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Executive Orders

EXECUTIVE ORDER BJ 08-21

Statewide Abstinence Education

WHEREAS, Act 210 of the 2008 Regular Session of the Louisiana Legislature requires city, parish, and other local public school boards to provide information about immunizations and to also provide information about human papillomavirus (HPV) and immunization against HPV to the parent or legal guardian of students in grades six through twelve; and

WHEREAS, national studies have shown that forty percent of sexually active girls between the ages of fourteen and nineteen have contracted HPV; and

WHEREAS, STD rates in Louisiana are among the highest in the nation, and, in 2006, Louisiana had the 19th highest teenage pregnancy rate of any state, averaging more than 16,000 teen pregnancies per year; and

WHEREAS, abstinence remains the most effective way to prevent sexually transmitted infections and pregnancy; and

WHEREAS, many adolescents remain poorly informed about the risk of sexually transmitted diseases (STDs), pregnancy and prevention measures, and parents in many cases also lack information and skills to counsel adolescents about abstinence; and

WHEREAS, the Governor's Program on Abstinence has been established to promote the ideals of the Federal Abstinence Education initiative, in furtherance of Louisiana's dependence on a healthy, educated and job-ready citizenry; and

WHEREAS, abstinence education programs will encourage Louisiana's youth to abstain from sexual activity prior to marriage and commit to mutually faithful relationships throughout marriage;

NOW THEREFORE, I, BOBBY JINDAL, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct the Department of Health and Hospitals and the Governor's Program on Abstinence as follows:

SECTION 1: Promote abstinence education with parents or legal guardians, who are the primary sexuality educators of their children, as a way to:

A. encourage the attitude that it is "great to wait" thereby reducing premarital sexual activity among the youth of Louisiana;

B. reduce the rate of sexually transmitted diseases among the youth of Louisiana; and

C. lower the premarital pregnancy rate among the youth of Louisiana.

SECTION 2: Develop an aggressive campaign targeting adolescents ages 13-19 and parents, which:

A. builds awareness of the consequences of premarital sexual activity;

B. motivates teenagers to get involved by providing activities they can take part in;

C. places the message directly into the community by virtue of grassroots components that personally engage adolescents; and

D. initiates programs to coordinate efforts between families, educators, and the medical community, and fosters candid conversations within families about the dangers of early sexual activity.

SECTION 3: Develop informational materials pursuant to House Bill No. 359, which:

A. describe the link between HPV and cervical cancer and how HPV is spread;

B. describe the efficacy of the HPV vaccine, including types of HPV and other sexually transmitted diseases for which the vaccine does not protect, but can be prevented through abstaining from sexual activity;

C. contain language and images that are appropriate for the ages and special needs of the children who may receive them, should their parents or legal guardians consent to their receipt of such materials;

D. in addition to information about immunization, make abstinence information available to all students in grades six through twelve and ensure adequate sharing of information about abstinence as the most effective way to avoid contracting HPV; and

E. allow and encourage parents or legal guardians of students in grades six through twelve to participate in educating students about abstinence in order to avoid exposure to HPV.

SECTION 4: This Order is effective upon signature and shall remain in effect until amended, modified, terminated or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 3rd day of July, 2008.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0807#085

EXECUTIVE ORDER BJ 08-22

Bond Allocation—Louisiana Community Development Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. KBB 2005-12 was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2008 (hereafter “the 2008 Ceiling”);

(2) the procedure for obtaining an allocation of bonds under the 2008 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Community Development Authority has requested an allocation from the 2008 Ceiling to provide solid waste disposal facilities in the state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2008 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$25,000,000	Louisiana Community Development Authority	Waste Management Inc.

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

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2008, provided that such bonds are delivered to the initial purchasers thereof on or before Tuesday, October 7, 2008.

SECTION 4: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 9 day of July, 2008.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0807#086

EXECUTIVE ORDER BJ 08-23

Bond Allocation—Rapides Finance Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. KBB 2005-12 was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2008 (hereafter “the 2008 Ceiling”);

(2) the procedure for obtaining an allocation of bonds under the 2008 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Rapides Finance Authority has requested an allocation from the 2008 Ceiling to provide solid waste disposal facilities in Rapides Parish in the state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2008 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$32,000,000	Rapides Finance Authority	Cleco Power LLC Project

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

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2008, provided that such bonds are delivered to the initial purchasers thereof on or before Tuesday, October 7, 2008.

SECTION 4: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 9 day of July, 2008.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0807#087

Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDA

Office of the Governor
Division of Administration
Office of State Travel

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

The following shows the entire text of PPM 49. This

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

Title 4

ADMINISTRATION

Part V. Policy and Procedure Memoranda

Chapter 15. General Travel Regulations—PPM Number 49

§1501. Authorization and Legal Basis

A. In accordance with the authority vested in the Commissioner of Administration by Section 231 of Title 39 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950-968 as amended, notice is hereby given of the revision of Policy and Procedures Memorandum No. 49, the state general travel regulations, effective July 1, 2008. These amendments are both technical and substantive in nature and are intended to clarify certain portions of the previous regulations or provide for more efficient administration of travel policies. These regulations apply to all state departments, boards and commissions created by the legislature or executive order and operating from funds appropriated, dedicated, or self-sustaining; federal funds; or funds generated from any other source.

B. Legal Basis (R.S. 39:231.B)—"The commissioner, with the approval of the governor, shall prescribe rules defining the conditions under which each of various forms of transportation may be used by state officers and employees and used by them in the discharge of the duties of their respective offices and positions in the state service and he shall define the conditions under which allowances will be granted for all other classes of traveling expenses and the maximum amount allowable for expenses of each class."

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

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:1183 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007), repromulgated LR 33:1314 (July 2007), amended LR 34:1299 (July 2008).

§1502. Definitions

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

Authorized Persons—

a. advisors, consultants, contractors and other persons who are called upon to contribute time and services to the state who are not otherwise required to be reimbursed through a contract for professional, personal, or consulting services in accordance with R.S. 39:1481 et seq.;

b. members of boards, commissions, and advisory councils required by federal or state legislation or regulation. Travel allowance levels for all such members and any staff shall be those authorized for state employees unless specific allowances are legislatively provided;

c. the department head or his designee is allowed to deem persons as an authorized traveler for official state business only.

NOTE: College/University Students must be deemed authorized travelers to be reimbursed for state business purposes. A centralized file must be kept containing all of these approvals.

Conference/Convention—is herein defined as a meeting (other than routine) for a specific purpose and/or objective. Non-routine meetings can be defined as a seminar, conference, convention, or training. Documentation required is a formal agenda, or program, or letter of invitation, or registration fee. Participation as an exhibiting vendor in an exhibit /trade show also qualifies as a conference. For a hotel to qualify for conference rate lodging, requires that the hotel is hosting or is in "conjunction with hosting" the meeting. In the event the designated conference hotel(s) have no room availability, a department head may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels located near the conference hotel.

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

Controlled Billed Account (CBA)—credit account issued in an agency's name (no plastic card issued). These accounts are direct liabilities of the state and are paid by each agency. CBA accounts are controlled through an authorized approver(s) to provide a means to purchase airfare and registration only. Each department head determines the extent of the account's use.

