1. Is access to exits marked by readily visible signs and arrows when the way to reach it is not immediately visible?	Y N N/A
2. Are doors, passage ways or stairways that are neither exits nor a way to an exit, and which can be mistaken for an exit, marked with a sign reading "Not An Exit" or similar designation? <i>Note: Other appropriate markings would be:</i> i. "To Basement"; ii. "To Storeroom"; iii. "To Linen Closet"; iv. etc.	Y N N/A
3. Are exit signs clearly visible, distinctive in color, and easily distinguished from decorations, interior finish, and other signs? <i>Note: The following are prohibited:</i> i. decorations, furnishings or equipment that impair the visibility of exit signs; and ii. any brightly illuminated sign, display, or object in or near the line of vision of the egress sign that detracts attention from the egress sign so that it is not noticeable.	Y N N/A
4. Is every exit sign illuminated by a reliable light source?	Y N N/A
5. In areas where reduction of normal illumination is permitted, are exit signs internally illuminated?	Y N N/A
6. Does every exit sign have the word "Exit" in plain legible letters not less than 6 inches high, with the principal strokes of letters not less than 3/4 inch wide?	Y N N/A

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:79 (January 2007).

**Subchapter C. Hazard Evaluation and Prioritization**

**§2923. Relative Risk Factors**

**A. Introduction**

1. This part of the worksheet enables the instructor to examine each of the potential hazards (the "N" answers) that were identified in Subchapter B of this Chapter 29, Hazard Identification, and to assign it a value corresponding to its

relative risk. Relative risk is usually defined in terms of three factors:

- a. severity;
- b. frequency/probability; and
- c. exposure.

2. Each of the factors listed in Subparagraphs a - c is described in Subsections B-D.3 below, and the point values are provided for the corresponding degree of risk.

NOTE: The greater the risk, the higher the point value.

B. Severity. Consider the potential losses or destructive and disruptive consequences that are most likely to occur if any of the hazards that have been identified in Subchapter B of this Chapter 29, Hazard Identification, result in an actual incident. The following point values are suggested.

1. Four Points—Catastrophic:

- a. loss of life;
- b. permanent disability;
- c. loss of entire facility;
- d. permanent.

2. Three Points—Critical:

- a. severe injury or illness with lost time;
- b. major property damage;
- c. no permanent disability or fatality;
- d. interruption of activities for extended period of time.

3. Two Points—Marginal:

- a. minor injury or illness;
- b. minor property damage;
- c. interruption of activities for more than one day.

4. One Point—Negligible:

- a. probably no injury or illness;
- b. no loss other than interruption of activities for a short period of time.

C. Frequency/Probability (Likelihood of Occurrence)

1. Consider the probability that a loss would occur. Ask yourself the following key questions.

- a. How likely is it that things will go wrong as a result of the hazard that has been identified?
- b. How often is the activity which creates the hazard performed?
- c. How often is the hazard present?

2. Use the following point values.

- a. Three Points—high probability of occurrence.
- b. Two Points—moderate probability of occurrence.
- c. One Point—low probability of occurrence.

D. Exposure. Consider the number of persons (students and faculty) who could be potentially affected by a worst case scenario caused by each of the potential hazards that have been identified. The following point values are suggested.

1. Three Points—many persons are affected frequently.

2. Two Points—a few persons are affected frequently.

3. One Point—a few persons are affected up to a few times per day.

E. Prioritization. Based on the analysis above, and using the hazard prioritization matrix below, prioritize the hazards identified in Subchapter B of this Chapter and evaluated in §2923.B-D.3.

1. Step One. List each of the hazardous conditions that were identified in Subchapter B of this Chapter 29 in the first column of the worksheet.

2. Step Two. Based on the criteria given above in §2923.B-D.3, assign a point value for each hazard in each of the three columns.

3. Step Three. Add up the point values, horizontally, for each of the hazards.

4. Step Four. Rearrange the hazards that were identified in descending order with the one having the highest total point value first, then the one with the next-highest point value; and so on.

Hazard Prioritization Matrix				
Hazard Identified	Severity	Probability	Exposure	Total Points

5. Step Five. A list has just been developed of the potentially hazardous conditions existing at the school facility based on their relative priority.

F. The items on the prioritized list with the highest point value will generally be those that are most serious, and should receive the greatest attention in terms of resources expended to eliminate it. As with all organizations, especially educational institutions, resources are not without limitations. There is a finite amount of money, time, and personnel available to solve these problems. By prioritizing the hazards and concentrating in order on those with the highest priority, concentration will be on the "worst first." This is the smart way to allocate limited resources. Even though instructors might not get all the way through the list, there will be the satisfaction and peace of mind that comes with dealing with the "really important" problems first.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:79 (January 2007).

**Subchapter D. Hazard Control Measures**

**§2937. Control Categories**

A. This Subchapter D is to implement those control measures that will either eliminate or minimize hazards to the point where they will become acceptable. Also, these control measures will be applied to the most serious hazards first, then to the next-most-serious, and so on.

B. Most control measures fall into one or more of three categories. Paragraphs 1-3 below list the three types, and also outline the preferred sequence for applying the controls, as engineering controls are the most effective way to control a hazard, followed by administrative controls and finally by personal protective equipment. Many times, the most effective controls are a blending of all three types. They are:

1. engineering controls;
2. administrative controls; and
3. personal protective equipment (PPE).

C. Engineering Controls. Usually engineering controls are considered the most effective because, if they are successful, they eliminate the hazard, or remove it from the

presence of people. When applying engineering controls, look for ways to:

1. design or redesign hazardous situations or equipment;
2. substitute safer materials in the place of dangerous ones; and
3. install guards or other protective devices.

D. Management/Administrative Controls. Management/administrative controls are next in line to be applied in the control of a hazard because they are the direct responsibility of the persons who are operating the facility. In an educational environment, that means the administration and faculty. These controls involve such things as:

1. implementation and enforcement of safe policies and procedures;
2. limitations on the exposure to hazards through work assignments, number of persons involved in an activity, etc.; and
3. similar approaches.

E. Personal Protective Equipment (PPE). The last approach to hazard control involves the use of PPE. This is because PPE does not eliminate the hazard but, rather, only establishes a barrier or shield between the hazard and the exposed person. If the exposed person does not have the correct type of PPE, or does not use it properly, then that person will be exposed to the full effect of the hazard.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:80 (January 2007).

**Chapter 31. Ergonomics Worksheet**

**Subchapter A. General Provisions**

**§3101. Worksheet Instructions**

A. Use this worksheet as a guide to conduct a survey of the instructional facilities. Answer each of the listed questions by circling the answer that applies to the condition at the facility. "Y" indicates "Yes," "N" indicates "No," and "N/A" indicates "Not Applicable." If any of the questions are answered "N" for "No," it is the sign of a condition that may indicate a possible hazard. For every "N" marked, write a brief description of the deficient condition observed in the space provided at the end of the worksheet.

B. Additional guidance material may be found in Appendix G, Ergonomics, in the Safety and Health Manual on the Louisiana Department of Education website (<http://www.doe.state.la.us/lde/index.html>).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:80 (January 2007).

**Subchapter B. Hazard Identification**

**§3111. Evaluation**

A. Physical Stress

	Circle the Appropriate Answer
1. Does the job require contact of fingers or wrist with sharp edges?	Y N N/A
2. Do hand tools or process equipment vibrate the worker's hands, arms, or whole body?	Y N N/A

B. Force

	Circle the Appropriate Answer
1. Does the job require more than 10 pounds of force?	Y N N/A
2. Does the job require using a pinch grip (between thumb and finger)?	Y N N/A
3. Are gloves used, increasing the force needed for motion of the fingers?	Y N N/A
4. Does the job require frequent heavy lifting (> 40 pounds, two hours per day)?	Y N N/A
5. Does the job require occasional very heavy lifting (> 50 pounds)?	Y N N/A
6. Does the job require handling items that are difficult to grasp?	Y N N/A

C. Posture

	Circle the Appropriate Answer
1. Does the job require flexion or extension (bending up or down) of the wrist?	Y N N/A
2. Does the job require deviating the wrist side to side (ulnar or radial deviation)?	Y N N/A
3. Is the worker seated while performing the job?	Y N N/A
4. Does the job require "clothes wringing" motion?	Y N N/A
5. Does the job require extended reaches beyond normal arm reach?	Y N N/A
6. Does the job require awkward lifts or carries that are: a. near the floor; b. above the shoulders; or c. far in front of the body?	Y N N/A
7. Does the job require exertion of pushing, pulling, lifting, or lowering forces in awkward positions to side, overhead, or at extended reaches?	Y N N/A
8. Do workers sit on the front edges of chairs?	Y N N/A
9. Is the worker required to maintain the same posture, either sitting or standing, all of the time?	Y N N/A

D. Workstation

	Circle the Appropriate Answer
1. Is the orientation of the work surface nonadjustable?	Y N N/A
2. Does the work surface appear to be too high or too low for many operators?	Y N N/A
3. Is the location of the tool nonadjustable?	Y N N/A
4. Does the job require handling oversized objects that require two-person lifting?	Y N N/A
5. Is there an absence of material handling aids, such as air hoists and scissors tables?	Y N N/A
6. Do workers attempt to modify their chairs or work surfaces by adding cushions or pads?	Y N N/A

E. Repetitiveness

	Circle the Appropriate Answer
1. Does the job require that one motion pattern be repeated at a high frequency?	Y N N/A
2. Is the cycle time for repetitive operations less than 30 seconds?	Y N N/A
3. Is the work pace rapid and not under the operator's control?	Y N N/A

F. Tool Design

	Circle the Appropriate Answer
1. Is the handle too large for the thumb and finger to slightly overlap around a closed grip?	Y N N/A
2. Is the span of the tool's handle less than 5 cm (2 inches)?	Y N N/A
3. Is the handle of the tool made of metal?	Y N N/A
4. Is the weight of the tool greater than 10 pounds?	Y N N/A
5. Are heavy tools lacking devices to suspend some of their weight?	Y N N/A
6. Does the use of the tool require flexion or extension of the wrist (bending up or down)?	Y N N/A
7. Does the tool require ulnar or radial deviation of the wrist (bending to either side)?	Y N N/A

G. Work Environment

	Circle the Appropriate Answer
1. Are housekeeping practices poor, e.g., aisles cluttered, waste on the floor?	Y N N/A
2. Are floors uneven or slippery?	Y N N/A
3. Does the job require frequent (daily) stair or ladder climbing?	Y N N/A
4. Do the work tasks contain significant visual components, requiring good lighting?	Y N N/A
5. Does the worker's eye have to move periodically from dark to light areas?	Y N N/A
6. Is the air temperature uncomfortably hot or cold?	Y N N/A

H. Computer Work Stations

	Circle the Appropriate Answer
1. Are Video Display Terminals (VDT) Stations arranged so that lighting does not reflect directly off the screen?	Y N N/A
2. Do the seat and backrest of the chair support comfortable posture permitting occasional variation in the sitting positions?	Y N N/A

	Circle the Appropriate Answer
3. Is the seat height adjustable so that the entire sole of the foot rests on the floor or a footrest, and the back of the knee is slightly higher than the seat of the chair?	Y N N/A
4. Is the backrest height adjustable?	Y N N/A
5. Is the backrest angle adjustable?	Y N N/A
6. Is the workstation adjusted so that the wrist is in a straight line, i.e., not bent up or down?	Y N N/A
7. Is the topmost line of the screen slightly below eye level?	Y N N/A
8. Can the screen position be tilted?	Y N N/A
9. Is the document holder positioned at the same height and at the same distance from the viewer as the screen?	Y N N/A
10. Is the work surface large enough to hold all needed reference material (at least 35 inches wide)?	Y N N/A
11. Can paper be easily and conveniently loaded into printers without the need for lifting heavy boxes in awkward postures?	Y N N/A
12. Does the screen have color, brightness, and contrast satisfactory with the operator?	Y N N/A
13. Does excessive illumination at the VDT produce glare or distortion of the screen or does low illumination make it difficult to read documents?	Y N N/A
14. Are characters on the screen clear and free of flicker or jitter?	Y N N/A
15. Is there adequate room under the work table to permit movement of operator's legs and footrest where necessary?	Y N N/A
16. Do task schedules allow the operator at least a 15 minute break period during each two-hour period?	Y N N/A

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:80 (January 2007).

### Subchapter C. Hazard Evaluation and Prioritization

#### §3121. Relative Risk Factors

##### A. Introduction

1. This part of the worksheet enables the instructor to examine each of the potential hazards (the "N" answers) that were identified in Subchapter B of this Chapter 31, Hazard Identification, and to assign it a value corresponding to its relative risk. Relative risk is usually defined in terms of three factors:

- severity;
- frequency/probability; and
- exposure.

2. Each of the factors listed in Subparagraphs a-c is described in Subsections B-D.3 below, and the point values are provided for the corresponding degree of risk.

NOTE: The greater the risk, the higher the point value.

B. Severity. Consider the potential losses or destructive and disruptive consequences that are most likely to occur if any of the hazards that have been identified in Subchapter B of this Chapter 31, Hazard Identification, result in an actual incident. The following point values are suggested.

- Four Points—Catastrophic:
  - loss of life;
  - permanent disability;
  - loss of entire facility;

- permanent.
- Three Points—Critical:
    - severe injury or illness with lost time;
    - major property damage;
    - no permanent disability or fatality;
    - interruption of activities for extended period of time.
  - Two Points—Marginal:
    - minor injury or illness;
    - minor property damage;
    - interruption of activities for more than one day.
  - One Point—Negligible:
    - probably no injury or illness;
    - no loss other than interruption of activities for a short period of time.

#### C. Frequency/Probability (Likelihood of Occurrence)

- Consider the probability that a loss would occur. Ask yourself the following key questions.
  - How likely is it that things will go wrong as a result of the hazard that has been identified?
  - How often is the activity which creates the hazard performed?
  - How often is the hazard present?
- Use the following point values.
  - Three Points—high probability of occurrence;
  - Two Points—moderate probability of occurrence;
  - One Point—low probability of occurrence.

D. Exposure. Consider the number of persons (students and faculty) who could be potentially affected by a worst case scenario caused by each of the potential hazards that have been identified. The following point values are suggested.

- Three Points—many persons are affected frequently;
- Two Points—a few persons are affected frequently;
- One Point—a few persons are affected up to a few times per day.

E. Prioritization. Based on the analysis above, and using the hazard prioritization matrix below, prioritize the hazards identified in Subchapter B of this Chapter and evaluated in §3121.B-D.3.

- Step One. List each of the hazardous conditions that were identified in Subchapter B of this Chapter 31 in the first column of the worksheet.
- Step Two. Based on the criteria given above in §3121.B-D.3, assign a point value for each hazard in each of the three columns.
- Step Three. Add up the point values, horizontally, for each of the hazards.
- Step Four. Rearrange the hazards that were identified in descending order with the one having the highest total point value first, then the one with the next-highest point value; and so on.