Corporate Travel Card—credit cards issued in an employee's name to be used for official business travel expenses. Corporate Travel Cards are individual liability cards, which must be paid in full each month by the cardholder. Charges to these accounts are never the liability of the state.

Emergency Travel—under extraordinary circumstances where the best interests of the state require that travel be undertaken not in compliance with these regulations, approval after the fact by the Commissioner of Administration may be given if appropriate documentation is presented promptly. Each department shall establish internal procedures for authorizing travel in emergency situations.

Extended Stays—of any assignment made for a period of 31 or more consecutive days at a place other than the official domicile.

In-State Travel—all travel within the borders of Louisiana or travel through adjacent states between points within Louisiana when such is the most efficient route.

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

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

Official Domicile—every state officer, employee, and authorized person, except those on temporary assignment, shall be assigned an official domicile:

a. except where fixed by law, official domicile of an officer or employee assigned to an office shall be, at a minimum, the city limits in which the office is located. The department head or his designee should determine the extent of any surrounding area to be included, such as parish or region. As a guideline, a radius of at least 30 miles is recommended. The official domicile of an authorized person shall be the city in which the person resides, except when the department head has designated another location (such as the person's workplace);

b. a traveler whose residence is other than the official domicile of his/her office shall not receive travel and subsistence while at his/her official domicile nor shall he/she receive reimbursement for travel to and from his/her residence;

c. the official domicile of a person located in the field shall be the city or town nearest to the area where the majority of work is performed, or such city, town, or area as may be designated by the department head, provided that in all cases such designation must be in the best interest of the agency and not for the convenience of the person.

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

Per Diem—a flat rate paid in lieu of travel reimbursement for people on extended stays.

Receipts/Document Requirements—supporting documentation must be retained according to record retention laws. It shall be at the discretion of each agency to determine where the receipts/documents will be maintained.

State Employee—employees below the level of state officer

State Officer—

a. state elected officials;

b. department head as defined by Title 36 of the Louisiana Revised Statutes (secretary, deputy secretary, under secretary, assistant secretary, and the equivalent positions in higher education and the office of elected officials).

Suburb—an immediate or adjacent location (overflow of the city) to the higher cost areas which would be within approximately 30 miles of the highest cost area.

Temporary Assignment—any assignment made for a period of less than 31 consecutive days at a place other than the official domicile.

Travel Period—a period of time between the time of departure and the time of return.

Travel Routes—the most direct and usually traveled route must be used by official state travelers.

Traveler—a state officer, state employee, or authorized person when performing authorized travel.

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

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:1183 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007), repromulgated LR 33:1314 (July 2007), amended LR 34:1299 (July 2008).

§1503. General Specifications

A. Department Policies

1. Department heads may establish travel regulations within their respective agencies, but such regulations shall not exceed the maximum limitations established by the Commissioner of Administration. Three copies of such regulations shall be submitted for prior review and approval by the Commissioner of Administration. One of the copies shall highlight any exceptions /deviations to PPM-49.

2. Department and agency heads will take whatever action necessary to minimize all travel to carry on the department mission.

3. Contracted Travel Services. The state has contracted for travel agency services which use is mandatory for airfares unless exemptions have been granted by the Division of Administration prior to purchasing airfare tickets. The state also encourages the use of the contracted travel agency to make reservations for hotel and vehicle accommodations, but hotel and vehicles are not a mandatory requirement.

4. When a state agency enters into a contract with an out-of-state public entity, the out-of-state public entity may have the authority to conduct any related travel in accordance with their published travel regulations.

5. Authorization to Travel

a. All non-routine travel must be authorized and approved in writing by the head of the department, board, or commission from whose funds the traveler is paid. A department head may delegate this authority in writing to one designated person. Additional persons within a department may be designated with approval from the Commissioner of Administration. A file shall be maintained on all approved travel authorizations.

b. Annual travel authorizations are no longer a mandatory requirement of PPM-49 for routine travel; however, an agency can continue to utilize this process if determined to be in your department's best interests. A travel authorization is still required for non-routine meetings, conferences and out-of-state travel.

B. Funds for Travel Expenses

1. Persons traveling on official business will provide themselves with sufficient funds for all routine travel expenses that cannot be covered by the corporate travel card. Advances of funds for travel shall be made only for extraordinary travel and should be punctually repaid when submitting the Travel voucher covering the related travel, not later than the fifteenth day of the month following the completion of travel.

2. Exemptions: At the agency's discretion, cash advances may be allowed for:

a. employees whose salary is less than \$30,000/year;

b. employees who accompany and/or are responsible for students on group or client travel;

c. new employees who are infrequent travelers or have not had time to apply for and receive the card;

d. employees traveling for extended periods, defined as 31 or more consecutive days;

e. employees traveling to remote destinations in foreign countries, such as jungles of Peru or Bolivia;

f. advanced ticket / lodging purchase;

g. registration for seminars, conferences, and conventions;

h. incidental costs not covered by the corporate travel card, i.e., taxi fares, tolls, registration fees; conference fees may be submitted on a preliminary request for reimbursement when paid in advance;

i. any ticket booked by a traveler 30 days or more in advance and for which the traveler has been billed, may be reimbursed by the agency to the traveler on a preliminary expense reimbursement request. The traveler should submit the request with a copy of the bill or invoice. Passenger airfare receipts are required for reimbursement;

j. employees who infrequently travel or travelers that incur significant out-of-pocket cash expenditures.

3. Expenses Incurred on State Business. Traveling expenses of travelers shall be limited to those expenses necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the agency and must be within the limitations prescribed herein.

4. CBA (Controlled Billed Account) issued in an agency's name is to be used for airfare and registration. Other credit cards issued in the name of the state agency are not to be used for the purpose of securing transportation, lodging, meals, or telephone and telegraph service, unless prior written permission has been obtained from the Commissioner of Administration.

5. No Reimbursement When No Cost Incurred by Traveler. This includes but is not limited to reimbursements for any lodging and/or meals furnished at a state institution or other state agency, or furnished by any other party at no cost to the traveler. In no case will a traveler be allowed mileage or transportation when he/she is gratuitously transported by another person.

C. Claims for Reimbursement

1. All claims for reimbursement for travel shall be submitted on state Form BA-12, unless exception has been granted by the Commissioner of Administration, and shall include all details provided for on the form. It must be signed by the person claiming reimbursement and approved

by his/her immediate supervisor. The purpose for extra and unusual travel must be stated in the space provided on the front of the form. In all cases the date and hour of departure from and return to domicile must be shown.

2. Except where the cost of air transportation, conference, or seminar is invoiced directly to the agency/department, all expenses incurred on any official trip shall be paid by the traveler and his travel voucher shall show all such expenses in detail to the end that the total cost of the trip shall be reflected by the travel voucher. If the cost of air transportation is paid directly by the agency/department, a notation will be indicated on the travel voucher indicating the date of travel, destination, amount, and the fact that it has been paid by the agency/department. The traveler's copy of the passenger receipt is required.