Hazard Prioritization Matrix				
Hazard Identified	Severity	Probability	Exposure	Total Points

5. Step Five. A list has just been developed of the potentially hazardous conditions existing at the school facility based on their relative priority.

F. The items on the prioritized list with the highest point value will generally be those that are most serious, and should receive the greatest attention in terms of resources expended to eliminate it. As with all organizations, especially educational institutions, resources are not without limitations. There is a finite amount of money, time, and personnel available to solve these problems. By prioritizing the hazards and concentrating in order on those with the highest priority, concentration will be on the "worst first." This is the smart way to allocate limited resources. Even though instructors might not get all the way through the list, there will be the satisfaction and peace of mind that comes with dealing with the "really important" problems first.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:82 (January 2007).

#### **Subchapter D. Hazard Control Measures**

##### **§3125. Control Categories**

A. This Subchapter D is to implement those control measures that will either eliminate or minimize hazards to the point where they will become acceptable. Also, these control measures will be applied to the most serious hazards first, then to the next-most-serious, and so on.

B. Most control measures fall into one or more of three categories. Paragraphs 1-3 below list the three types, and also outline the preferred sequence for applying the controls, as engineering controls are the most effective way to control a hazard, followed by administrative controls and finally by personal protective equipment. Many times, the most effective controls are a blending of all three types. They are:

1. engineering controls;
2. administrative controls; and
3. personal protective equipment (PPE).

C. Engineering Controls. Usually engineering controls are considered the most effective because, if they are successful, they eliminate the hazard, or remove it from the presence of people. When applying engineering controls, look for ways to:

1. design or redesign hazardous situations or equipment;
2. substitute safer materials in the place of dangerous ones; and
3. install guards or other protective devices.

D. Management/Administrative Controls. Management/administrative controls are next in line to be applied in the control of a hazard because they are the direct responsibility of the persons who are operating the facility. In an educational environment, that means the administration and faculty. These controls involve such things as:

1. implementation and enforcement of safe policies and procedures;
2. limitations on the exposure to hazards through work assignments, number of persons involved in an activity, etc.; and
3. similar approaches.

E. Personal Protective Equipment (PPE). The last approach to hazard control involves the use of PPE. This is because PPE does not eliminate the hazard but, rather, only

establishes a barrier or shield between the hazard and the exposed person. If the exposed person does not have the correct type of PPE, or does not use it properly, then that person will be exposed to the full effect of the hazard.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:83 (January 2007).

Weegie Peabody  
Executive Director

0701#013

#### **RULE**

#### **Student Financial Assistance Commission Office of Student Financial Assistance**

#### **Scholarship/Grant Programs—Application Deadline (LAC 28:IV.505)**

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1). (SG0775R)

#### **Title 28**

#### **EDUCATION**

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

#### **Chapter 5. Application; Application Deadlines, and Proof of Compliance**

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

A.1 - 3. ...

B. Deadline for Payment for the Academic Year (College) Immediately Following High School Graduation

1. Beginning with the 2007-2008 academic year (college), to be determined eligible for payment of TOPS awards for the academic year (college) immediately following the academic year (high school) of high school graduation, students must submit the initial FAFSA or on-line application so that it is received no later than the July 1 immediately following the academic year (high school) of graduation.

2. Beginning with the 2007-2008 academic year (college), students will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning with the academic year (college) immediately after the student's one year anniversary of high school graduation if their initial FAFSA or on-line application is received after the July 1 immediately following the academic year (high school) of high school graduation and no later than the final deadline set forth in Subsection C, below, and the student has met the requirements for continuing eligibility.

3. Examples

a. A 2006-2007 academic year (high school) high school graduate, who enrolls in the fall semester of 2007, will be eligible to receive the full benefits of a TOPS award beginning the fall semester of 2007 if his initial FAFSA or on-line application is received on or before July 1, 2007.

b. A 2006-2007 academic year (high school) high school graduate, who enrolls during the 2007-2008 academic

year, will be eligible to receive the full benefits of a TOPS award beginning the fall semester of 2008 if his initial FAFSA or On-Line Application is received after July 1, 2007 and no later than July 1, 2008, and if he has met the requirements for continuing eligibility.

C. Final Deadline for Full TOPS Award

1.a. Except as provided below, through the 2006-2007 academic year (college), in order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or the on-line application is July 1 immediately prior to the academic year (college) he first enrolls as a first-time freshman in an eligible college or university.

b. Beginning with the 2007-2008 academic year (college), in order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or on-line application is July 1 immediately prior to the academic year (college) immediately following the one year anniversary of high school graduation.

c.i. Students who graduated from high school during the 2003-2004 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during the 2004-2005 academic year (college) are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning:

(a). with the 2004-2005 academic year (college) if their initial FAFSA or on-line application was received no later than October 29, 2004;

(b). with the 2005-2006 academic year (college) if their initial FAFSA or on-line application was received after October 29, 2004, and no later than July 1, 2005, and, if the student enrolled as a full time student during the 2004-2005 academic year (college), the student has met the requirements for continuing eligibility.

ii. Students who graduated from high school during the 2003-2004 academic year (high school) and enrolled as a first-time freshman in an eligible college or university beginning the fall semester of 2005 are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning the fall semester of 2005 if their initial FAFSA or on-line application was received no later than July 1, 2005.

iii. Students who graduated from high school during the 2003-2004 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during either the 2004-2005 academic year (college) or fall semester of 2005 are eligible for a reduced TOPS award (See Subsection 505.D, below.) beginning with the fall semester of 2005, if their initial FAFSA or on-line application was received after July 1, 2005 and no later than October 31, 2005, and, if the student enrolled as a full time student during the 2004-2005 academic year (college), the student has met the requirements for continuing eligibility.

d.i. Students who graduated from high school during the 2004-2005 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during the 2005-2006 academic year (college) will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning:

(a). with the 2005-2006 academic year (college) if their initial FAFSA or on-line application is received no later than October 31, 2005;

(b). with the 2006-2007 academic year (college) if their initial FAFSA or on-line application is received after October 31, 2005, and no later than July 1, 2006, and, if the student enrolled as a full time student during the 2005-2006 academic year (college), the student met the requirements for continuing eligibility.

ii. Students who graduated from high school during the 2004-2005 academic year (high school) and enrolled as a first-time freshman in an eligible college or university beginning the fall semester of 2006 are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning the fall semester of 2006 if their initial FAFSA or on-line application was received no later than July 1, 2006.

iii. Students who graduated from high school during the 2004-2005 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during either the 2005-2006 academic year (college) or fall semester of 2006 are eligible for a reduced TOPS award (See Subsection 505.D, below.) beginning with the fall semester of 2006, if their initial FAFSA or on-line application was received after July 1, 2006, and no later than October 30, 2006, and, if the student enrolled as a full time student during the 2005-2006 academic year (college), the student met the requirements for continuing eligibility.

e.i. Students who graduate from high school during the 2005-2006 academic year (high school) and enroll as a first-time freshman in an eligible college or university during the 2006-2007 academic year (college) will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning:

(a). with the 2006-2007 academic year (college) if their initial FAFSA or on-line application is received no later than October 30, 2006;

(b). with the 2007-2008 academic year (college) if their initial FAFSA or on-line application is received after October 30, 2006, and no later than July 1, 2007, and, if the student enrolled as a full time student during the 2006-2007 academic year (college), the student met the requirements for continuing eligibility.

ii. Students who graduated from high school during the 2005-2006 academic year (high school) and enrolled as a first-time freshman in an eligible college or university beginning the fall semester of 2007 are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning the fall semester of 2007 if their initial FAFSA or on-line application was received no later than July 1, 2007.

iii. Students who graduate from high school during the 2005-2006 academic year (high school) and enroll as a first-time freshman in an eligible college or university during either the 2006-2007 academic year (college) or the fall semester of 2007 are eligible for a reduced TOPS award (See Subsection 505.D, below.) beginning with the fall semester of 2007, if their initial FAFSA or on-line application is received after July 1, 2007, and no later than October 29, 2007, and, if the student enrolled as a full time

student during the 2006-2007 academic year (college), the student met the requirements for continuing eligibility.

2. - 2.a. ...

b. Beginning with the 2005-2006 academic year (college), in order for a returning student to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of the student's initial FAFSA or the on-line application is the July 1 immediately following the academic year (college) he first enrolls as a full-time student in an eligible college or university.

3. Examples

a. A 2003-2004 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2004 or spring semester of 2005, will be eligible to receive the full benefits of a TOPS award beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received no later than July 1, 2004.

b. A 2003-2004 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2004 or spring semester of 2005, will be eligible for his full TOPS award beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received after July 1, 2004, but on or before October 29, 2004.

c. A 2003-2004 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2004 or spring semester of 2005, will be eligible for his full TOPS award beginning with the fall semester of 2005 if his initial FAFSA or on-line application is received after October 29, 2004, but on or before July 1, 2005, and if he has met the requirements for continuing eligibility.

d. A 2003-2004 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2005, will be eligible to receive the full benefits of a TOPS award if his initial FAFSA or on-line application is received no later than July 1, 2005.

e. A 2003-2004 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2005, will be eligible for a reduced TOPS award (See Subsection 505.D, below.) beginning with the fall semester of 2005 if his initial FAFSA or on-line application is received after July 1, 2005, but on or before October 31, 2005.

f. A 2003-2004 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2005, will not be eligible for a TOPS award if his initial FAFSA or on-line application is received after October 31, 2005.

g. A 2004-2005 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2005 or spring semester of 2006, will be eligible to receive the full benefits of a TOPS award beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received no later than July 1, 2005.

h. A 2004-2005 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2005 or spring semester of 2006, will be eligible for his full TOPS award

beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received after July 1, 2005, but on or before October 31, 2005.

i. A 2004-2005 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2005 or spring semester of 2006, will be eligible for his full TOPS award beginning with the fall semester of 2006 if his initial FAFSA or on-line application is received after October 31, 2005, but on or before July 1, 2006, and if he has met the requirements for continuing eligibility.

j. A 2004-2005 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2006, will be eligible to receive the full benefits of a TOPS award if his initial FAFSA or on-line application is received no later than July 1, 2006.

k. A 2004-2005 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2006, will be eligible for a reduced TOPS award (See Subsection 505.D, below.) beginning with the fall semester of 2006 if his initial FAFSA or on-line application is received after July 1, 2006, but on or before October 30, 2006.

l. A 2004-2005 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2006, will not be eligible for a TOPS award if his initial FAFSA or on-line application is received after October 30, 2006.

m. A 2005-2006 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2006 or spring semester of 2007, will be eligible to receive the full benefits of a TOPS award beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received no later than July 1, 2006.

n. A 2005-2006 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2006 or spring semester of 2007, will be eligible for his full TOPS award beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received after July 1, 2006, but on or before October 30, 2006.

o. A 2005-2006 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2006 or spring semester of 2007, will be eligible for his full TOPS award beginning with the fall semester of 2007 if his initial FAFSA or on-line application is received after October 30, 2006, but on or before July 1, 2007, and if he has met the requirements for continuing eligibility.

p. A 2005-2006 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2007, will be eligible to receive the full benefits of a TOPS award if his initial FAFSA or on-line application is received no later than July 1, 2007.

q. A 2005-2006 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2007, will be eligible for a reduced TOPS award (See Subsection 505.D, below.) beginning with the fall semester of 2007 if his initial

FAFSA or on-line application is received after July 1, 2007, but on or before October 29, 2007.

r. A 2005-2006 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2007, will not be eligible for a TOPS award if his initial FAFSA or on-line application is received after October 29, 2007.

s. A 2006-2007 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2007 or spring semester of 2008, will be eligible to receive the full benefits of a TOPS award beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received no later than July 1, 2007.

t. A 2006-2007 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2007 or spring semester of 2008, will be eligible to receive his full TOPS award beginning with the fall semester of 2008 if his initial FAFSA or on-line application is received after July 1, 2007, but on or before July 1, 2008, and if he has met the requirements for continuing eligibility.

u. A 2006-2007 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2008, will be eligible to receive the full benefits of a TOPS award if his initial FAFSA or on-line application is received no later than July 1, 2008.

v. A 2006-2007 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2008, will be eligible for a reduced TOPS award (See Subsection 505.D, below.) beginning with the fall semester of 2008 if his initial FAFSA or on-line application is received after July 1, 2008, but on or before October 29, 2008.

w. A 2006-2007 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2008, will not be eligible for a TOPS award if his initial FAFSA or on-line application is received after October 29, 2008.

x. A student, who enrolls for the first time as a full time student at an accredited out-of-state college and subsequently returns to Louisiana and enrolls as a full-time student in an eligible college or university for the fall semester of 2006, will be eligible for his TOPS award beginning with the fall semester of 2007 if his initial FAFSA or the on-line application is received no later than July 1, 2007.

4. - 5. ...

#### D. Final Deadlines for Reduced Awards

1. If an application for an initial award under this Chapter is received after the final deadline provided in §503.C above, but not later than 60 days after that deadline, the time period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

2. If an application for an initial award under this Chapter is received more than 60 days after the final deadline provided in §503.C above, but not later than 120 days after that deadline, the time period of eligibility for the award shall be reduced by two semesters or three quarters, or

an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

D.3 - G. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 30:2017 (September 2004), LR 31:37 (January 2005), LR 33:83 (January 2007).

George Badge Eldredge  
General Counsel

0701#030

### RULE

#### Student Financial Assistance Commission Office of Student Financial Assistance

#### Scholarship/Grant Programs—Higher Education (LAC 28:IV.301 and 1103)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).(SG0776R)

### Title 28 EDUCATION

#### Part IV. Student Financial Assistance

#### Higher Education Scholarship and Grant Programs Chapter 3. Definitions §301. Definitions

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

\*\*\*

*Average Award Amount (TOPS-Tech)*—is applicable to those students awarded the TOPS-Tech and TOPS Opportunity, Performance, and Honors Awards who attend LAICU colleges and universities and are enrolled in a vocational, technical education certificate or diploma program or non-academic undergraduate degree program, and is determined by dividing the total dollar value of awards, which are made to students enrolled in the same types of programs in the prior program year (non-academic program) at eligible public colleges and universities that do not offer academic degrees at the baccalaureate level, by the total number of students that received the awards. To ensure that the average award amount (TOPS Tech) is not reduced for students during program year (non-academic program) 2006-2007 because of the adverse affects of Hurricanes Katrina and Rita on student enrollment, the average award amount (TOPS Tech) for program year (non-academic program) 2006-2007 shall be the same as calculated for program year (non-academic program) 2005-2006.

\*\*\*

*Merit Ranking Formula*—a mathematical equation incorporating selected merit factors that is used to rank eligible applicants in the priority by which competitive scholarships are to be awarded. As of July 1, 1997, the TOPS Teacher Award and Rockefeller State Wildlife Scholarship

are the only programs in which applicants are competitively ranked. The following formulas for the merit ranking of scholarship applicants provide for the equating of scores for high school graduating seniors and college students.