3. In all cases, and under any travel status, cost of meals and lodging shall be paid by the traveler and claimed on the travel voucher for reimbursement, and not charged to the state department, unless otherwise authorized by the department head or his designee. A centralized file must be kept containing all of these approvals.

4. Claims should be submitted within the month following the travel, but preferably held until a reimbursement of at least \$10 is due. Department heads at their discretion may make the 30 day submittal mandatory on a department wide basis.

5. Any person who submits a claim pursuant to these regulations and who willfully makes and subscribes to any claim which he/she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels or advises the preparation or presentation of a claim, which is fraudulent or is false as to any material matter shall be guilty of official misconduct. Whoever shall receive an allowance or reimbursement by means of a false claim shall be subject to severe disciplinary action as well as being criminally and civilly liable within the provisions of state law.

6. Agencies are required to reimburse travel in an expeditious manner. In no case shall reimbursements require more than 30 days to process from receipt of complete, proper travel documentation.

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§1504. Methods of Transportation

A. Cost-Effective Transportation. The most cost-effective method of transportation that will accomplish the purpose of the travel shall be selected. Among the factors to be considered should be length of travel time, employee's salary, cost of operation of a vehicle, cost and availability of common carrier services, etc. Common carrier shall be used for out-of-state travel unless it is documented that utilization of another method of travel is more cost-efficient or practical and approved in accordance with these regulations.

B. Air

1. Private Owned or Charter Planes. Before travel by privately-owned or by chartered aircraft is authorized for individual's travel by a department head, the traveler shall certify that: 1) at least one hour of working time will be saved by such travel; and 2) no other form of transportation, such as commercial air travel or a state plane, will serve this same purpose.

a. Chartering a privately owned aircraft must be in accordance with the Procurement Code.

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

i. at the rate of \$1.07 cents per mile; or

ii. at the lesser of state contract rate or coach economy airfare. If there are extenuating circumstances requiring reimbursement for other than listed above, approval must be granted by the Commissioner of Administration.

c. When common carrier services are unavailable and time is at a premium, travel via state aircraft shall be investigated, and such investigation shall be documented and readily available in the department's travel reimbursement files. Optimum utilization will be the responsibility of the department head.

2. Commercial Airlines. (receipts required) All state travelers are to purchase commercial airline tickets through the state contracted travel agency. This requirement is mandatory unless approval is granted from the State Travel Office. (In the event a traveler seeks approval to go outside the travel agency, they shall submit their request through their agency travel program administrator, who will determine if the request should be submitted to the Office of State Travel.) While the use of the contract travel agency is mandatory, the state traveler has options for the type of airfare ticket purchased. This office strongly encourages use of lowest logical airfares, not state contract fares. You should ask the contracted travel agency to check for the lowest logical rates based on your personal needs. The state always supports purchasing the "best value" ticket. Therefore once all rates are received, the traveler must compare cost and options to determine which fare would be the "best value" for their trip. To make this determination, the traveler must ask the question: Is there a likelihood my itinerary could change or be cancelled? Depending on the response, you must determine if the costs associated with changing a non-refundable ticket (usually around \$100) would still be the best value. Another factor to assist having a travel agent search the lowest fare is being able to advise the agent if you are flexible in either your dates or time of travel. By informing the travel agent of your "window of time" for your departure and return will assist them to search for the best price.

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

b. State contract airfare tickets are not available for personal, companion or spouse travel. This is a requirement of the airlines and our failure to monitor the use of these

contract airfares could cause their cancellation. Therefore, persons booking tickets for non-official business using contract rates will be subject to disciplinary action as well as payment of the difference between contract airfare and full coach fares.

c. Commercial air travel will not be reimbursed in excess of lowest logical or state contract air rate when it has been determined to be the best value (receipts required). The difference between contract or coach/economy class rates and first class or business class rates will be paid by the traveler. If space is not available in less than first or business class air accommodations in time to carry out the purpose of the travel, the traveler will secure a certification from the airline indicating this fact. The certification is required for travel reimbursement.

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

e. When an international flight segment is more than 10 hours in duration, the state will allow the business class rate not to exceed 10 percent of the coach rate. The traveler's itinerary provided by the travel agency must document the flight segment as more than 10 hours and must be attached to the travel voucher.

f. A lost airline ticket is the responsibility of the person to whom the ticket was issued. The airline charge of searching and refunding lost tickets will be charged to the traveler. The difference between the prepaid amount and the amount refunded by the airlines must be paid by the employee.

g. If companion fares are purchased for a state employee and non-state employee, the reimbursement to the state employee will be the amount of the lowest logical fare.

h. Traveler is to use the lowest logical airfare/state contract whether the plane is a prop or a jet.

i. Employees may retain promotional items, including frequent flyer miles, earned on official state travel. However, if an employee makes travel arrangements that favor a preferred airline/supplier to receive promotional items/points and this circumvents purchasing the most economical means of travel, they are in violation of this travel policy. Costs for travel arrangements subject to this violation are non-reimbursable.

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

C. Motor Vehicle. No vehicle may be operated in violation of state or local laws. No traveler may operate a vehicle without having in his/her possession a valid U.S. driver's license. Safety restraints shall be used by the driver and passengers of vehicles. All accidents, major and minor, shall be reported first to the local police department or

appropriate law enforcement agency. An accident report form, available from the Office of Risk Management (ORM) of the Division of Administration, should be completed as soon as possible and returned to ORM, together with names and addresses of principals and witnesses. Any questions about this should be addressed to the Office of Risk Management of the Division of Administration. These reports shall be in addition to reporting the accident to the Department of Public Safety as required by law.

1. State-Owned Vehicles

a. No person may be authorized to operate or travel in a fleet vehicle unless that person is a classified or unclassified employee of the state of Louisiana; any duly appointed member of a state board, commission, or advisory council; and any other person who has received specific approval from the department head or his designee to operate or travel in a fleet vehicle on official state business. A centralized file must be kept containing all of these approvals.

b. All purchases made on state gasoline credit cards must be signed for by the approved traveler making the purchase. The license number, the unit price, and quantity of the commodity purchased must be noted on the delivery ticket by the vendor. Items incidental to the operation of the vehicle may be purchased via state gasoline credit cards only when away from official domicile on travel status. In all instances where a credit card is used to purchase items or services which are incidental to the operation of a vehicle, a copy of the credit ticket along with a written explanation of the reason for the purchase will be attached to the monthly report mentioned in this subsection. State-owned credit cards will not be issued to travelers for use in the operation of privately owned vehicles.

c. Travelers in state-owned automobiles who purchase needed repairs and equipment while on travel status shall make use of all fleet discount allowances and state bulk purchasing contracts where applicable. Each agency/department shall familiarize itself with the existence of such allowances and/or contracts and location of vendors by contacting the Purchasing Office, Division of Administration.

d. The travel coordinator/officer/user of each state-owned automobile shall submit a monthly report to the department head, board, or commission indicating the number of miles traveled, odometer reading, credit card charges, dates, and places visited.

e. State-owned vehicles may be used for out-of-state travel only if permission of the department head has been given prior to departure. If a state-owned vehicle is to be used to travel to a destination more than 500 miles from its usual location, documentation that this is the most cost-effective means of travel should be readily available in the department's travel reimbursement files.

f. Unauthorized persons should not be transported in state vehicles. Approval of exceptions to this policy may be made by the traveler's supervisor if he determines that the best interest of the state will be served and if the passenger (or passenger's guardian) signs a statement acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel.

2. Personally Owned Vehicles

a. When two or more persons travel in the same personally owned vehicle, only one charge will be allowed for the expense of the vehicle. The person claiming reimbursement shall report the names of the other passengers.

b. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while conducting official state business. Mileage shall be reimbursable on the basis of \$0.52 per mile.

c. Mileage shall be computed by one of the following options:

i. on the basis of odometer readings from point of origin to point of return;

ii. by using a website mileage calculator or a published software package for calculating mileage such as Tripmaker, How Far Is It, Mapquest, etc.. Employee is to print the page indicating mileage and attach it with their travel expense form.

d. An employee shall never receive any benefit from not living in his/her official domicile. In computing reimbursable mileage to an authorized travel destination from an employee's residence outside the official domicile, the employee is always to claim the lesser of the miles from their official domicile or from their residence. If an employee is leaving on a non-work day or leaving significantly before or after work hours, the department head may determine to pay the actual mileage from the employee's residence.

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

f. Reimbursements will be allowed on the basis of \$0.52 per mile to travel between a common carrier/terminal and the employees point of departure, i.e., home, office, etc., whichever is appropriate and in the best interest of the state.

g. When the use of a privately-owned vehicle has been approved by the department head for out-of-state travel for the travelers convenience, the traveler will be reimbursed for in-route expenses on the basis of \$0.52 per mile only. The total cost of the mileage may not exceed the cost of travel by using the lesser of 1) State Contract airfare or 2) lowest logical airfare obtained at least 14 days prior to the trip departure date. The traveler is personally responsible for any other expenses in-route to and from destination which is inclusive of meals and lodging. If a traveler, at the request of the department, is asked to take their personally owned vehicle out-of-state for a purpose that will benefit the agency, then the department head may on a case-by-case basis determine to pay a traveler for all/part of in-route travel expenses. File should be justified accordingly.

h. When a traveler is required to regularly use his/her personally owned vehicle for agency activities, the agency head may request authorization from the Commissioner of Administration for a lump sum allowance for transportation or reimbursement for transportation (mileage). Request for lump sum allowance must be

accompanied by a detailed account of routine travel listing exact mileage for each such route. Miscellaneous travel must be justified by at least a three-month travel history to include a complete mileage log for all travel incurred, showing all points traveled to or from and the exact mileage. Requests for lump sum allowance shall be granted for periods not to exceed one fiscal year.

i. The traveler shall be required to pay all operating expenses of the vehicle including fuel, repairs, and insurance.

3. Rented Motor Vehicles (Receipts Required)

a. In-State Vehicle Rental. The state has contracted for in-state vehicle rentals which use is mandatory unless it is documented that the vendor does not have the appropriate size fleet in stock for the date of use.

b. Out-of-State Vehicle Rental. For vehicle rentals outside of Louisiana, the state does not provide contracts. However, the state has received price offers that will be available from multiple vehicle rental companies listed in the Louisiana Travel Guide. When a traveler is approved to rent a vehicle for out-of-state use, they may select a vendor listed in the guide or seek a lower rate.

c. Approvals. Written approval of the department head prior to departure is required for the rental of vehicles. Such approval may be given when it is shown that vehicle rental is the only or most economical means by which the purposes of the trip can be accomplished. In each instance, documentation showing cost effectiveness of available options must be readily available in the reimbursement files. This authority shall not be delegated to any other person.

d. Vehicle Rental Size. Only the cost of a compact model is reimbursable, unless 1) non-availability is documented, 2) the vehicle will be used to transport more than two persons or 3) the cost of a larger vehicle is no more than the rental rate for a compact. When a larger vehicle is an option as stated in 1) or 2) above, the upgraded vehicle shall be the next smallest size necessary to accommodate the number of persons traveling.

e. Personal Rental Days. Any personal rental days on a vehicle rented for official state business is not reimbursable and shall be deducted.

f. Gasoline (Receipts Required). The state's preference is to purchase gasoline at reasonable cost from a local gasoline station prior to returning the rental. Pre-paid fuel options are only to be allowed when the traveler can document that the pre-purchased amount was necessary and that the amount charged by the rental company is reasonable in relation to local gasoline cost.

g. Insurance for Vehicle Rentals within the 50 United States. Insurance billed by car rental companies (i.e., CDW and LDW) is not reimbursable for travel within the 50 United States. Insurance coverage for rental vehicles is provided by the Office of Risk Management. Should a collision occur while on official state business, the accident should be reported to the Office of Risk Management, as soon as possible.

h. Insurance for Vehicles Rentals outside the 50 United States. (receipts required) The Office of Risk Management (ORM) recommends that the appropriate insurance (liability and physical damage) provided through the car rental company be purchased when the traveler is

renting a vehicle outside the 50 United States. With the approval of the department head required insurance costs may be reimbursed for travel outside the 50 United States only.

1. The following are insurance packages available by rental vehicle companies which are reimbursable:

a. Collision Damage Waiver (CDW)—should a collision occur while on official state business, the cost of the deductible should be paid by the traveler and a reimbursement claimed on a travel expense voucher. The accident should also be reported to the Office of Risk Management;

b. Loss Damage Waiver (LDW);

c. Auto tow Protection (ATP)—*approval of Department Head;

d. Supplementary Liability Insurance (SLI)—* if required by the rental company;

e. Theft and/or Super Theft Protection (coverage of contents lost during a theft or fire)—*if required by the car rental company;

f. vehicle coverage for attempted theft or partial damage due to fire, *if required by the car rental company

2. The following are some of the insurance packages available by rental vehicle companies that are not reimbursable:

a. Personal Accident Insurance (PAC);

b. Emergency Sickness Protection (ESP);

i. Navigation Equipment (GPS System) may only be reimbursed if an employee justifies the need for such equipment and with prior approval of the Department Head or his designee.

D. Public Ground Transportation. The cost of public ground transportation such as buses, subways, airport shuttle/limousines, and taxis are reimbursable when the expenses are incurred as part of approved state travel. Taxi reimbursement is limited to \$15 per day without receipts; claims in excess of \$15 per day require receipts to account for total daily amount claimed. At the agency's discretion, the department head may implement an agency wide policy requiring receipts for an amount less than \$15 per day.

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§1505. State Issued Travel Credit Cards/CBA Accounts

A. Use. The State Travel Office contracts for an official state corporate travel card to form one source of payment for travel. If a supervisor recommends an employee be issued a state travel card, the employee should complete an application through their agency travel program administrator.

1. An employee's corporate travel card or agency CBA (Controlled Billed Accounts) must be used to purchase contract airfare. This is a mandatory requirement by the

airlines in order to continue to receive discounted, non-penalty state contract airline tickets.

2. An employee's corporate travel card may also be used to purchase lowest logical airfare tickets and other travel related expenses such as food and lodging, but it is not mandatory.

3. The employee's corporate travel card is for official state travel business purposes only. Personal use on the state travel card may result in disciplinary action.