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

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

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

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

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

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

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

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

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993 and 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), repromulgated LR 27:1842 (November 2001), amended LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330 and 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007).

## **Chapter 11. Rockefeller State Wildlife Scholarship**

### **§1103. Establishing Eligibility**

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

1. be a U.S. citizen or national or eligible noncitizen; and
2. be a resident of Louisiana, as defined in §301 for at least one year prior to July 1 of the award year; and

3. submit the completed Free Application for Federal Student Aid (FAFSA) or the Renewal FAFSA, whichever is applicable to the student, by final deadline set forth in §501.C or §505.F.; and

4. complete and submit such documentary evidence as may be required by LASFAC; and

5. not have a criminal conviction, except for misdemeanor traffic violations; and

6. agree that award proceeds will be used exclusively for educational expenses; and

7. be enrolled or accepted for enrollment as a full-time undergraduate or graduate student at a Louisiana public college or university majoring in forestry, wildlife or marine science, with the intent of obtaining a degree from a Louisiana public college or university offering a degree in one of the three specified fields; and

- 8.a. must have graduated from high school, and if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, have earned a minimum cumulative high school grade point average of at least 2.50 calculated on a 4.00 scale for all courses completed in grades 9 through 12, have taken the ACT or SAT and received test score results and, beginning with the 2006-2007 academic year (college), have an ACT Score of at least 20; or

- b. beginning with the 2006-2007 academic year (college), must be a qualified home study completer and, if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, achieve an ACT Score of at least 22; or

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:639 (April 1998), amended LR 24:1908 (October 1998), LR 27:1220 (August 2001), repromulgated LR 27:1859 (November 2001), amended LR 28:774 (April 2002), LR 29:125 (February 2003), LR 30:2020 (September 2004), LR 33:87 (January 2007).

George Badge Eldredge  
General Counsel

0701#029

**RULE**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division**

**Public Record Requests for Legal Documents  
(LAC 33:I.2001 and 2305)(OS074)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Office of the Secretary regulations, LAC 33:I.2001 and 2305 (Log #OS074).

This rule clarifies that regulations in LAC 33:I.Chapter 23 for public record requests apply to copies made as a direct result of suit for judicial review of an LDEQ decision (typically a permit decision). Suits for judicial review require preparation of an administrative record of decision by the Legal Affairs Division in accordance with LAC 33:I.Chapter 20. Once the administrative record of decision is compiled and indexed, a certified copy is prepared for filing with the court. Often, the person filing suit wants an additional copy of the record being filed for his own use. If an appeal to the First Circuit Court is taken, then an additional copy of the index and record must be filed with that court. All of these copies must be paid for, in accordance with state law. Clarifying that Chapter 23 applies to these records provides authority to charge for copies prepared for filing with a court at the reduced rate. The basis and rationale for this rule are to ensure compliance with state law when providing the public with copies of public records, including when copies are made for submission to a court.

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

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part I. Office of the Secretary**

**Subpart 1. Departmental Administrative Procedures**

**Chapter 20. Records of Decision for Judicial Review**

**§2001. Scope and Purpose**

A. ...

B. The copying, assembly, and lodging of a record of decision with a court of competent jurisdiction pursuant to an appeal or other request for judicial review of an agency decision or other department action shall be considered a public records request in accordance with LAC 33:I.Chapter 23.

1. The cost, in accordance with LAC 33:I.Chapter 23, of the preparation of a record of decision for lodging with the court shall be borne by the person seeking judicial review unless otherwise assigned by the court.

2. In the event of conflict between the requirements of LAC 33:I.Chapter 23 and this Chapter, the requirements of this Chapter shall apply.

C. These regulations do not apply to matters handled by the Department of State Civil Service, Division of Administrative Law.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2050.20.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:857 (May 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 33:88 (January 2007).

**Chapter 23. Procedures for Public Record Requests  
§2305. Standard Operating Procedures**

A. All requests for copies of public records, including discovery requests, subpoenas duces tecum for production of public records, and the preparation of a record of decision pursuant to LAC 33:I.Chapter 20, shall be made using LDEQ Form ISD-0005-01. A certification on LDEQ Form ISD-0005-02 shall be submitted with a request for free or reduced rate copies. Completed forms may be submitted in person, by mail, by facsimile, or by another approved method. No other form of request will be honored. Copies of the forms may be obtained through the department's website or from the department's custodian of records.

B. Payment shall be made in accordance with the rates established in this Chapter.

C. Advance payment is required, except for a request for an administrative record of decision required to be lodged with a court. Payment shall be made only by check or money order made payable to the Department of Environmental Quality. The department does not accept cash.

D. In order to ensure the preservation of department records, no records shall leave the premises, whether accompanied by agency personnel or otherwise.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 29:702 (May 2003), amended by the Office of Environmental Assessment, LR 30:2020 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:88 (January 2007).

Herman Robinson, CPM  
Executive Counsel

0701#063

**RULE**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division**

**State Manifest Requirements  
(LAC 33:V.1107 and 5136)(HW093)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.1107 and 5136 (Log #HW093).

This rule removes state hazardous waste manifest requirements that are no longer valid. A new federally-mandated manifest rule that supersedes the state requirements became effective on September 5, 2006. The EPA rule was adopted by the department in May 2006. This rule cleans up state requirements remaining in the

regulations due to the delayed effective date, including the fee. This rule is required for state RCRA program compliance. The basis and rationale for this rule are to mirror the federal regulations.

This 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 11. Generators**

#### **Subchapter A. General**

#### **§1107. The Manifest System**

##### **A. General Requirements**

1. - 7. ...

8. The requirements of this Chapter and LAC 33:V.1109.C do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding LAC 33:V.1301.A, the generator or transporter must comply with the requirements for transporters set forth in LAC 33:V.1315 and 1317 in the event of a discharge of hazardous waste on a public or private right-of-way.

##### **B. Required Information**

1. The manifest must contain all of the following information before being issued:

a. the name, physical address, telephone number, and active EPA identification number of the generator;

b. the name, physical address, telephone number, and active EPA identification number of each transporter;

c. the name, physical address, telephone number, and active EPA identification number of the designated facility;

d. the description of the waste(s) (e.g., proper shipping name, EPA hazardous waste number, etc.) required by Hazardous Materials regulations of the Louisiana Department of Public Safety and Corrections in LAC 33:V.Subpart 2.Chapter 101; and

e. the total quantity of each hazardous waste in tons, cubic yards, pounds, or gallons (liquids only), and the type, including but not limited to, metal drums, barrels, kegs, fiberboard or plastic drums, cargo tanks, tank trucks, dump trucks, metal boxes, cartons, cases, burlap bags, paper bags, plastic bags, wooden drums, portable tanks, tank cars, cylinders, wooden boxes, and fiber or plastic boxes, and number of containers as loaded into or onto the transport vehicle. If the weight is unknown, the volume and estimated weight shall be provided.

B.2. - E.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR

18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:266, 267 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), LR 27:42 (January 2001), LR 27:709 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006), LR 33:89 (January 2007).

### **Chapter 51. Fee Schedules**

#### **§5136. Manifest Form Fee**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:267 (March 1995), repealed by the Office of the Secretary, Legal Affairs Division, LR 33:89 (January 2007).

Herman Robinson, CPM  
Executive Counsel

0701#062

### **RULE**

#### **Department of Environmental Quality Office of the Secretary Legal Affairs Division**

#### **Waste Tire Fee Exemption for Salvage Yards (LAC 33:VII.10505, 10519, 10521, and 10533)(SW042)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Solid Waste regulations, LAC 33:VII.10505, 10519, 10521, and 10533 (Log #SW042).

This rule establishes an exemption from the waste tire fee levied pursuant to R.S. 30:2413(A)(8) for tires salvaged from Louisiana-titled vehicles and sold by scrap or salvage yards. Act 821 of the 2006 Regular Session of the Louisiana Legislature provides for this exemption for the period of July 1, 2006 through June 30, 2008. These regulations provide guidance on which facilities qualify as a scrap or salvage yard and the recordkeeping requirements in order to qualify for the exemption. The basis and rationale for the rule are to implement Act 821 and to promote best management practices for the waste tire program in the state.

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. ...

\* \* \*

*Qualified Scrap or Salvage Yard*—any facility that is required to be licensed pursuant to R.S. 32:752.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000), LR 27:829 (June 2001), LR 27:2226 (December 2001), LR 28:1953 (September 2002), LR 29:2779 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3158 (December 2005), LR 33:89 (January 2007).

**§10519. Standards and Responsibilities of Generators of Waste Tires**

A. - B. ...

C. Each tire dealer, other than qualified scrap or salvage yard tire dealers selling tires salvaged from a Louisiana-titled vehicle, doing business in the state of Louisiana shall be responsible for the collection of the \$2 waste tire fee upon the sale of each passenger/light truck tire, \$5 waste tire fee upon the sale of each medium truck tire, and \$10 waste tire fee upon the sale of each off-road tire. For recapped or retreaded tires, a waste tire fee of \$1.25 shall be collected upon the sale of each recapped or retreaded tire. *Tire dealer* includes any dealer selling tires in Louisiana, other than qualified scrap or salvage yard tire dealers selling tires salvaged from a Louisiana-titled vehicle. Qualified scrap or salvage yard tire dealers are only exempt on tires salvaged from Louisiana-titled vehicles through June 30, 2008. Any new or used tires sold by qualified scrap or salvage yard tire dealers that are not salvaged from Louisiana-titled vehicles shall have the appropriate fees collected upon the sale.

D. Each dealer of passenger/light truck tires, medium truck tires, or off-road tires shall remit all waste tire fees collected as required by LAC 33:VII.10535.B and C to the department on a monthly basis on or before the twentieth day following the month during which the fees were collected. The fees shall be remitted to the Office of Management and Finance, Financial Services Division. Each such dealer shall also submit a Monthly Waste Tire Fee Report (Form WT02, available from the Office of Management and Finance, Financial Services Division), to the Office of Management and Finance, Financial Services Division, on or before the twentieth day of each month for the previous month's activity, including months in which no fees were collected. Each tire dealer required to make a report and remit the fee imposed by this Section shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each such dealer shall maintain a complete record of the quantity of tires sold, together with tire sales invoices, purchase invoices, inventory records, and copies of each Monthly Waste Tire Fee Report for a period of no less than three years. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

E. - E.1. ...

2. "All Louisiana tire dealers, other than qualified scrap or salvage yard tire dealers selling tires salvaged from a Louisiana-titled vehicle, are required to collect a waste tire cleanup and recycling fee of \$2 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire, upon sale of each tire. These fees shall also be collected upon replacement of all recall and adjustment tires. Tire fee categories are defined in the Waste Tire Regulations. No fee shall be collected on tires weighing more than 500 pounds or solid tires. This fee must be collected whether or not the purchaser retains the waste tires. Tire dealers must accept from the purchaser, at the time of sale, one waste tire for every tire sold, unless the purchaser elects to retain the waste tire."

3. "Qualified scrap or salvage yard tire dealers are only exempt on tires salvaged from Louisiana-titled vehicles through June 30, 2008. Any new or used tires sold by qualified scrap or salvage yard tire dealers that are not salvaged from Louisiana-titled vehicles shall have the appropriate fees collected upon the sale."

F. - N. ...

O. All tire wholesalers shall keep a record of all tire sales made in Louisiana. These records shall contain the name and address of the purchaser, the date of the purchase, the number of tires purchased, and the type and size of each tire purchased. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

P. All generators of waste tires (e.g., new tire dealers, used tire dealers, qualified scrap or salvage yards, and recappers) shall maintain a complete record of purchase invoices, inventory records, and sales invoices for a period of no less than three years. Qualified scrap or salvage yard tire dealers shall make available to the administrative authority the register of business transactions as required by R.S. 32:757(A), and also maintain a record of the number of tires recovered from Louisiana-titled vehicles, which tires are resold. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours. Qualified scrap or salvage yard tire dealers are only exempt on tires salvaged from Louisiana-titled vehicles through June 30, 2008. Any new or used tires sold by qualified scrap or salvage yard tire dealers that are not salvaged from Louisiana-titled vehicles shall have the appropriate fees collected upon the sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001), LR 28:1953 (September 2002), LR 29:1818 (September 2003), LR 29:2780 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005), LR 33:90 (January 2007).

**§10521. Standards and Responsibilities of Motor Vehicle Dealers**

A. - B. ...

C. Motor vehicle dealers shall remit all waste tire fees collected as required by LAC 33:VII.10535.B and C to the department on a monthly basis on or before the twentieth day following the month during which the fees were collected. The fees shall be remitted to the Office of Management and Finance, Financial Services Division. Each such dealer shall also submit a Monthly Waste Tire Fee Report (Form WT02, available from the Office of Management and Finance, Financial Services Division) to the Office of Management and Finance, Financial Services Division, on or before the twentieth day of each month for the previous month's activity, including months in which no fees were collected. Each motor vehicle dealer is required to make a report and remit the fee imposed by this Section and shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each such dealer shall maintain a complete record of the quantity of vehicles sold, together with vehicle purchase and sales invoices, and inventory records, for a period of no less than three years. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

D. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1324 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:91 (January 2007).

**§10533. Manifest System**

A. - C. ...

D. Completed manifests shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:831 (June 2001), LR 27:2228 (December 2001), LR 29:2780 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:91 (January 2007).

Herman Robinson, CPM  
Executive Counsel

0701#064

**RULE**

**Department of Health and Hospitals  
Board of Medical Examiners**

**Emergency Temporary Permits  
(LAC 46:XLV.412)**

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., the Louisiana Medical Practice Act, R.S. 37:1270(B) and 37:1275, the Louisiana

Health Emergency Powers Act, R.S. 29:769(E), as amended by Act 207 of the Regular Session of Louisiana Legislature, and as the Louisiana State Board of Medical Examiners (the "board") is authorized with respect to the practice in this state: as a physician pursuant to R.S. 37:1261-1291; as an athletic trainer pursuant to R.S. 37:3301 through 3312; as a clinical exercise physiologist pursuant to R.S. 37:3421 through 3433; as a clinical laboratory scientist pursuant to R.S. 37:1311 through 1329; as a midwife pursuant to R.S. 37:3240 through 3257; as an occupational therapist or occupational therapy assistant pursuant to R.S. 37:3001 through 3014; as a perfusionist pursuant to R.S. 37:1331 through 37:1343; as a physician assistant pursuant to R.S. 37:1360.21 through 1360.38; as a podiatrist pursuant to R.S. 37:611 through 628; as a polysomnographic technologist or polysomnographic technician pursuant to R.S. 37:2861 through 2870; as a private radiological technologist pursuant to R.S. 37:1292; or as a respiratory therapist or respiratory therapy assistant pursuant to R.S. 37:3351 through 3361, the board has adopted LAC Title 46:XLV, Subpart 2, Chapter 3, Subchapter H, §412.

The Rule creates and details the process whereby which the board may issue emergency temporary permits to physicians and allied health care practitioners, who hold a current, unrestricted license or other authority to practice their profession in another state, to provide emergency medical services in Louisiana during a public health emergency, as declared by the governor of this state, and thereafter for such period as the Louisiana Department of Health and Hospitals deems the need for such services continues to exist.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLV. Medical Professions**

**Subpart 2. Licensure and Certification**

**Chapter 3. Physicians**

**Subchapter H. Restricted Licensure, Permits**

**§412. Emergency Temporary Permits**

A. As used in this Section, the following terms shall have the following meanings.

*Allied Health Care Practitioner*—an individual, other than a physician, authorized by the board to practice in this state as an athletic trainer pursuant to R.S. 37:3301 through 3312; as a clinical exercise physiologist pursuant to R.S. 37:3421 through 3433; as a clinical laboratory scientist pursuant to R.S. 37:1311 through 1329; as a midwife pursuant to R.S. 37:3240 through 3257; as an occupational therapist or occupational therapy assistant pursuant to R.S. 37:3001 through 3014; as a perfusionist pursuant to R.S. 37:1331 through 37:1343; as a physician assistant pursuant to R.S. 37:1360.21 through 1360.38; as a podiatrist pursuant to R.S. 37:611 through 628; as a polysomnographic technologist or polysomnographic technician pursuant to R.S. 37:2861 through 2870; as a private radiological technologist pursuant to R.S. 37:1292; or as a respiratory therapist or respiratory therapy assistant pursuant to R.S. 37:3351 through 3361.

*Board*—the Louisiana State Board of Medical Examiners established pursuant to R.S. 37:1263.

*DHH*—the Louisiana Department of Health and Hospitals or its successor in title.

*Physician*—an individual authorized by the board to practice medicine in this state, pursuant to R.S. 37:1261-1291.

B. The board may issue an emergency temporary permit to an individual to practice as a physician or allied health care practitioner, valid for a period of not more than 60 days, to provide voluntary, gratuitous medical services in this state during a public health emergency, and for such periods thereafter as DHH shall deem the need for emergency services to continue to exist, at sites specified by DHH or approved by the board, provided such individual:

1. holds a current, unrestricted license in good standing issued by the licensing authority of another state to practice the profession for which the permit is sought; and

2. presents or causes to be presented to the board in advance of providing medical services:

a. indisputable personal identification;

b. a copy of his or her professional license or other information deemed satisfactory by the board on which to verify out-of-state licensure;

c. a completed application and/or such information as may be required by the board; and

d. as to an allied health care practitioner required by the laws of this state to practice under physician supervision, designation of a physician who will serve in such capacity.

C. An emergency temporary permit may be issued upon such terms, conditions, limitations or restrictions as to time, place, nature, and scope of practice as are, in the judgment of the board, deemed necessary or appropriate to its responsibilities under law.

D. The board may, in its discretion, issue a permit under this Section to an individual to practice as a physician or allied health care practitioner who provides medical services other than on a gratuitous basis, and/or at sites other than those specified by DHH or approved by the board. The board may also issue a permit to an individual who satisfies the provisions of R.S. 29:735.I.

E. A physician or allied health care practitioner shall visibly display a permit issued under this Section, or such other identifying information as the board may specify, in plain view on his or her person at all times while exercising the privileges of such permit.

F. An emergency temporary permit entitles the holder to engage in the practice of his profession in the state of Louisiana only for the period specified by such permit and creates no right or entitlement to licensing, registration, certification or renewal of the permit after its expiration.

G. A permit issued under this Section shall expire and become null and void on the earlier of:

1. 60 days from the date on which it was issued;

2. a date specified on the permit less than 60 days from the date of issuance; or

3. the date that the term of voluntary service is terminated.

H. The board may, in its discretion, extend or renew an expired emergency temporary permit for one or two additional 60-day periods provided all conditions prerequisite to original issuance are satisfied.

I. Following termination of a public health emergency the board may, in its discretion, issue, extend or renew a permit under this Section during such period as DHH shall deem the need for emergency services continues to exist.

J. In the event of a conflict between the provisions of this Section respecting emergency temporary permits and those contained in any Chapter administered by the board respecting an allied health care practitioner, the provisions of this Section shall govern.

K. If any rule, Section, provision or item of this Chapter or the application thereof is held to be invalid, such invalidity shall not affect other rules, Sections, provisions, items or applications, and to this end the rules, Sections, provisions and items of this Chapter are hereby deemed to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 1275; R.S. 37:3301-3312; R.S. 37:3421-3433; R.S. 37:1311-1329; R.S. 37:3240-3257; R.S. 37:3001-3014; R.S. 37:1331-1343; R.S. 37:1360.21-1360.38; R.S. 37:611-628; R.S. 37:2861-2870; R.S. 37:1292; R.S. 37:3351-3361 and R.S. 29:769(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 33:91 (January 2007).

Robert Marier, M.D.  
Executive Director

0701#036

## RULE

### Department of Health and Hospitals Board of Practical Nurse Examiners

#### Temporary Permits (LAC 46:XLVII.1705)

The Board of Practical Nurse Examiners, hereby amends LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The Rule change is to update, clarify and provide specificity to the language that allows for temporary permits to be issued to graduates of board-approved or -accredited practical nursing programs in Louisiana. Language has been added to provide for the expiration of temporary permits issued to applicants for licensure by examination. Language related to the examination closing date is no longer applicable and has been deleted. In addition, the Rule change allows the board to increase the length of time (from 8 weeks to 12 weeks) a temporary permit is valid when said permit is issued to applicants for licensure by endorsement and provides for the board to extend the permit on a case-by-case basis. The increase in the valid time length and the ability for the board to extend the permit are to allow the state and federal agencies conducting criminal background checks sufficient time for fingerprint processing and reporting. Furthermore, the Rule change provides for emergency temporary permits to be issued by the board during a declared state of public health emergency; provides for temporary permits to be issued to a practical nurse providing care to a client being transported into, out of or through the state of Louisiana; and provides for temporary permits to be issued to previously licensed practical nurses currently enrolled in a board approved refresher course.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**  
**Part XLVII. Nurses**

**Subpart 1. Practical Nurses**

**Chapter 17. Licensure**

**§1705. Temporary Permit**

A. A temporary permit to practice as a practical nurse in Louisiana may be issued to graduates of board approved or accredited practical nursing programs in Louisiana as follows.

1. The application for licensure by examination must be completed and submitted with the appropriate fees, and said application must be reviewed and approved by the board.

2. An official transcript must be submitted by the educational institution from which the applicant graduated, and said transcript must be reviewed and approved by the board.

3. If a temporary permit is granted, that permit shall expire on one of the following three dates, whichever comes first:

- a. eight weeks from the date of issue;
- b. the date of full licensure; or
- c. upon receipt of a score of fail on the licensure examination.

4. The temporary permit shall not be subject to extension or renewal under any circumstances, including reentry and completion of a program in practical nursing.

5. The abbreviation P.N. (T.P.), (Practical Nurse, temporary permit), shall be used with the signature of the applicant on all documents requiring said signature in the course of practice while the temporary permit is valid.

6. The P.N. (T.P.) shall serve only in a staff-nurse position.

7. The P.N. (T.P.) shall assume only those duties and functions commonly included in the staff-nurse position.

8. The P.N. (T.P.) shall practice only in nursing situations in which a registered nurse or physician is providing direct supervision.

B. A temporary permit may be issued to licensees pending disciplinary action at time of license renewal.

C. A 12 week temporary permit may be issued to applicants for licensure by endorsement upon receipt of all of the following: verification of current licensure, in good standing, from another state or U.S. territory; a notarized sworn statement, by the applicant, that the applicant meets the requirements for licensure in this state and has a negative history for criminal activity, a negative history for chemical dependency, and a negative history for complaints against and/or related to any and all licenses held for any profession in any state or U.S. territory; the required fee; and confirmation that required fees and forms have been submitted to the appropriate state and/or federal agencies for the processing of the applicant's criminal history record. The temporary permit shall be immediately revoked upon receipt of information indicating that the applicant may not qualify for licensure. A temporary permit issued to applicants for licensure by endorsement may be extended on a case-by-case basis but may not be reissued to any person, under any circumstances, including reapplication for licensure by endorsement.

D. During a declared state of public health emergency, an emergency temporary permit may be issued to practical nurses licensed in another jurisdiction of the U.S. whose license is current, unrestricted and in good standing in such jurisdiction, provided that the practical nurse register with the board prior to providing practical nursing care. The emergency permit may be issued for 60 days or until termination of the state of public health emergency, whichever comes first. The permit may be extended for two additional 60 day periods. Only gratuitous services may be provided by practical nurses who are working on an emergency temporary permit.

E. A temporary permit may be issued to practical nurses licensed in another jurisdiction of the U.S. whose license is current, unrestricted and in good standing in such jurisdiction for a period not to exceed 14 days when the practical nurse is providing care to a client being transported into, out of or through the state.

F. A temporary permit may be issued to practical nurses enrolled in board approved refresher courses provided the practical nurse has been previously licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:341 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 28:2355 (November 2002), LR 32:637 (April 2006), LR 33:93 (January 2007).

Claire Doody Glaviano, MN, APRN  
Executive Director

0701#008

**RULE**

**Department of Health and Hospitals**  
**Office of Public Health**

Tuberculosis Control Program—Health Examinations  
(LAC 51:II.503 and 505)

The Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, and based on the amendment and reenactment of R.S. 40:1156, amends LAC 51:II.Chapter 5, specifically §503, Mandatory Tuberculosis Testing and §505, Required Medical Examinations of All Persons Admitted to Nursing Homes and Residential Facilities.

**Title 51**

**PUBLIC HEALTH—SANITARY CODE**

**Part II. The Control of Diseases**

**Chapter 5. Health Examinations for Employees, Volunteers and Patients at Certain Medical and Residential Facilities**

**§503. Mandatory Tuberculosis Testing**

A. [Formerly paragraph 2:022] All persons prior to or at the time of employment at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Public Health and Hospitals, Office of Public Health out-patient health care facility or any person prior to

or at the time of commencing volunteer work involving direct patient care at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Public Health and Hospitals, Office of Public Health out-patient health care facility shall be free of tuberculosis in a communicable state as evidenced by either:

1. a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration;

2. a normal chest X-ray, if the skin test or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; is positive; or

3. a statement from a licensed physician certifying that the individual is non-infectious if the X-ray is other than normal. The individual shall not be denied access to work solely on the basis of being infected with tuberculosis, provided the infection is not communicable.

B. [Formerly paragraph 2:023] Any employee or volunteer at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Public Health and Hospitals, Office of Public Health out-patient health care facility who has a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a positive blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; or a chest X-ray other than normal, in order to remain employed or continue work as a volunteer, shall complete an adequate course of chemotherapy for tuberculosis as prescribed by a Louisiana licensed physician, or shall present a signed statement from a Louisiana licensed physician stating that chemotherapy is not indicated.

C. [Formerly paragraph 2:024] Any employee or volunteer at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Public Health and Hospitals, Office of Public Health out-patient health care facility who has a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a negative result of a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; in order to remain employed or continue work as a volunteer, shall be re-tested annually as long as the purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; remains negative. Any employee converting from a negative to a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; shall be referred to a physician and followed as indicated in §503. B.

D. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of Louisiana Revised Statutes 40:4(A)(2) and Revised Statutes 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1220 (June 2002), amended LR 32:98 (January 2006), LR 33:93 (January 2007).

**§505. Required Medical Examinations of All Persons Admitted to Nursing Homes and Residential Facilities [formerly paragraph 2:026]**

A. Any person (adult or child) admitted to any nursing home or other residential facility shall have a complete history and physical examination by a licensed physician within 30 days prior to or 48 hours after admission, except that any resident who has complied with this provision shall be exempt from re-examination if transferred to another residential facility provided the record of examination is transferred to the new facility. This examination shall include laboratory tests as indicated by the history and physical examination. A purified protein derivative intradermal skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, shall be given to all residents under 35 years of age and a purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis*, approved by the United States Food and Drug Administration, plus a chest X-ray to all residents over 35 years of age, no more than 30 days prior to admission to any nursing home or other residential facility. If the skin test or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration is not done prior to admission, it may be done within 72 hours after admission and interpreted at the appropriate time. A repeat skin test or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, is not required if the patient has a chest X-ray with no abnormalities indicative of tuberculosis and has had a negative skin test or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, documented within one year of admission or if the patient has a previously documented positive skin test or a positive result of a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration. A record of the admission history, physical examination, purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, chest X-ray, and any other laboratory tests shall be a part of the permanent record of each resident. No resident with evidence of active tuberculosis shall be admitted unless the examining physician states that the resident is on an effective drug regimen, is responding to treatment, and presents no imminent danger to other patients or employees, or unless the facility has, been specifically cleared by the Office of Public Health and the Department of Health and Hospitals to house patients with active tuberculosis.

B. [Formerly paragraph 2:026-1] Any resident who is a case or an asymptomatic carrier of a communicable disease

which may pose a serious risk to other patients or employees shall not be admitted except under the supervision of the state health officer or his agent.

C. [Formerly paragraph 2:027] When a suspicious case or carrier of a communicable disease poses a serious public health risk, appropriate measures shall be taken to prevent the disease from spreading to other residents.

D. [Formerly paragraph 2:028] Any child under 18 years of age in any residential facility in the state shall have an annual examination by a licensed physician to determine the child's physical condition, mental condition and the presence of any indication of hereditary or other constitutional disease. Any deformity or abnormal condition found upon examination shall be entered by the physician on the medical record of the child.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1220 (June 2002), amended LR 33:94 (January 2007).

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0701#015

## RULE

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

#### Direct Service Worker Registry (LAC 48:I.Chapter 92)

Editor's Note: This Rule is being repromulgated to correct an error upon submission. The original Rule may be viewed on pages 2058-2063 of the November 20, 2006 edition of the *Louisiana Register*.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 48:I.Chapter 92 as authorized by R.S. 40:2179-2179.1. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### Title 48

#### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 3. Health Standards

#### Chapter 92. Direct Service Worker Registry

#### Subchapter A. General Provisions

#### §9201. Definitions

##### *Abuse—*

1. the willful infliction of physical or mental injury;
2. causing deterioration by means including, but not limited to:
  - a. sexual abuse;
  - b. exploitation; or
  - c. extortion of funds or other things of value to such an extent that the health, moral or emotional well-being of the individual being supported is endangered; or
3. the willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

*Department*—the Louisiana Department of Health and Hospitals.

*Direct Service Worker*—an unlicensed person who provides personal care or other services and supports to persons with disabilities or to the elderly to enhance their well-being, and who is involved in face-to-face direct contact with the person and is compensated through state or federal funds. Functions performed may include, but are not limited to, assistance and training activities of daily living, personal care services, and job-related supports.

*Exploitation*—the illegal or improper use or management of an aged person's or disabled adult's funds, assets or property, or the use of an aged person's or disabled adult's power-of-attorney or guardianship for one's own profit or advantage.