B. Liability

1. The corporate travel card is the liability of the employee and not the state. Each monthly statement balance is due in full to the card-issuing bank. Travel card accounts that become delinquent are subject to being suspended or revoked. Those accounts will not be reinstated until such time the bank determines that employee to be credit-worthy. The state will have no tolerance to assist those employees that abuse their travel card privileges. Employees with delinquent payment may have their travel privileges revoked and/or subject to other disciplinary action.

2. The department/agency is responsible for cancellation of corporate travel cards for those employees terminating/retiring state service.

3. The department/agency's travel program administrator is responsible for completing a maintenance form to transfer an employee from one state agency to another. The employee may keep the same account number, but the agency change must be reported to the bank.

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§1506. Lodging and Meals

A. Eligibility

1. Official Domicile/Temporary Assignment. Travelers are eligible to receive reimbursement for travel only when away from "official domicile" or on temporary assignment unless exception is granted in accordance with these regulations. Temporary assignment will be deemed to have ceased after a period of 31 calendar days, and after such period the place of assignment shall be deemed to be his/her official domicile. He/she shall not be allowed travel and subsistence unless permission to extend the 31 day period has been previously secured from the Commissioner of Administration.

2. Extended Stays. For travel assignments approved by the Commission of Administration involving duty for extended periods (31 or more consecutive days) at a fixed location, the reimbursement rates indicated should be adjusted downward whenever possible. Claims for meals and lodging may be reported on a per diem basis supported by lodging receipt. Care should be exercised to prevent allowing rates in excess of those required to meet the necessary authorized subsistence expenses. It is the responsibility of each agency head to authorize only such

travel allowances as are justified by the circumstances affecting the travel.

3. Single Day Travel

a. Meals are not eligible for reimbursements on single day travel. This means that when an authorized traveler of the state is in travel status where no overnight stay is required, no meals are eligible for reimbursement. Each department head or their designees are to determine the reasonableness of when an over night stay is justified.

b. However, the department head will be allowed to authorize single day meal reimbursements on a case-by-case basis or by type(s) of single day travel when it is determined to be in the best interest of the department. In those cases the department must keep the approvals in the travel file and must be responsible to take appropriate steps to report the reimbursement as wages to the employee.

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

i The maximum allowance for meal reimbursement for single day travel will be \$26.

(a). Breakfast and Lunch: (\$19)The 12 hours travel duration must begin at or before 6 a.m.

(b). Lunch: (\$11) Requires 12 hours duration in travel status.

(c). Lunch and Dinner: (\$26) The 12 hour travel duration must end at or after 8 p.m.

4. Travel with Over Night Stay. Travelers may be reimbursed for meals according to the following schedule.

a. Breakfast—When travel begins at/or before 6 a.m. on the first day of travel or extends beyond 9 a.m. on the last day of travel, or for any intervening days.

b. Lunch—When travel begins at/or before 10 a.m. on the first day of travel or extends beyond 2 p.m. on the last day of travel, or for any intervening days.

c. Dinner—When travel begins at/or before 4 p.m. on the first day of travel or extends beyond 8 p.m. on the last day of travel, or for any intervening days.

5. Alcohol—reimbursement for alcohol is prohibited.

B. Exceptions

1. Routine Lodging Overage Allowances (Receipts required). Department head or his designee have the authority to approve actual costs for routine lodging provisions on a case by case basis, not to exceed 50 percent over PPM-49 current listed rates. Justification must be maintained in the file to show that attempts were made with hotels in the area to receive the state/best rate. In areas where the governor has declared an emergency, a department head or his/her designee will have the authority to approve actual routine and conference lodging provisions on a case by case basis not to exceed 75 percent over PPM-49 current listed rates. Each case must be fully documented as to necessity (e.g., proximity to meeting place) and cost effectiveness of alternative options. Documentation must be readily available in the department's travel reimbursement files.

2. Actual Expenses for State Officers (Receipts or other supporting documents are required for each item claimed). State officers and others so authorized by statute (see definition under *state officer*) or individual exception will be reimbursed on an actual expense basis for meals and

lodging except in cases where other provisions for reimbursement have been made by statute. Request shall not be extravagant and will be reasonable in relation to the purpose of travel. State officers entitled to actual expense reimbursements are only exempt from meals and lodging rates; they are subject to the time frames and all other requirements as listed in the travel regulations.

C. Meals and Lodging Allowances

1. Meal Allowance—includes Tax and Tips. Receipts are not required for routine meals within these allowances. Number of meals claimed must be shown on travel voucher. For meal rates, the inclusion of suburbs (see definition of *suburb*) shall be determined by the department head on a case-by-case basis. See tier pricing below. Partial meals such as continental breakfasts or airline meals are not considered meals. If meals of state officials on actual exceed these allowances, receipts are required.

2. Routine Lodging Allowance. Employees will be reimbursed lodging rate, plus tax and any mandatory surcharge. (Receipts are required) For lodging rates, the inclusion of suburbs (see definition of *suburb*) shall be determined by the department head on a case-by-case basis. When two or more employees on official state business share a lodging room, the state will reimburse the actual cost of the room; subject to a maximum amount allowed for an individual traveler times the number of employees. Department head approval must be provided to allow lodging expenses to be direct billed to an agency.

3. Conference Lodging Allowance. Employees will be reimbursed lodging rate, plus tax and any mandatory surcharge. (Receipts are required) Department head or his designee have the authority to approve the actual cost of conference lodging, for a single occupancy standard room, when the traveler is staying at the designated conference hotel. If there are multiple designated conference hotels, the lowest designated conference hotel should be utilized, if available. In the event the designated conference hotel(s) have no room availability, a department head may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels located near the conference hotel. This allowance does not include agency hosted conference lodging allowances; see §1510 for these allowances.

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

TIER I	
Breakfast	\$8
Lunch	\$11
Dinner	\$15
Total	\$34
Lodging Area	
Routine Lodging	
In-State Cities (except as listed)	\$60 \$70
Baton Rouge-EBR	\$99
Covington/Slidell-St. Tammany	\$96
Lake Charles-Calcasieu	\$76
Shreveport—Caddo/Bossier	\$70
Lafayette	\$79

TIER II	
Breakfast	\$9
Lunch	\$13
Dinner	\$19
Total	\$41
Lodging Area	
Routine Lodging	
New Orleans -Orleans, St. Bernard, Jefferson and Plaquemines Parishes (July 1-Sept.30)	\$99
New Orleans – Orleans, St. Bernard, Jefferson and Plaquemines Parishes (Oct 1– June30)	\$131
Out-Of-State (Except Cities Listed in Tier III & IV)	\$85

TIER III	
Breakfast	\$12
Lunch	\$16
Dinner	\$24
Total	\$52
Lodging Area	
Routine Lodging	
Austin,TX; Atlanta, GA; Cleveland, OH; Dallas/Fort Worth, TX; Denver, CO; Detroit, MI; Ft. Lauderdale, FL; Galveston, TX; Hartford, CT; Houston, TX; Kansas City, MO; Las Vegas, NV; Los Angeles, CA; Miami, FL; Minneapolis/St. Paul, MN; Nashville, TN; Oakland, CA; Orlando, FL; Philadelphia, PA; Phoenix, AZ; Pittsburgh, PA; Portland, ME; Portland, OR, Sacramento, CA; San Antonio, TX; San Diego, CA; St. Louis, MO; Tampa, FL; Wilmington, DE; all of Alaska or Hawaii; Puerto Rico; Virgin Island; American Samoa; Guam	\$135

TIER IV	
Breakfast	\$13
Lunch	\$18
Dinner	\$29
Total	\$60
Lodging Area	
Routine Lodging	
Baltimore, MD; San Francisco, CA; Seattle, WA	\$175
Alexandria, VA; Arlington,VA; Boston, MA; New York City, NY; Washington DC	\$225
Chicago, IL and International Cities	\$200

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HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1256 (June 2000), LR 27:807 (June 2001), repromulgated LR 27:1495 (September 2001), LR 28:1130 (June 2002), LR 30:1116 (June 2004) LR 31:1189 (June 2005), LR 32:939 (June 2006), LR 33:967 (June 2007), repromulgated LR 33:1320 (July 2007), amended LR 34:1305 (July 2008).

§1507. Parking and Related Parking Expenses

A. Parking at the Baton Rouge Airport. The state's current contract rate is \$3.50 per day (no receipts required) for parking in the outside, fenced parking lot at the airport. Documentation required to receive the contract price is either a parking coupon or a travel itinerary issued by the state contracted travel agency designating the employee is on "official state business". At the agency discretion an employee may be paid actual expenses up to \$5 per day with a receipt.

B. Parking at the New Orleans Airport. The state's current contract rate is \$6 per day and \$36 weekly at Park 'N Fly (no receipts required). Documentation required to receive the contract price is your agency issued photo I.D., a business card, state issued corporate card or a travel itinerary issued by the state contracted travel agency designating the employee is on "official state business". At the agency discretion an employee may be paid actual expenses up to \$8 per day with a receipt.

C. Travelers using motor vehicles on official state business will be reimbursed for reasonable storage fees, for all other parking, including airport parking except as listed in Subsections A and B above, ferry fares, and road and bridge tolls. For each transaction over \$5, a receipt is required.

D. Tips for valet parking not to exceed, \$2 per day.

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

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1257 (June 2000), LR 27:808 (June 2001), repromulgated LR 27:1496 (September 2001), repromulgated LR 27:1496 September 2001, LR 28:1130 (June 2002), LR 30:1117 (June 2004), LR 31:1190 (June 2005), LR 33:968 (June 2007), repromulgated LR 33:1321 (July 2007), amended LR 34:1307 (July 2008).

§1508. Reimbursement for Other Expenses (These charges are while in travel status only.)

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

1. Communications Expenses

a. For official state business—all costs (receipts required for over \$3).

b. For domestic overnight travel—up to \$3 in personal calls upon arrival at each destination and up to \$3 for personal calls every second night after the first night if the travel extends several days.

c. For international travel—up to \$10 in personal calls upon arrival at each destination and up to \$10 for personal calls every second night after the first night if the travel extends several days.

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

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

C. Baggage Tips

1. Hotel Allowances—not to exceed \$3 tip per hotel check-in and \$3 tip per hotel checkout, if applicable.

2. Airport Allowances—not to exceed \$3 tip for airport outbound departure trip and \$3 tip for inbound departure trip.

D. Luggage Allowances (Receipt Required). A department head or his designee may approve reimbursement to a traveler for airline charges for first checked bag for a business trip of five days or less and for a second bag for a 6-10 day business trip and/or any additional baggage which is business related and required by the department. The traveler must present a receipt to substantiate these charges.

E. Registration fees at conferences (meals that are a designated integral part of the conference may be reimbursed on an actual expense basis with prior approval by the department head).

F. Laundry Services. Employees on travel for more than 7 days up to 14 days are eligible for \$20 of laundry services, and for more than 14 days up to 21 days an additional \$20 of laundry services, and so on. Receipts are required for reimbursement.

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

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:808 (June 2001), LR 28:1131 (June 2002), LR 30:1118 (June 2004), LR 31:1190 (June 2005), LR 32:941 (June 2006), repromulgated LR 33:1322 (July 2007), amended LR 34:1307 (July 2008).

§1509. Special Meals

A. Reimbursement designed for those occasions when, as a matter of extraordinary courtesy or necessity, it is appropriate and in the best interest of the state to use public funds for provision of a meal to a person who is not otherwise eligible for such reimbursement and where reimbursement is not available from another source.

1. Visiting dignitaries or executive-level persons from other governmental units, and persons providing identified gratuity services to the state. This explicitly does not include normal visits, meetings, reviews, etc., by federal or local representatives.

2. Extraordinary situations are when state employees are required by their supervisor to work more than a 12-hour weekday or 6-hour weekend (when such are not normal working hours to meet crucial deadlines or to handle emergencies).

B. All special meals must have prior approval from the Commissioner of Administration in order to be reimbursed, unless specific authority for approval has been delegated to a department head for a period not to exceed one fiscal year with the exception in Subsection C, as follows.

C. A department head may authorize a special meal within allowable rates listed under Meals—Tier 1, to be served in conjunction with a working meeting of departmental staff.

D. In such cases, the department will report on a semi-annual basis to the Commissioner of Administration all special meal reimbursements made during the previous six months. These reports must include, for each special meal, the name and title of the person receiving reimbursement, the name and title of each recipient, the cost of each meal and an explanation as to why the meal was in the best interest of the state. Renewal of such delegation will depend upon a review of all special meals authorized and paid during the period. Request to the commissioner for special meal authorization must include, under signature of the department head:

1. name and position/title of the state officer or employee requesting authority to incur expenses and assuming responsibility for such;
2. clear justification of the necessity and appropriateness of the request;
3. names, official titles or affiliations of all persons for whom reimbursement of meal expenses is being requested;
4. statement that allowances for meal reimbursement according to these regulations will be followed unless specific approval is received from the Commissioner of Administration to exceed this reimbursement limitation;
 - a. all of the following must be reviewed and approved by the department head or their designee prior to reimbursement:
 - i detailed breakdown of all expenses incurred, with appropriate receipts(s);
 - ii. subtraction of cost of any alcoholic beverages;
 - iii. copy of prior written approval from the Commissioner of Administration.

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

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1118 (June 2004), LR 31:1191 (June 2005), repromulgated LR 1322 (July 2007), amended LR 34:1307 (July 2008).

§1510. Agency Hosted Conferences

A. State Sponsored Conferences. An agency must solicit three competitive quotes in accordance with the governor's Executive Order for small purchase.

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

Lunch In-State excluding New Orleans	\$20
Lunch—New Orleans	\$25

C. Conference Refreshment Allowance. Cost for break allowances for meeting, conference or convention are to be within the following rates.

1. Catering—served on properties where catering is not required: not to exceed \$2 per person, per morning and/or afternoon sessions.

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

D. Conference Lodging Allowances. Lodging rates may not exceed \$20 above the current listed routine lodging rates listed for the area in which the conference is being held.