*Extortion*—the acquisition of a thing of value from an unwilling or reluctant adult by physical force, intimidation or abuse of legal or official authority.

*Misappropriation*—taking possession without the permission of the individual who owns the personal belongings or the deliberate misplacement, exploitation or wrongful temporary or permanent use of an individual's belongings or money without the individual's consent.

*Neglect*—failure to provide the proper or necessary medical care, nutrition or other care necessary for a person's well-being.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2058 (November 2006), amended LR 33:95 (January 2007).

#### §9202. Introduction

A. The Department of Health and Hospitals (DHH) shall develop and maintain a registry for individuals who have, at a minimum, successfully completed a direct service worker training and competency evaluation, and criminal background check. The registry may also indicate additional training obtained to address specialized needs and/or certified medication attendant (CMA) training.

B. The Direct Service Worker Registry will contain the following items:

1. a list of individuals who have successfully completed a direct service worker training curriculum and competency evaluation. Each individual listed will have the following information maintained on the registry:

- a. name;
- b. address;
- c. Social Security number;
- d. phone number;
- e. place of employment;
- f. date of employment;
- g. date employment ceased;
- h. state registration number; and
- i. documentation of any investigation including codes for specific findings of:
  - i. abuse;
  - ii. neglect;
  - iii. extortion;
  - iv. exploitation and misappropriation of property;

and

v. an accurate summary of findings after action on findings are final and after any appeal is ruled upon or the deadline for filing an appeal has expired; and

2. information relative to training and registry status which will be available through procedures established by the Department of Health and Hospitals, Bureau of Health Services Financing, Health Standards Section (HSS).

C. Registrations are renewable annually. The registry will verify renewals and whether the direct service worker has worked 40 hours in an approved setting within the past 12 consecutive months.

D. Employers must use the registry to determine if a prospective hire is a registered direct service worker and if there is a finding that he/she has abused or neglected an individual being supported or misappropriated the individual's property or funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2059 (November 2006), amended LR 33:95 (January 2007).

## **Subchapter B. Training and Competency Requirements**

### **§9211. General Provisions**

A. The direct service worker required training and competency evaluation must both be approved by DHH/HSS.

B. The required hours of training and competency evaluation may be provided by:

1. the licensed provider employing the direct service worker;
2. community colleges;
3. vocational-technical schools; or
4. other educational facilities.

C. Entities may offer the complete training curriculum themselves or may contract with another approved organization or entity to provide the training and/or competency evaluation.

D. A DSW training program must submit copies of competency evaluations such as protocols and tests to be used with the training curriculum.

E. Direct service workers currently employed by a DSW agency on the effective date of this Rule may be deemed to meet the training and competency requirements if:

1. the employer attests, in writing on the department-approved form, to the worker's competency for all required training components; and
2. the direct service worker has 18 months verifiable work experience providing supports/services to the elderly or people with disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2059 (November 2006), amended LR 33:96 (January 2007).

### **§9213. Trainee Responsibilities**

A. An individual who has not performed DSW-related services for pay for at least 40 hours in an approved setting within a consecutive 12-month period after completion of a training and competency evaluation or being placed on the registry must, at a minimum, successfully complete a new

competency evaluation before he/she can be placed on the DSW Registry.

B. Trainees must take the competency evaluation (through skills demonstration and either written or oral examination) within 30 days after completion of the training curriculum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2059 (November 2006), amended LR 33:96 (January 2007).

## **§9215. Training Curriculum**

### **A. Core Curriculum**

1. The curriculum content for the direct service worker training includes material which provides a basic level of both knowledge and demonstrable skills for each individual completing the training. The core curriculum content includes needs of the populations which may be served by the direct service worker.

a. The core curriculum must be a minimum of 16 hours and completion of an approved cardiopulmonary resuscitation (CPR)/First Aide course.

2. Each training curriculum must have behaviorally-stated objectives for each unit of instruction. The unit objectives will be reviewed with the trainees at the beginning of each unit so each trainee will know what is expected of him/her in each part of the training.

### **B. Minimum Curriculum Requirements**

1. The objective of the training curriculum is the provision of quality services by direct service workers who are able to:

- a. communicate and interact competently on a one-to-one basis with individuals as part of the team implementing their care objectives;
- b. demonstrate sensitivity to the individual's emotional, social, and mental health needs through skillful, directed interactions;
- c. assist individuals in attaining and maintaining functional independence; and
- d. exhibit behavior to support and promote the rights of individuals.

2. The trainee must have completed the minimum 16 hours of instruction prior to the trainee's direct involvement with an individual receiving services. The 16 hours of training must include, but is not limited to:

- a. abuse/neglect/misappropriation of property (unit developed by the department);
- b. staff ethics, including:
  - i. the prohibition against soliciting consumers from other provider agencies;
  - ii. respectful interactions with people being served; and
  - iii. the use of "People First Language;"
- c. human and civil rights;
- d. confidentiality and Health Insurance Portability and Accountability Act (HIPAA) of 1996 requirements;
- e. person-centered planning, personal outcomes and self-determination philosophy;
- f. incident documentation and reporting;
- g. documentation of services, progress notes, etc.;
- h. environmental emergency procedures; and

i. infection control/universal precautions.

3. The trainee must complete an approved CPR and First Aide course within 45 days of being hired.

#### C. Curriculum Approval

1. To get a training curriculum and/or competency evaluation program approved, the entity (provider or school) must submit the following to the department's Health Standards Section:

- a. a copy of the curriculum;
- b. the name of the training coordinator and his/her qualifications; and
- c. a list of any other instructors.

2. If a school is applying for approval, it must identify the place(s) used for classroom instruction and clinical experience.

3. An approved entity (provider or school) must submit any content changes of the training curriculum and competency evaluation to the department for review and approval.

4. If a provider or school, that has an approved curriculum, ceases to provide training and/or competency evaluations, it must notify the department. Prior to resuming the training program and/or competency evaluations, the provider or school must reapply to the department for approval to resume the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2060 (November 2006), amended LR 33:96 (January 2007).

#### §9217. Training Coordinators

A. Every direct service worker training curriculum must have a training coordinator who provides general supervision of the training received by the DSW.

B. The training coordinator must have the following experience or qualifications:

1. a minimum of two years verifiable experience, via work references, in providing supports or services to people with disabilities, the elderly or chronically ill in any setting including, but not limited to:
  - a. personal care services agency;
  - b. a community residence;
  - c. a hospital; or
  - d. nursing facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2060 (November 2006), amended LR 33:97 (January 2007).

#### §9219. Competency Evaluation

A. The competency evaluation must be developed and conducted to ensure that each direct service worker, at a minimum, is able to demonstrate competencies in the training areas in §9215.A-B.2.a-i.

B. Written or oral examinations will be provided by the training entity or organizations approved by the department.

C. The examination will reflect the content and emphasis of the training curriculum and will be developed in accordance with accepted educational principles.

D. A substitute examination, including an oral component, will be developed for those direct service

workers with limited literacy skills. This examination must contain all of the content that is included in the written examination and must also include a written reading comprehension portion that will determine competency to read job-related information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2060 (November 2006), amended LR 33:97 (January 2007).

#### §9221. Compliance with Training and Competency Evaluation

A. The review of compliance with training and competency requirements will include, at a minimum, a review of:

1. training content and length;
2. qualifications of training coordinators; and
3. the written and skills competency evaluation protocols.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2060 (November 2006), amended LR 33:97 (January 2007).

#### Subchapter C. Provider Participation

##### §9231. Provider Responsibilities

A. Prior to hiring any direct service worker or trainee, a licensed provider must access the registry to determine if the potential hire is registered.

1. The individual may not be hired unless he/she is in good standing on the registry or he/she is a trainee enrolled in a training program of a provider or school that has an approved training curriculum.

B. The provider or school shall not accept a trainee into a training curriculum until they have verified with the CNA and DSW registries that the potential trainee has not had a finding of abuse, neglect or misappropriation of an individual's property placed on either registry.

C. Onsite direct supervision of the direct service worker is required at all times until he/she completes the training and competency evaluation and is placed on the registry.

1. The trainee must complete the required training and competency evaluation and the results must be submitted by the training provider to the department within 60 days of employment with the provider.

D. Any organization responsible for the training and competency evaluation must report to the registry the names of all individuals who have satisfactorily completed the curriculum after their completion of the training. Within 15 days after a direct service worker has successfully completed the training curriculum and competency evaluation, including the approved CPR training, the provider or school shall notify the registry.

E. Providers shall use the appropriate forms designated by the department to notify the registry of:

1. employment or termination of direct service workers; and
2. persons who have completed a DSW training and/or competency evaluation, including CPR training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:97 (January 2007).

### **Subchapter E. Violations**

#### **§9271. Disqualification of Training Programs**

A. The department may prohibit DSW training curriculums offered by providers that have demonstrated substantial noncompliance with training requirements including, but not limited to:

1. the qualifications of training coordinators;
2. training curriculum requirements; or
3. failure of 30 percent of trainees to successfully complete competency evaluations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:98 (January 2007).

#### **§9273. Allegations of Direct Service Worker Wrong-Doing**

A. The department, through its Bureau of Appeals, has provided for a process of the review and investigation of all allegations of wrong-doing by direct service workers. Direct service workers and trainees must not:

1. use verbal, mental, sexual or physical abuse, corporal punishment or involuntary seclusion on an individual being supported; nor
2. neglect an individual or commit exploitation, extortion, or misappropriation of the individual's property or funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:98 (January 2007).

#### **§9275. Notice of Violation**

A. When there are substantiated charges against the direct service worker, either through oral or written evidence, the department will notify the individual(s) implicated in the investigation of the following information by certified mail:

1. the nature of the violation(s) and the date and time of each occurrence;
2. the department's intent to report these violations to the DSW Registry; and
3. the right to request an informal discussion and the right to an administrative hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:98 (January 2007).

#### **§9277. Informal Dispute Resolution**

A. When a direct service worker feels that he/she has been wrongly accused, the following procedure should be followed.

1. The direct service worker may request an informal dispute resolution (IDR) within 15 calendar days of the receipt of the agency's notice of violation. The request for an IDR must be made to the agency in writing.

2. The IDR is designed:
  - a. to provide an opportunity for the direct service worker to informally review the situation;
  - b. for the agency to offer alternatives based on corrections or clarifications, if any; and
  - c. to evaluate the necessity for seeking an administrative hearing.

3. An IDR meeting will be arranged within 20 days of the request.

4. During the IDR, the direct service worker will be afforded the opportunity to:

- a. talk with agency personnel involved in the situation;
- b. review pertinent documents upon which the alleged violation is based;
- c. ask questions;
- d. seek clarifications; and
- e. provide additional information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:98 (January 2007).

### **Subchapter F. Administrative Hearings**

#### **§9285. General Provisions**

A. Within 30 calendar days after receipt of the department's notice of violation or the notice of the results of an informal dispute resolution, the direct service worker may request an administrative hearing.

1. The request for an administrative hearing must be made in writing to the department's Bureau of Appeals.
2. The request must contain a statement setting forth the specific charges with which the direct service worker disagrees and the reasons for this disagreement.
3. Unless a timely and proper request is received by the Bureau of Appeals, the findings of the department shall be considered a final and binding administrative determination.

a. Notification of the finding of abuse, neglect and/or misappropriation will then be sent to the DSW Registry to be recorded.

B. When an administrative hearing is scheduled, the Bureau of Appeals shall notify the direct service worker, his/her representative and the agency representative in writing.

1. The notice shall be mailed no later than 15 calendar days before the scheduled date of the administrative hearing and shall contain the:

- a. date of the hearing;
- b. time of the hearing; and
- c. place of the hearing.

C. The administrative hearing shall be conducted by an administrative law judge from the Bureau of Appeals as authorized by R.S. 46:107 and according to the following procedures.

1. An audio recording of the hearing shall be made.
2. A transcript will be prepared and reproduced at the request of a party to the hearing, provided he bears the cost of the copy of the transcript.
3. Testimony at the hearing shall be taken only under oath, affirmation or penalty of perjury.
4. Each party shall have the right to:

- a. call and examine parties and witnesses;
- b. introduce exhibits;
- c. question opposing witnesses and parties on any matter relevant to the issue, even though the matter was not covered in the direct examination;
- d. impeach any witness, regardless of which party first called him to testify; and
- e. rebut the evidence against him/her.

5. Any relevant evidence shall be admitted if it is the sort of evidence upon which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make the admission of such evidence improper over objection in civil or criminal actions.

a. Documentary evidence may be received in the form of copies or excerpts.

6. The administrative law judge may question any party or witness and may admit any relevant and material evidence.

7. A party has the burden of proving whatever facts he/she must establish to sustain his/her position.

8. The burden of producing evidence to substantiate the written allegation(s) will be on the department and the provider of services, if appropriate.

9. When the allegation(s) supporting removal from the registry is substantiated, the direct service worker may not rest on the mere denial in his/her testimony and/or pleading(s) but must set forth specific facts and produce evidence to disprove or contest the allegation(s).

D. Any party may appear, and be heard, at any appeals proceeding through an attorney or a designated representative. The representative shall have a written authorization to appear on behalf of the provider.

1. A person appearing in a representative capacity shall file a written notice of appearance on behalf of a provider identifying:

- a. his/her name;
- b. address;
- c. telephone number; and
- d. the party being represented.

E. At the conclusion of the administrative hearing, the administrative law judge shall:

1. take the matter under advisement; and
  2. prepare a written proposed decision which will contain:
    - a. findings of fact;
    - b. a determination of the issues presented;
    - c. a citation of applicable policy and regulations;
- and
- d. an order.

F. The written proposed decision is provided to the secretary of the department. The secretary may:

1. adopt the proposed decision;
2. reject it based upon the record; or
3. remand the proposed decision to the administrative law judge to take additional evidence.

a. If the proposed decision is remanded, the administrative law judge shall submit a new proposed decision to the secretary.

G. The decision of the secretary shall be final and binding upon adoption, subject only to judicial review by the

courts. A copy of the decision shall be mailed to the direct service worker at his last known address and to any representative thereof.

H. If there is a final and binding administrative hearing decision to place a finding on the DSW Registry against the direct service worker, the department shall place the direct service worker's name and the adverse findings on the DSW Registry. The occurrence and findings will remain on the DSW Registry permanently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2062 (November 2006), amended LR 33:98 (January 2007).

### §9287. Preliminary Conferences

A. Although not specifically required, the Bureau of Appeals may schedule a preliminary conference. The purposes of the preliminary conference include, but are not limited to:

1. clarification, formulations and simplification of issues;
2. resolution of controversial matters;
3. exchange of documents and information;
4. stipulations of fact to avoid unnecessary introduction of evidence at the formal review;
5. the identification of witnesses; and
6. other matters which may aid disposition of the issues.

B. When the Bureau of Appeals schedules a preliminary conference, all parties shall be notified in writing. The notice shall direct any parties and their attorneys to appear on a specific date and at a specific time and place.

C. When the preliminary conference resolves all or some of the matters in controversy, a summary of the findings agreed to at the conference shall be provided by the administrative law judge. When the preliminary conference does not resolve all of the matters in controversy, an administrative hearing shall be scheduled on those matters still in controversy.

1. The hearing shall be scheduled within 30 calendar days following the completion of the preliminary conference or at a time mutually convenient to all parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2062 (November 2006), amended LR 33:99 (January 2007).

### §9289. Witnesses and Subpoenas

A. Each party shall arrange for the presence of their witnesses at the administrative hearing.

B. A subpoena to compel the attendance of a witness may be issued by the administrative law judge:

1. upon written request by a party and a showing of the need for such action; or
2. on his own motion.

C. An application for subpoena duces tecum for the production by a witness of books, papers, correspondence, memoranda or other records shall be made in writing to the administrative law judge. The written application shall:

1. give the name and address of the person or entity upon whom the subpoena is to be served;
2. precisely describe the material that is desired to be produced;
3. state the materiality thereof to the issue involved in the proceeding; and
4. include a statement that, to the best of the applicant's knowledge, the witness has such items in his possession or under his control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2063 (November 2006), amended LR 33:99 (January 2007).

**§9291. Continuances or Further Hearings**

A. The administrative law judge may continue a hearing to another time or place, or order a further hearing on his own motion or at the request of any party who shows good cause.

B. Where the administrative law judge, at his/her discretion, determines that additional evidence is necessary for the proper determination of the case, he/she may:

1. continue the hearing to a later date and order the party(s) to produce additional evidence; or
2. close the hearing and hold the record open in order to permit the introduction of additional documentary evidence:
  - a. any evidence submitted shall be made available to both parties and each party shall have the opportunity for rebuttal.

C. Written notice of the time and place of a continued or further hearing shall be given. When a continuance of further hearing is ordered during an administrative hearing, oral notice of the time and place of the continued hearing may be given to each party present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2063 (November 2006), amended LR 33:100 (January 2007).

**§9293. Failure to Appear at Administrative Hearings**

A. If a direct service worker fails to appear at an administrative hearing, a notice/letter of abandonment may be issued by the Bureau of Appeals dismissing the appeal. A copy of the notice shall be mailed to each party.

B. Any dismissal may be rescinded upon order of the Bureau of Appeals if the direct service worker:

1. makes written application within 10 calendar days after the mailing of the dismissal notice; and
2. provides evidence of good cause for his/her failure to appear at the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2063 (November 2006), amended LR 33:100 (January 2007).

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0701#077

**RULE**

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

Health Care Services Provider Fees  
Pharmacy Services (LAC 48:I.4001)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 48:I.4001 as authorized by R.S. 36:254. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 48**

**PUBLIC HEALTH-GENERAL**

**Part I. General Administration**

**Subpart 1. General**

**Chapter 40. Provider Fees**

**§4001. Specific Fees**

A. - C.2. ...

D. Pharmacy Services. A prescription fee shall be paid by each pharmacy and dispensing physician for each out-patient prescription dispensed. The fee shall be \$0.10 per prescription dispensed by a pharmacist or dispensing physician. Where a prescription is filled outside of Louisiana and not shipped or delivered in any form or manner to a patient in the state, no fee shall be imposed. However, out-of-state pharmacies or dispensing physicians dispensing prescriptions which are shipped, mailed or delivered in any manner inside the state of Louisiana shall be subject to the \$0.10 fee per prescription. The fee only applies to prescriptions which are dispensed and sold for human use. Pharmacies and dispensing physicians subject to prescription fees shall provide documentation quarterly, on a form provided by the department, of utilization for all medications dispensed in conjunction with payment of fees.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:100 (January 2007).

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0701#075

**RULE**

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

Pharmacy Benefits Management Program—Antihemophilia  
Drugs Reimbursements and Pharmacy Provider Fees  
(LAC 50:XXIX.971 and 981)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals LAC

50:XXIX.971 and 981 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XXIX. Pharmacy**

**Chapter 9. Methods of Payment**

**Subchapter F. Antihemophilia Drugs**

**§971. Reimbursement**

A. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1066 (June 2006), repealed LR 33:101 (January 2007).

**Subchapter G. Provider Fees**

**§981. Prescription Fee**

A. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1066 (June 2006), repealed LR 33:101 (January 2007).

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0701#076

**RULE**

**Department of Insurance  
Office of the Commissioner**

**Regulation 78—Policy Form Filing Requirements  
(LAC 37:XIII.Chapter 101)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended Regulation 78 regarding policy form filing requirements.

The regulation was amended to 1) provide an exception to the requirements of a complete filing for a) the filing of an amendatory rider or endorsement associated or in connection with an insurance product including those that have been previously approved by the department not more than three years prior to the filing of such rider or endorsement and b) the filing of insurance products under the Multi-State Review Program; 2) establish procedures relative to notice for policies that have been deemed approved by the insurer or withdrawn from consideration by the insurer; and, 3) embody statutory fees for policy form filings outlined in the insurance code. Additionally, in accordance with the passage of Act 325 of the 2004 Regular Session of the Louisiana Legislature, the changes permit an insurer to issue a group, health, and accident insurance policy to a multiple employer trust fund established on behalf of participating employers, provided that statutory protections are the same for all participating employers and employees.

The changes affect the following: LAC 37:XIII §10101, §10105, §10107, §10109, §10113, §10115, §10117 and

§10119. Section 10117 has been retitled and pertains to "Severability", which language was contained in §10105. Section 10119 was formerly §10117.

**Title 37**

**INSURANCE**

**Part XIII. Regulations**

**Chapter 101. Regulation 78—Policy Form Filing Requirements**

**§10101. Purpose**

A. - A.1. ...

2. to clarify the provisions of R.S. 22:620.B;

3. to protect the interests of insurance consumers and the public through improvements to the form filing, review and approval processes; and

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, Directive 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:101 (January 2007).

**§10105. Applicability and Scope**

A. This regulation applies to all insurers doing business in the state of Louisiana subject to the form filing, review and approval provisions of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, Directive 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:101 (January 2007).

**§10107. Filing and Review of Health Insurance Policy Forms and Related Matters**

A. ...

*Affirmative Approval*—department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to Subsection D hereof.

*Association*—an organization legally formed for purposes other than the procurement of insurance and, depending upon the particular insurance products in question, meeting the requirements of R.S. 22:215.A(1)(a)(iv), or R.S. 22:250.1(5)(b), or R.S. 22:1734(4), whichever is applicable.

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*Certification of Compliance*—certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A certification of compliance must be included with any filing for certified approval.

*Certified Approval*—approval on the basis of an expedited review by the department of a complete filing based upon the inclusion of a statement of compliance and a certification of compliance, executed by an officer or authorized representative of the filing insurer on a form prescribed by the department. The department shall by directive determine those specific types of coverages and particular types of contracts for which the certified approval procedure is either required or available at the option of the insurer.

*Commissioner*—the Commissioner of Insurance of the Louisiana Department of Insurance.

*Complete Filing*—the filing of a single insurance product, including any required filing fees; a basic insurance policy form, application form and supplemental application form, if any, to be attached to the policy or be a part of the contract; any life or health and accident rider or endorsement forms; all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable statement of compliance.

\* \* \*

*Deemed Approval*—approval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

*Department*—the Louisiana Department of Insurance.

\* \* \*

*Insurer*—every person engaged in the business of making contracts of insurance, as further defined in R.S. 22:5. As used in this Section, insurer shall also include fraternal benefit societies and health maintenance organizations.

*Method of Marketing*—marketing either through independent or captive agents; telephone, electronic mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

\* \* \*

*Trust*—a fund established by an employer, two or more employers in the same industry, a labor union, an association, or to a multiple employer trust established by an insurer on behalf of participating employers, pursuant to a trust instrument which transfers title to property and/or funds to one or more trustees to be administered as fiduciaries for the benefit of others, pursuant to R.S. 22:215.A(1). All participating employers and employees must have the same statutory protections that would apply if such policy was purchased by the employer directly from the insurer.

B. ...

1. Pursuant to R.S. 22:620.A, no basic insurance policy form, other than surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and approved by the commissioner. This requirement also applies to any group health or accident insurance policy covering residents of Louisiana, regardless of where issued or delivered. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

2. A health and accident transmittal document must accompany every filing, describing the items included in the filing, the insurance product for which the filing is being made, and the method of marketing to be used for the product. If the filing includes life insurance to be offered as an optional benefit under the base health insurance contract, the policy forms should be submitted in triplicate, notwithstanding the provisions of Paragraph C.2 hereof, and include the appropriate statement of compliance for said life insurance product.

C. ...

1. The department shall designate, by directive, those insurance products which must be filed pursuant to the requirements for certified approval as set forth in Subsection F hereof, "Time Periods and Requirements for Certified Approval of Policy Form Filings." A directive issued pursuant to this Subsection may also designate those insurance products which may, at the discretion of the insurer, be filed either pursuant to said requirements for certified approval, or as ordinary filings subject to review as set forth in Subsection E hereof. All insurance products not so designated shall be filed pursuant to the requirements for compliance review as set forth in Subsection E hereof, "Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms."

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

ii. completed health and accident transmittal document as prescribed by the department;

2.a.iii. - 2.b.ii. ...

iii. completed health and accident transmittal document as prescribed by the department;

iv. - ix. ...

x. proposed plan of operation, as set forth in Regulation 33, Section 525.E for Medicare Select insurance plans, in duplicate;

xi. ...

xii. any new related advertising as defined in Rule 3A, Section 105, in duplicate; and

xiii. ...

c. Filings of policy forms for Long-Term Care insurance must include, in final wording, the following items, in order:

i. ...

ii. completed health and accident transmittal document as prescribed by the department;

iii. - xii. ...

xiii. any new related advertising as defined in Rule 3, Section 1305, in duplicate; and

c.xiv. - d. ...

e. Filings of group health and accident products intended for issuance to an association are limited to associations as defined herein and must include the association's constitution, by-laws, membership application, membership agreement and brochure of membership benefits other than the insurance products offered.

f. Filings of group health and accident products intended for issuance to a trust are limited to trusts established by an employer, an association, or to a multiple employer trust established by an insurer on behalf of participating employers, and must include the trust agreement, articles of incorporation or other instrument creating the trust, and member adoption agreement. If the trust was established by an association, the filing must include the information described in Subparagraph C.2.e hereof.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed at the discretion of the department, subject to the conditions stated herein, for the following policy forms.

1. - 3. ...

4. Long-Term Care Advertising. No filing fees will be required for these filings.

5. Filings of amendatory riders or endorsements are permitted where the insurance product to be altered was originally certified or granted affirmative approval not more than three years prior to the filing of said amendatory rider or endorsement.

a. Such filings must include either:

i. specimen copies of the pertinent previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized; or

ii. a detailed list that includes:

(a). the department's form filing number;

(b). date of approval; and

(c). the form number for each previously approved policy form for which the amendment applies.

b. Such filings must also include an affidavit, on a form prescribed by the department, affirming that the insurance product, if amended by rider or endorsement as requested, will be fully compliant with all pertinent statutes and regulations. Premium rates and classification of risks are not required with such filings.

c. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

6. Filings of amendatory riders or endorsements, as needed to bring into compliance with law any existing insurance products that have been previously certified or granted affirmative approval and are currently in force but are no longer being marketed, must include specimen copies of the previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized. Premium rates and classification of risks are not required with such filings. The transmittal document shall advise that the previously approved or certified form is no longer being marketed. Such filings must include statutory filing fees for standardized plans in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

7. Medicare Supplement Rate Filings. Such filings must clearly indicate the percentage of increase in rates for each standardized plan and existing pre-standardized plan. Such filings must include statutory filing fees for standardized plans in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

8. Exclusionary riders pursuant to R.S. 22:250.11.C; provided that the policy form filings and dates approved are identified for each previously approved product with which the exclusionary rider form will henceforth be used. No filing fees will be required for these filings. The exclusionary rider form shall be included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing.

9. Assumption certificates, which must be filed in duplicate, with a single copy of the assumption agreement, letter of domiciliary state approval, information fully identifying the block of business being assumed, the number of covered lives residing in the state of Louisiana to be affected by the assumption, and the effective date of the assumption. No filing fees will be required for these filings.

10. Following approval of a complete filing of a Medicare Supplement insurance product, subsequent filings by the same insurer of standardized plans of insurance of the same type do not require inclusion of associated forms such as the replacement notice or plan of operation, unless changes have been made or the plan of operation has changed. No filing fees will be required for any of the above associated forms. However, subsequent filings of an outline of coverage will require a filing fee in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

11. Following approval of a complete filing of a long-term care insurance product, subsequent filings by the same insurer of other long-term care products do not require inclusion of associated forms such as the replacement notice, personal worksheet, disclosure notice and suitability letter, unless changes have been made. No filing fees will be required for any of the above associated forms. However, subsequent filings of an outline of coverage will require a filing fee in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

12. Forms for lines of insurance or insurance products specifically exempted pursuant to statute.

E. - E.1. ...

2. If a filing is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this regulation.

3. ...

4. If affirmatively approved by order of the commissioner prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. ...

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the insurer shall submit written notice to the department if the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46, but not earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 45-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

7. The commissioner may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. ...

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46 referred to in Paragraph E.6 or day 61, but not earlier than

the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

F. - F.3. ...

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but not earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

5. No insurer, through an officer or authorized representative, shall file a certification of compliance containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a certification of compliance contains any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the insurer may be subjected to the provisions of Subsection I hereof.

G. ...

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing, must comply with all provisions of this Section for such a filing, and, in addition to the required filing fee, must include:

a. - b. ...

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the commissioner on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. - c. ...

d. a copy of the prior order of approval, issued by the commissioner on the previous filing.

3. When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing.

H. ...

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as

required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise expressed by the Louisiana Legislature.

2. A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

3. Insurers shall notify the department in writing to advise when a previously approved basic insurance policy form will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall also advise whether or not coverage issued in this state under the policy form remains in force and whether or not such existing business will continue to be renewed. The notification shall provide the policy form numbers being discontinued and dates originally approved by the department.

I. ...

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an insurer, if the department determines that any of the reasons for disapproval as stated in R.S. 22:621 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected insurer or immediately where there has been a violation of the Louisiana Insurance Code that results in irreparable injury, loss, or damage and injunctive relief is necessary. In the event injunctive relief is granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

a. ...

b. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4 and 5 hereof.

2. ...

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the department's withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which department approval has been withdrawn; and

2.c. - 3.b.ii. ...

c. Where such a required change can be clearly explained to prospective policyholders through amendatory endorsement forms or rider forms, such approval shall not extend to any reprinting of such forms.

4. Thirty days following receipt of the notice by the affected insurer, of withdrawal of approval by the department, an affected product shall not be issued by the insurer, except in accordance with a corrective action plan approved by the department. The insurer has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly. In the event the affected insurer issues the product without approval from the department, and injunctive relief is necessary and granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

5. - 7. ...