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

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1256 (June 2000), LR 27:807 (June 2001), repromulgated LR 27:1495 (September 2001), LR 28:1130 (June 2002), LR 30:1116 (June 2004), LR 31:1191 (June 2005), LR 32:941 (June 2006), repromulgated LR 33:1323 (July 2007), amended LR 34:1308 (July 2008).

§1511. International Travel

A. All international travel must be approved by the Commissioner of Administration prior to departure, unless specific authority for approval has been delegated to a department head. Requests for approval must be accompanied by a detailed account of expected expenditures (such as room rate/date, meals, local transportation, etc.), and an assessment of the adequacy of this source to meet such expenditures without curtailing subsequent travel plans.

B. International travelers will be reimbursed the Tier IV area rates for meals and lodging, unless U.S. State Department rates are requested and authorized by the Commissioner of Administration prior to departure. Receipts are required for reimbursement of meals and lodging claimed at the U.S. State Department rates.

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

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1119 (June 2004), LR 31:1192 (June 2005), repromulgated LR 33:1323 (July 2007), amended LR 34:1308 (July 2008).

§1512. Waivers

- a. The Commissioner of Administration may waive in writing any provision in these regulations when the best interest of the state will be served.

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

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1259 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1119 (June 2004), LR 31:1192 (June 2005), repromulgated LR 33:1323 (July 2007), amended LR 34:1308 (July 2008).

Angele Davis
Commissioner

0807#049

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences
Horticulture and Quarantine Division

Citrus Greening Disease and Asian Citrus Psyllid
Quarantines (LAC 7:XV.127)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953 (B), and the authority of the state entomologist under the provisions of R.S. 3:1652, notice is hereby given that the Department of Agriculture and Forestry is adopting these emergency regulations establishing a quarantine for citrus greening disease (CG), also known as Huanglongbing disease of citrus, caused by the bacterial pathogen *Candidatus Liberibacter* spp., and for the Asian citrus psyllid (ACP), *Diaphorina citri* Kuwayama. The state entomologist has determined that CG and ACP have been found in this state and may be prevented, controlled, or eradicated by quarantine.

CG poses an imminent peril to the health and welfare to the \$6.4 million commercial citrus industry in Louisiana due to its ability to infest rutaceous plants. CG renders the fruit unmarketable and ultimately causes the death of infested plants. The ACP moves CG from one plant to another, thereby infesting new plants and spreading CG. Failure to prevent, control, or eradicate CG and ACP threatens to destroy Louisiana's commercial citrus industry and the growing and harvesting of citrus for their own private use by citizens of Louisiana.

Louisiana's commercial citrus industry adds \$6.4 million dollars to the state's agriculture economy each year. Sales of citrus trees and plants by nursery stock dealers to private individuals are also important to the state's economy. The loss of the state's commercial citrus industry and privately owned citrus trees and fruit would be devastating to the state's economy and to its private citizens. The quarantines established by these emergency regulations are necessary to prevent the spread of CG and the ACP to citrus production areas in Louisiana that are outside of the current areas where CG and the ACP have been found.

For these reasons the outbreak of CG and the ACP in Louisiana presents an imminent peril to the health, safety and welfare of Louisiana's citizens and the state's commercial and private citrus industry. As a result of this imminent peril, the Department of Agriculture and Forestry hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by imposing the quarantines set out in these emergency regulations.

This Rule shall have the force and effect of law five days after its promulgation in the official journal of the state and will remain in effect 120 days, unless renewed by the

Commissioner of Agriculture and Forestry or until permanent rules are promulgated in accordance with law.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter B. Nursery Stock Quarantines

§127. Citrus Nursery Stock, Scions and Budwood

A. - C.6. ...

D. Citrus Greening Disease Quarantine

1. The department issues the following quarantine because the state entomologist has determined that citrus greening disease (CG), also known as Huanglongbing disease of citrus, caused by the bacterial pathogen *Candidatus Liberibacter* spp., has been found in this state and may be prevented, controlled, or eradicated by quarantine.

2. Quarantined Areas. The quarantined areas in this state are the parish of Orleans and any other areas found to be infested with CG. The declaration of any other specific parishes or areas shall be published in the official journal of the state and in the *Louisiana Register*.

3. Regulated Materials. The following materials are hosts of CG and their movement is prohibited from quarantined areas due to the presence of CG:

a. all plants and plant parts, including but not limited to nursery stock, cuttings, budwood, and propagative seed (but excluding fruit), of: *Aeglopsis chevalieri*, *Balsamocitrus dawei*, *Bergera* (= *Murraya*) *koenigii*, *Calodendrum capense*, *X Citrocirus webberi*, *Citrus madurensis* (= *X Citrofortunella microcarpa*), *Citrus* spp., *Clausena indica*, *Clausena lansium*, *Fortunella* spp., *Limonia acidissima*, *Microcitrus australasica*, *Murraya* spp., *Poncirus trifoliata*, *Severinia buxifolia*, *Swinglea glutinosa*, *Triphasia trifolia*, *Vepris* (= *Toddalia*) *lanceolata*;

b. any other products, materials, articles, or means of conveyance, if an inspector determines that it presents a risk of spreading citrus greening, and after the inspector provides written notification to the person in possession of the products, materials, articles, or means of conveyance that it is subject to the restrictions of the regulations.

E. Asian Citrus Psyllid Quarantine

1. The department issues the following quarantine because the state entomologist has determined that Asian citrus psyllid (ACP), *Diaphorina citri* Kuwayama, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

2. Quarantined Areas. The quarantined areas in this state are the parishes of Jefferson, Orleans, Plaquemines, and St. Charles, and any other specific parishes or areas found to be infested with ACP. The declaration of any other areas shall be published in the official journal of the state and in the *Louisiana Register*.

3. Regulated Materials. The following materials are hosts of ACP and their movement is prohibited from quarantined areas due to the presence of ACP:

a. All plants, budwood, cuttings, or other fresh or live plant parts, except seed and fruit, of: *Aegle marmelos*, *Aeglopsis chevalieri*, *Afraegle gabonensis*, *Afraegle paniculata*, *Atalantia monophylla*, *Atalantia* spp., *Balsamocitrus dawaei*, *Bergera* (= *Murraya*) *koenigii*, *Calodendrum capense*, *X Citrocirus webberi*, *Citropsis articulata*, *Citropsis gilletiana*, *Citropsis schweinfurthii*, *Citrus madurensis* (= *X Citrofortunella microcarpa*), *Citrus* spp., *Clausena anisum-olens*, *Clausena excavata*, *Clausena indica*, *Clausena lansium*, *Eremocitrus glauca*, *Eremocitrus hybrid*, *Fortunella* spp., *Limonia acidissima*, *Merrillia caloxylon*, *Microcitrus australasica*, *Microcitrus australis*, *Microcitrus papuana*, *X Microcitronella* spp., *Murraya* spp., *Naringi crenulata*, *Pamburus missionis*, *Poncirus trifoliata*, *Severinia buxifolia*, *Swinglea glutinosa*, *Tetradium rutarcarpum*, *Toddalia asiatica*, *Triphasia trifolia*, *Vepris* (= *Toddalia*) *lanceolata*, and *Zanthoxylum fagara*.

b. While fresh fruit is not a regulated material, fruit of ACP host plant species moving from areas quarantined for ACP to citrus-producing areas not under quarantine for ACP must have been cleaned using normal packinghouse procedures. Regulated materials originating from ACP-quarantined areas are prohibited entry into or through free areas of Louisiana, except as provided in subsection (c) of this section.

c. Exceptions. To be eligible to move from quarantined areas, regulated materials must meet the following requirements.

i. Movement to non-quarantined areas of Louisiana:

(a). Regulated materials must be treated using products approved by the United States Environmental Protection Agency (EPA) and the department for use in nurseries. Persons applying treatments must follow the product label, its applicable directions, restrictions and precautions, including statements pertaining to worker protection standards.