#### J. Appeals and Hearings

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. Pursuant to R.S. 22:1351, such demand must be in writing, must specify in what respects such person is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such insurer or other person learned of the act, or failure to act, upon which the demand for hearing is based.

K. ...

1. Every person filing policy forms, or related forms, for approval by the department shall maintain the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained for a period of five years after the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof and no coverage issued on risks in this state utilizing such forms remains in force.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:101 (January 2007).

### **§10109. Filing and Review of Life and Annuity Insurance Policy Forms and Related Matters**

A. ....

*Affirmative Approval*—department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to Subsection D hereof.

\*\*\*

*Certification of Compliance*—certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that

upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A certification of compliance must be included with any filing for certified approval.

*Certified Approval*—approval on the basis of an expedited review by the department of a complete filing based upon the inclusion of a statement of compliance and a certification of compliance, executed by an officer or authorized representative of the filing insurer on forms prescribed by the department. The department shall by directive determine those specific types of coverage and particular types of contracts for which the certified approval procedure is either required or available at the option of the insurer.

*Commissioner*—the Commissioner of Insurance of the Louisiana Department of Insurance.

*Complete Filing*—the filing of a single insurance product, including any required filing fees; a basic insurance policy form, application form and supplemental application form, if any, to be attached to the policy or be a part of the contract; any life or health and accident rider or endorsement forms; all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable statement of compliance.

\*\*\*

*Deemed Approval*—approval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

*Department*—the Louisiana Department of Insurance.

\*\*\*

*Insurer*—every person engaged in the business of making contracts of insurance, as further defined in R.S. 22:5. As used in this Section, insurer shall also include fraternal benefit societies.

*Method of Marketing*—marketing either through independent or captive agents; telephone, electronic mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

\*\*\*

B. ...

1. Pursuant to R.S. 22:620.A, no basic insurance policy form, other than surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and approved by the commissioner. This requirement applies to any group life insurance policy or annuity covering residents of Louisiana where issued or delivered in Louisiana. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

2. A life and annuity transmittal document must accompany every filing, describing the items included in the filing, the insurance or annuity product for which the filing is being made, and the method of marketing to be used for the product. If the filing includes health insurance to be

offered as an optional benefit under the base life insurance contract, the policy forms should be submitted in triplicate, notwithstanding the provisions of Paragraph C.2 hereof, and include the appropriate statement of compliance for said health insurance product.

C. - C.2.a.i. ...

ii. completed life and annuity transmittal document as prescribed by the department;

2.a.iii. - 2.b.i. ...

ii. completed life and annuity transmittal document as prescribed by the department;

iii. - x. ...

c. Filings of group life and annuity products intended for issuance to an association are limited to associations as defined herein, and must include the association's constitution, by-laws, membership application, membership agreement and brochure of membership benefits other than the insurance products offered.

d. Filings of group life and annuity products intended for issuance to a trust are limited to trusts established by an employer or association and must include the trust agreement, articles of incorporation or other instrument creating the trust, and member adoption agreement. If the trust was established by an association, the filing must include the information described in Subparagraph C.2.c hereof. This Subsection shall not apply to trusts established by qualified or government pension plans.

e. Filings of amendatory riders or endorsements are permitted where the insurance product to be altered was originally certified or granted affirmative approval not more than three years prior to the filing of said amendatory rider or endorsement.

i. Such filings must include either:

(a). specimen copies of the pertinent previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized; or

(b). a detailed list that includes:

(i). the department's form filing number;

(ii). date of approval; and

(iii). the form number for each previously approved policy form for which the amendment applies.

ii. Such filings must also include an affidavit, on a form prescribed by the department, affirming that the insurance product, if amended by rider or endorsement as requested, will be fully compliant with all pertinent statutes and regulations. Actuarial memorandums are not required with such filings.

iii. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

f. Filings of amendatory riders or endorsements as needed to bring into compliance with law any existing insurance or annuity products that have been previously approved and are currently in force but are no longer being marketed, must include specimen copies of the previously approved forms, the dates previously approved, and the specific terms and provisions being amended, underlined in red or otherwise noted. The transmittal letter shall advise that the previously approved form is no longer being marketed. Such filings must include statutory filing fees in

accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed at the discretion of the department, subject to the conditions stated herein, for the following policy forms.

1. - 4. ...

5. Multi-State Review Program. The Multi-State Review Program is a program consisting of several participating states that allows an insurer to simultaneously file an insurance product through the state of Florida's online I-Filing System while providing simultaneous approval of such product in all participating states. Approval is subject to the combined review standards of the participating states. A filing fee is required for insurance products filed under the Multi-State Review Program.

E. - E.1. ...

2. If a filing is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this regulation.

3. ...

4. If affirmatively approved by order of the commissioner prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. ...

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the insurer shall submit written notice to the department if the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46, but no earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 45-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

7. The commissioner may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. ...

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46 referred to in Paragraph E.6 or day 61 but no earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

F. ...

1. The department will make available Statements of Compliance setting forth the statutory and regulatory requirements specific to the various forms of coverage and contract types, as well as Certification of Compliance forms.

2. - 3. ...

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but no earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

5. No insurer, through an officer or authorized representative, shall file a certification of compliance containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a certification of compliance contains any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the insurer may be subjected to the provisions of Subsection I hereof.

G. ...

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. - b. ...

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the commissioner on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. - c. ...

d. a copy of the prior order of approval, issued by the commissioner on the previous filing.

3. When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing.

H. ...

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any

such subsequent changes in applicable law, or as otherwise expressed by the Louisiana Legislature.

2. A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

H.3. - I. ...

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an insurer, if the department determines that any of the reasons for disapproval as stated in R.S. 22:621 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected insurer or immediately where there has been a violation of the Louisiana Insurance Code that results in irreparable injury, loss, or damage and injunctive relief is necessary. In the event injunctive relief is granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

a. ...

b. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4 and 5 hereof.

2. ...

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the department's withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which department approval has been withdrawn; and

2.c. - 3.c. ...

4. Thirty days following receipt of the notice by the affected insurer, of withdrawal of approval by the department, an affected product shall not be issued by the insurer, except in accordance with a corrective action plan approved by the department. The insurer has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly. In the event the affected insurer issues the product without approval from the department, and injunctive relief is necessary and granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

5. - 7. ...

## J. Appeals and Hearings

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. Pursuant to R.S. 22:1351, such demand must be in writing, must specify in what respects such person is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such insurer or other person learned of the act, or failure to act, upon which the demand for hearing is based.

### K. ...

1. Every person filing policy forms, or related forms, for approval by the department shall maintain the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained for a period of five years after the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof and no coverage issued on risks in this state utilizing such forms remains in force.

### 2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620 and R.S. 22:621.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2544 (December 2002), amended LR 33:105 (January 2007).

## §10113. Filing and Review of Property and Casualty Insurance Policy Forms and Related Matters

### A. ...

*Affirmative Approval*—department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to Subsection D hereof.

*Basic Insurance Policy Form*—an insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance product. It includes endorsements, and application forms where written application is required and is to be attached to the policy or be a part of the contract. It does not include policies, riders, or endorsements designed, at the request of the individual policyholder, contract holder, or certificate holder, to delineate insurance coverage upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policy.

*Certification of Compliance*—certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A certification of compliance must be included with any filing for certified approval.

*Certified Approval*—approval on the basis of an expedited review by the department of a complete filing based upon the inclusion of a statement of compliance and a

certification of compliance, executed by an officer or authorized representative of the filing insurer on forms prescribed by the department. The department shall by directive determine those specific types of coverage and particular types of contracts for which the certified approval procedure is either required or available at the option of the insurer.

*Commissioner*—the Commissioner of Insurance of the Louisiana Department of Insurance.

*Complete Filing*—the filing of a single insurance product, including any required filing fees; a basic insurance policy form, application form to be attached to the policy or be a part of the contract; all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable statement of compliance.

\* \* \*

*Deemed Approval*—approval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

*Department*—the Louisiana Department of Insurance.

\* \* \*

*Method of Marketing*—marketing either through independent or captive agents; telephone, electronic mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

*Rate/Rule Approval*—a department notice addressed to an insurer granting authorization to implement or revise rates and/or rules on a specified date.

\* \* \*

### B. ...

1. Pursuant to R.S. 22:620.A, no basic insurance policy form, other than surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and approved by the commissioner. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

#### B.2. - C.2.a.ii. ...

iii. completed property and casualty transmittal document as prescribed by the department;

#### 2.a.iv. - 3.a. ...

i. required filing fee, per adoption of each advisory organization's reference or item filing, per insurance company whether or not delayed;

#### a.ii. - b.iv. ...

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed at the discretion of the department, subject to the conditions stated herein, for the following policy forms:

1. informational filings, submitted for acknowledgement, for surety bond forms as exempted by R.S. 22:620 A(1). No filing fees will be required for these filings.

### 2. ...

3. application forms or enrollment forms to be used with a particular insurance product, or with multiple insurance products, provided that the policy form filings and dates approved are identified for each previously approved product with which the application form will henceforth be used, and the application form is included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing. No filing fees will be required for these filings;

4. ...

5. riders or endorsements. Filings of amendatory riders or endorsements are permitted where the insurance product to be altered was originally certified or granted affirmative approval.

a. Such filings must include either:

i. specimen copies of the pertinent previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized; or

ii. a detailed list that includes:

(a). the department's form filing number;

(b). date of approval; and

(c). the form number for each previously approved policy form for which the amendment applies.

b. The rider or endorsement forms shall be included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing.

c. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

E. - E.1. ...

2. If a filing is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this regulation.

3. A basic insurance policy form must be submitted to the department in accordance with the "General Filing Requirements" of this Section no less than 45 days in advance of planned issuance, delivery or use.

4. - 5. ...

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the insurer shall submit written notice to the department if the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46, but not earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 45-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

7. The commissioner may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. ...

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has

been deemed approved on a specific date or, advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46 referred to in Paragraph E.6 or day 61, but not earlier than the 45 day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

F. - F.2.a. ...

b. signed and dated certification of compliance;

c. all other items as set forth in Paragraph C.2 hereof.

3. ...

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but no earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

5. No insurer, through an officer or authorized representative, shall file a certification of compliance containing false attestations or from which material facts or information have been omitted. In the event that the department subsequently learns that a certification of compliance contains any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the insurer may be subjected to the provisions of Subsection I hereof.

G. ...

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing, must comply with all provisions of this Section for such a filing, and, in addition to the required filing fee, must include:

a. - b. ...

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the commissioner on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. - c. ...

d. a copy of the prior order of approval, issued by the commissioner on the previous filing.

3. When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing.

H. ...

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise expressed by the Louisiana Legislature.

2. A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

H.3. - I. ...

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an insurer, if the department determines that any of the reasons for disapproval as stated in R.S. 22:621 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected insurer or immediately where there has been a violation of the Louisiana Insurance Code that results in irreparable injury, loss, or damage and injunctive relief is necessary. In the event injunctive relief is granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

a. ...

b. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4, and 5 hereof.

2. ...

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the department's withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which department approval has been withdrawn; and

2.c. - 3.b.ii. ...

c. Where such a required change can be clearly explained to prospective policyholders through amendatory

endorsement forms or rider forms, an insurer may request department approval to utilize its existing inventory of the policy forms in question subject to the incorporation of approved amendatory endorsement forms or rider forms. Such approval shall not extend to any reprinting of such forms.

4. Thirty days following receipt of the notice by the affected insurer, of withdrawal of approval by the department, an affected product shall not be issued by the insurer, except in accordance with a corrective action plan approved by the department. The insurer has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly. In the event the affected insurer issues the product without approval from the department, and injunctive relief is necessary and granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

5. - 7. ...

J. Appeals and Hearings

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. Pursuant to R.S. 22:1351, such demand must be in writing, must specify in what respects such person is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such insurer or other person learned of the act, or failure to act, upon which the demand for hearing is based.

K. ...

1. Every person filing policy forms, or related forms, for approval by the department shall maintain the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained for a period of five years after the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof, and no coverage issued on risks in this state utilizing such forms remains in force.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620 and R.S. 22:621.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2548 (December 2002), amended LR 33:108 (January 2007).

### §10115. Penalties

A. Pursuant to R.S. 22:1462.1, "False or Fraudulent Material Information," in accordance with all provisions thereof, and specifically applicable to all documents required by this regulation.

1. It shall be unlawful for any person to intentionally and knowingly supply false or fraudulent material information pertaining to any document or statement required by the department.

A.2. - B. ...

1. The provisions of R.S. 22:1217, including:  
a. payment of a monetary penalty of not more than \$1,000 for each and every act or violation, but not to exceed an aggregate penalty of \$100,000 unless the person knew or reasonably should have known he was in violation of applicable law, in which case the penalty shall be not more than \$25,000 for each and every act or violation, but not to exceed an aggregate penalty of \$250,000 in any six-month period; and

1.b. - 2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:110 (January 2007).

**§10117. Severability**

A. If any provision of this regulation, or its application to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end, the provisions of this regulation are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:111 (January 2007).

**§10119. Effective Date (formerly Section 10117)**

A. This regulation became effective January 1, 2003; however, the amendments to this regulation will become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:111 (January 2007).

James J. Donelon  
Commissioner

0701#014

**RULE**

**Department of Revenue  
Policy Services Division**

**Interest Abatement and Compromise  
(LAC 61:III.2115)**

Under authority of R.S. 47:1601(A)(2)(c) and (d) and 47:1511 and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, adopts LAC 61:III.2115 to provide guidance as to when interest will be abated or compromised.

Revised Statute 47:1601(A)(2)(c) authorizes the secretary to abate interest due to unreasonable errors or delays by the department in performing ministerial or managerial acts. Revised Statute 47:1601(A)(2)(d) authorizes the secretary to waive interest to promote the effective administration of the tax laws. Guidance is needed to make taxpayers aware of the circumstances under which interest will be abated or compromised.

**Title 61**

**REVENUE AND TAXATION**

**Part III. Department of Revenue—Administrative  
Provisions and Miscellaneous**

**Chapter 21. Interest and Penalties**

**§2115. Abatement and Compromise of Interest**

A. Abatement of Interest under R.S. 47:1601(A)(2)(c)

1. The following definitions apply when determining whether interest may be abated under R.S. 47:1601(A)(2)(c).

a. *Managerial Act*—an administrative act that occurs during the processing of a taxpayer's case involving the temporary or permanent loss of records or the exercise of judgment or discretion relating to management of personnel. A decision concerning the proper application of the law is not a managerial act. Further, a general administrative decision, such as the department's decision on how to organize the processing of tax returns or its delay in implementing an improved computer system, is not a managerial act for which interest can be abated under this Section.

b. *Ministerial Act*—a procedural or mechanical act that does not involve the exercise of judgment or discretion, and that occurs during the processing of a taxpayer's case after all prerequisites, such as conferences and review by supervisors, have taken place. A decision concerning the proper application of the law is not a ministerial act.

2. The following circumstances are examples of situations that do not constitute an unreasonable error or delay by the department.

a. Interest accrues as a result of the taxpayer's failure to pay the tax liability he calculates for each period when due.

b. Interest accrues as a result of the taxpayer's failure to pay the entire balance owed once he and the department are in agreement as to the amount of the balance.

c. Interest accrues while the taxpayer waits for a determination of his refund claim in order to offset prior period underpayments.

d. Interest accrues as a result of the taxpayer's failure to cooperate with department personnel. Examples include but are not limited to:

i. the taxpayer does not timely furnish information to the department;

ii. the taxpayer delays meetings or appointments with department personnel.

B. Compromise of Interest under R.S. 47:1601(A)(2)(d)

1. Before the secretary may consider compromising any amount of interest, the taxpayer must have paid all outstanding taxes.

2. When determining whether or not to compromise interest for a taxpayer, the secretary will examine the taxpayer's filing and compliance history, any special circumstances that may exist, and the hazards of litigation. This list is not all-inclusive.

3. Interest may be compromised when the department and the taxpayer interpret the law differently and there is no binding judicial decision regarding the issue. If interest is compromised with regard to an unresolved issue, the taxpayer will agree to thereafter operate under the department's interpretation of the law.

4. Interest may only be compromised for a specific taxpayer if the taxpayer has not had any interest compromised within the past five years.

5. Interest may only be compromised for a specific taxpayer if neither the taxpayer, his affiliates, nor his related entities have ever had any interest compromised that arose from the same issue.

6. The secretary may compromise any portion of the total interest for which compromise is requested.

7. Following is a partial list of circumstances in which interest will not be compromised.

a. Taxpayer is party to a voluntary disclosure agreement for the period in which the interest accrued.

b. Interest accrues as a result of participation in an abusive tax avoidance transaction.

c. Interest that accrues on trust taxes that the taxpayer has collected but not remitted.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:1601(A)(2)(c) and (d) and 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 33:111 (January 2007).

Cynthia Bridges  
Secretary

0701#028

## RULE

### Department of Treasury Board of Trustees of the Louisiana State Employees' Retirement System

#### Renunciation of Benefit (LAC 58.I.2301)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has amended LAC 58.I.2301. This Rule sets out the terms and conditions under which a retiree may renounce all or part of his benefit. This Rule complies with and is enabled by R.S. 11:515 and 11:452.

#### Title 58 RETIREMENT

#### Part I. Louisiana State Employees' Retirement System Chapter 23. Renunciation of Benefit

#### §2301. Terms and Conditions of Renunciation of Benefit

A. Any person eligible to receive, or receiving, a benefit from the Louisiana State Employees' Retirement System may renounce such benefit under the following terms and conditions.

1. The renunciation shall be unconditional and irrevocable. Once a benefit is renounced, LASERS shall have no further obligation or liability with respect to that benefit, and the person renouncing the benefit shall, under no circumstances, be eligible to receive that benefit.

2. A base benefit may be renounced in whole or in part. An adjustment to a base benefit (cost-of-living adjustment, adjustment for inflation, or one-time

supplemental payment) may only be renounced in its entirety. If an adjustment is renounced, the base benefit need not be renounced.

3. If more than one person is entitled to receive a particular survivor benefit, each person entitled to a portion of the benefit may renounce his entitlement. The person or persons who continue to have an entitlement in that benefit shall receive the benefit to which they are entitled without consideration of the person who becomes ineligible through renunciation. Any adjustment shall be prospective only.

4. If the party making the renunciation is married, the spouse must join in the renunciation.

5. If the person making the renunciation is subject to an executed and effective community property settlement, only that portion of the benefit due the person making the renunciation may be renounced, except as provided for in R.S. 11:446.E.

6. If the person making the renunciation is legally separated or divorced, but is not subject to an executed and effective community property settlement, the renunciation must be approved by the court having jurisdiction over the separation or divorce.

7. If the person making the renunciation is retired and has named a joint and survivor beneficiary, the renunciation cannot affect the joint and survivors' beneficiary or benefit, including adjustments to the joint and survivor benefit.

8. If a benefit is renounced by a member prior to receipt by the member of a sum equal to his or her accumulated contributions, the balance of the accumulated contributions will be paid to the member.

9. A renunciation must be made on a form provided by LASERS, and must be executed before a notary public and two witnesses, neither of whom may be a spouse nor presently named beneficiary. The renunciation is effective and irrevocable when received by LASERS.

10. A person revoking or participating in renunciation of a benefit must hold LASERS harmless from such action.

11. A renunciation may not be used to terminate active participation in LASERS.

12. Amounts credited to a DROP account cannot be renounced.

13. A benefit or portion of a benefit that has been renounced may be used to recoup benefits or refunds of accumulated contributions paid by administrative error or mistake.

14. Only those persons who have selected the maximum benefit or Option 1 under R.S. 11:441 may renounce their entire monthly benefit.

B. LASERS makes no representation with respect to the effect of a renunciation on a person's eligibility for receipt of any state or federal benefits, or for participation in any private, local, state, or federal program. Eligibility for or participation in such programs, or eligibility for or receipt of such benefits, is an issue for which the person making the renunciation is solely responsible. Ineligibility for or termination of participation in such programs or benefits shall not affect the irrevocable character of the renunciation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:452 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement

Cindy Rougeou  
Executive Director

0701#055

**RULE**

**Department of Treasury  
Board of Trustees of the Louisiana State Employees'  
Retirement System**

Vesting—Prior State Employment  
(LAC 58.I.4501 and 4503)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") adopts LAC 58.I.4501 and 4503. The Rules clarify existing law to show which LASERS rank-and-file members are vested for certain eligibility, contribution rates and other matters related to the enactment of Act 75 of 2005. These Rules comply with and are enabled by R.S. 11:515 and 537.

**Title 58**

**RETIREMENT**

**Part I. State Employees' Retirement System**

**Chapter 45. Effects of Act 75 of the 2005 Regular  
Session**

**§4501. Members Affected**

A. This Chapter concerns those members of LASERS affected by Act 75 of the 2005 Regular Session of the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:537.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 33:113 (January 2007).

**§4503. Vesting Because of Prior State Employment**

A. Members whose first employment making them eligible for membership in the system began on or before June 30, 2006 and who subsequent to that date cease such employment shall remain vested under the retirement eligibility provisions existing on that date, but only so long as they do not receive a refund of their accumulated employee contributions on or after July 1, 2006.

B. Upon application for and acceptance of a refund of accumulated contributions, all rights in the system are cancelled. For the purposes of this Section, a refund shall be considered accepted by the member upon the cashing or negotiating of a check or deposit by electronic funds transfer of an amount representing the bulk of the employee contributions deposited in his or her LASERS account based upon the period of their employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:537.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 33:113 (January 2007).

Cindy Rougeou  
Executive Director

0701#054

**RULE**

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

Abandoned Crab Traps Removal  
(LAC 76:VII. 367)

The Wildlife and Fisheries Commission does hereby amend a Rule, LAC 76:VII.367, which provides for an abandoned crab trap removal program. Authority to establish these regulations is vested in the commission by R.S. 56:332(N).

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishery**

**§367. Removal of Abandoned Crab Traps**

A. The use of crab traps shall be prohibited from 6 a.m., March 3, 2007 through 6 a.m. March 12, 2007 within that portion of Lafourche Parish, Jefferson Parish, and Plaquemines Parish as described below.

1. From a point originating from the intersection of the Gulf Intracoastal Waterway and the northern shoreline of Hero Canal; thence due north to a point along the northern shoreline of the Gulf Intracoastal Waterway; thence southward and then westward along the northern shoreline of the Gulf Intracoastal Waterway to a point opposite the western shoreline of Bayou Perot; thence due south to the western shoreline of Bayou Perot; thence southward along the western shoreline of Bayou Perot to Little Lake; thence southward along the western shoreline of Little Lake to 29 degrees, 30 minutes, 00 seconds north latitude; thence eastward along 29 degrees, 30 minutes, 00 seconds north latitude to the eastern shoreline of Wilkinson Canal; thence northward along the eastern shoreline of Wilkinson Canal to its termination; thence due north to the western shore of the Mississippi River; thence northwestward along the western shore of the Mississippi River to a point due east of the northern shoreline of Hero Canal; thence due west to the northern shoreline of Hero Canal; thence westward along the northern shoreline of Hero Canal and terminating at its intersection with the Gulf Intracoastal Waterway.

B. The use of crab traps shall be prohibited from 6 a.m., February 24, 2007 through 6 a.m., March 5, 2007 within that portion of Jefferson Parish, Orleans Parish, St. Bernard Parish, and St. Tammany Parish as described below.

1. From a point originating from the intersection of the Lake Pontchartrain Causeway Bridge and the southern shoreline of Lake Pontchartrain; thence eastward along the southern shoreline of Lake Pontchartrain to Chef Menteur Pass; thence southward along the western shoreline of Chef Menteur Pass to Lake Borgne; thence due south a distance of 1/2 mile from the Lake Borgne shoreline; thence eastward and then northward a distance of 1/2 mile from the Lake Borgne shoreline to a point due east of Catfish Point; thence northwesterly across Rigolets Pass to the southeastern most point of land on Hog Island; thence westward along the northern shoreline of Rigolets Pass to its intersection with U.S. Highway 90; thence northward along U.S. Highway 90 to its intersection with U.S. Highway 190 (Fremaux

Avenue); thence westerly along U.S. Highway 190 to Military Road; thence northward on Military Road to U.S. Highway 190 (Gause Boulevard); thence westward on U.S. Highway 190 (Gause Boulevard) to Causeway Boulevard; thence southward along Causeway Boulevard and then the Lake Pontchartrain Causeway Bridge and terminating at its intersection with the southern shoreline of Lake Pontchartrain.

C. All crab traps remaining in the closed areas during the specified periods shall be considered abandoned. These trap removal regulations do not provide authorization for access to private property; authorization to access private property can only be provided by individual landowners. Crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Anyone is authorized to remove these abandoned crab traps within the closed areas. No person removing crab traps from the designated closed areas shall possess these traps outside of the closed areas. The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to designate disposal sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(N).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, and Wildlife and Fisheries Commission LR 30:101 (January 2004), amended LR 31:108 (January 2005), LR 32:266 (February 2006), LR 33:113 (January 2007).

Bryant O. Hammett, Jr.  
Secretary

0701#025

## RULE

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### No Wake Zone Signage (LAC 76:XI.303)

The Wildlife and Fisheries Commission does hereby enact rules governing the physical construction of no wake zone signage to be placed at boat launches accessible to the public in the state of Louisiana.

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part XI. Boating

#### Chapter 3. Boating Safety

#### §303. Signage Identifying "No Wake Zone(s)" at Boat Launches Accessible by the Public and Docking Facilities Adjacent to a Boat Launch Accessible by the Public

A. The following regulations shall prescribe the dimensions and physical appearance of signage indicating a "no wake zone" to be placed at boat launches accessible to the public and docking facilities adjacent to boat launches accessible by the public as required by R. S. 34:851.27.

B. For the purposes of being recognized under state law, "no wake zone" signage shall be clearly visible and posted upon a board not less than 3 feet by 3 feet square in size having a white colored background. The signage shall have 2 inch reflective orange borders along each edge and shall

contain a circle in the middle of the sign. The circle shall have a 2 inch wide reflective orange border. Within the orange circle shall be the words "SLOW NO WAKE ZONE" in black characters no less than 5 inches high, with the words "SLOW" on the first line, "NO WAKE" on the second line, and "ZONE" on the third line as depicted on Figure 1 in this Section. On the top right hand corner of the signage shall be listed "LA R.S. 34:851.27" or the applicable local ordinance.

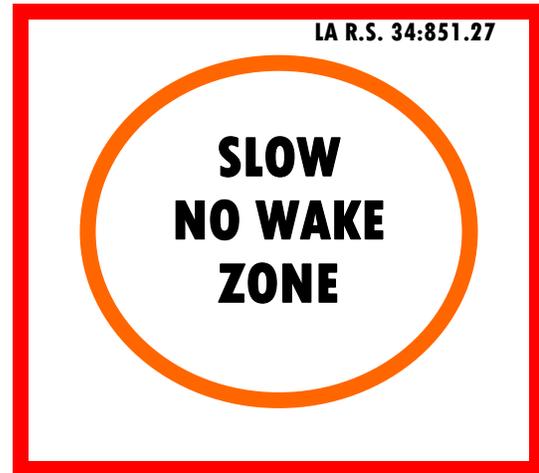


Figure 1

C. No wake zones established pursuant to this Section shall be clearly marked with prescribed signage, 300 feet in all directions from a boat launch or docking facility adjacent to the boat launch which is open to the general public. Signs shall be posted so as to be read both from the launch and the waterway.

D. Local and parish authorities in their respective jurisdictions shall place and maintain signage as prescribed by "LA R.S. 34:851.27" at the start and end of the no wake zones in safe and visible locations. No wake zone endings may be designated on the rear of a sign indicating "end no wake zone" and, signs may indicate the established distance of a no wake zone.

E. Regulatory buoys visible no less than 30 inches high above the water line placed in safe and visible locations may be used to identify start and end points of no wake zones. Regulatory buoys shall have proportionate orange markings as described in Subsection B with the words "SLOW NO WAKE ZONE" in black lettering.

F. No person operating a vessel shall violate the provisions of properly established and marked no wake zones. A violation of this Section shall constitute a Class One violation as provided in R.S. 56:851.31 and R.S. 56:31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:851.27.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:114 (January 2007).

Bryant O. Hammett, Jr.  
Secretary

0701#026

**RULE**

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

Spring Squirrel Hunting Season (LAC 76:XIX.103)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do hereby create and establish rules for a spring squirrel season on private lands and on selected wildlife management areas.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part XIX. Hunting and WMA Regulations**

**Chapter 1. Resident Game Hunting Seasons**

**§103. Resident Game Birds and Animals 2006-2007,  
2007-2008**

A. - G.1. ...

H. Spring Squirrel Hunting

1. Season Dates: May 5-May 27, 2007 and May 3-May 25, 2008

2. Closed Areas: Kisatchie National Forest, National Wildlife Refuges, and U.S. Army Corps of Engineers property and all WMAs except as provided in Paragraph 3 below.

3. Wildlife Management Area Schedule: Open May 5-May 13, 2007 and May 3-11, 2008 on Bodcau, Boeuf, Clear Creek, Little River, Maurepas Swamp (East Tract), Russell Sage, and Sherburne WMAs only. Dogs are allowed during this season for squirrel hunting. Feral hogs may not be taken on Wildlife Management Areas during this season.

4. Limits: Daily bag limit is 3 and possession limit is 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:109(B) and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), amended LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), repromulgated LR 29:1521 (August 2003), amended LR 30:1494 (July 2004), LR 31:1627 (July 2005), LR 32:1254 (July 2006), LR 33:115 (January 2007).

Terry D. Denmon  
Chairman

0701#019