(b). All regulated materials not intended for human or animal consumption must be treated with a drench containing imidacloprid as the active ingredient within 30 days prior to shipping and also be treated with a foliar spray with a product containing either acetamiprid, chlorpyrifos, or fenpropathrin as the active ingredient within 10 days prior to movement. The drench and foliar spray must be applied at the rate designated for ACP on the product. Additional active ingredients may be approved upon consultation with the United States Department of Agriculture (USDA).

(c). In the case of regulated materials intended for consumption, such as fresh curry leaves (*Bergera* (= *Murraya*) *koenigii*), (instead of the treatments specified in subparagraph (b) of this paragraph), or for decorative purposes such as mock orange (*Murraya paniculata*) leaves that are incorporated into leis or floral arrangements, the leaves must be treated prior to the movement in accordance with the Animal and Plant Health Inspection Service's (APHIS) treatment schedule T101-n-2 (methyl bromide fumigation treatment for external feeding insects on fresh herbs) at the times and rates specified in the treatment manual and must be safeguarded until movement. As an alternative to methyl bromide fumigation, regulated materials originating from an area not quarantined for CG may be irradiated in accordance with 7 CFR 305.

(d). All regulated materials that have been treated as provided above must be inspected by the person engaged in growing or handling the regulated materials or by his trained designee and found free of ACP within 72 hours prior to shipping. Inspection of curry leaves treated with methyl bromide fumigation will not be required since the treatment is considered to be effective in killing all life stages of ACP that might be present.

(e). Any person engaged in the business of growing or handling regulated materials must enter into a compliance agreement with the department if the regulated materials are to be moved to ACP-free areas of Louisiana.

ii. Requirements to move from quarantined areas of Louisiana to other states:

(a). regulated materials may not be moved to Alabama, American Samoa, Arizona, California, Florida, Texas, Puerto Rico, Northern Mariana Islands, and the Virgin Islands of the United States;

(b). persons wishing to move regulated materials to states and territories other than those listed in Subclause (a) of this Clause must enter into a compliance agreement with APHIS to move regulated materials.

(c). Compliance agreements may be arranged by contacting the Louisiana State Plant Health Director, PPQ-APHIS-USDA, at 4354 South Sherwood Blvd., Suite 150D, Baton Rouge, LA 70816 or telephone (225) 298-5410.

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 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture and Quarantine Division, LR 34:

Mike Strain, DVM
Commissioner

807#004

DECLARATION OF EMERGENCY
Department of Environmental Quality
Office of the Secretary

Expedited Penalty Agreement
(LAC 33:I.801 and 807, and VII.115 and 315)(M004E4)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allow the Department of Environmental Quality to use emergency procedures to establish rules, and of R.S. 30:2011, which allows the department to establish standards, guidelines, and criteria, to promulgate rules and regulations, and to issue compliance schedules, the secretary of the department hereby declares that an emergency action is necessary in order to implement expedited penalty agreements.

This is a renewal of Emergency Rule MM004E3, which was effective on March 15, 2008, and published in the *Louisiana Register* on March 20, 2008

The expedited penalty agreement Rule, LAC 33:I.Chapter 8, became final on December 20, 2006. This Emergency Rule supplements that Rule by adding certain violations to, and clarifying existing violations in, the types of violations that may qualify for expedited penalties and adjusting existing penalty amounts to be consistent across media for

similar violations. The structure of the expedited penalty table is changed to divide it into separate tables by media and type. The Emergency Rule will abate delays that have occurred in correcting violations of the Environmental Quality Act concerning the unauthorized transporting, disposal, and/or burning of solid wastes and violations of the UST delivery prohibition rule required by the federal Underground Storage Tank Compliance Act of 2005. Delays in enforcement reduce the effectiveness of the enforcement action and unnecessarily utilize resources. In the recent past, complaints of unauthorized disposal and burning of solid wastes have increased considerably, especially in the hurricane-impacted areas. This Emergency Rule will provide an alternative penalty assessment mechanism that the department may utilize, at its discretion, to expedite penalty agreements in appropriate cases, reducing staff time and increasing efficiency in addressing such violations. The report to the governor by the Advisory Task Force on Funding and Efficiency of the Louisiana Department of Environmental Quality has approved an expedited penalty approach. It recommended a pilot program for addressing certain classes of violations with penalties in a timelier manner. The legislature approved that report and passed Act 1196 in the 2003 Regular Session allowing the department to promulgate rules for the program. A pilot program was created and monitored for approximately two years. Positive feedback on the program led the department to promulgate the permanent expedited penalty agreement Rule that became final on December 20, 2006.

This Emergency Rule is effective on July 13, 2008, and shall remain in effect for a maximum of 120 days or until a final Rule is promulgated, whichever occurs first. For more information concerning MM004E4 you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx, and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 8. Expedited Penalty Agreement

§801. Definitions

* * *

LAR050000—an LPDES multi-sector storm water general permit.

LAR100000—an LPDES storm water general permit associated with construction activity greater than five acres.

LPDES General Permit—for the purposes of this Chapter, any Louisiana Pollutant Discharge Elimination System Permit in the LAG530000, LAG540000, or LAG750000 series.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs

Division, LR 32:2242 (December 2006), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§807. Types of Violations and Expedited Penalty Amounts

A. The types of violations listed in the following table may qualify for coverage under this Chapter; however, any violation listed below, which is identified in an expedited penalty agreement, must also meet the conditions set forth in LAC 33:I.805.E.

Expedited Penalties			
ALL MEDIA			
Violation	Citation	Amount	Frequency
* * *			
[See Prior Text]			

Expedited Penalties			
AIR QUALITY			
Violation	Citation	Amount	Frequency
Failure to timely submit any applicable Specific Condition or General Condition report as specified in a minor source permit.	LAC 33:III.501.C.4	\$250	Per occurrence
Failure to timely submit any applicable Specific Condition or General Condition report (other than those specified elsewhere in this Section) as specified in a Part 70 (Title V) air permit.	LAC 33:III.501.C.4	\$350	Per occurrence
40 CFR Part 70 General Permit conditions (Part K, L, M, or R): Failure to timely submit any applicable annual, semiannual, or quarterly reports.	LAC 33:III.501.C.4	\$500	Per occurrence
Failure to submit an updated Emission Point List, Emissions Inventory Questionnaire (EIQ), emissions calculations, and certification statement as described in LAC 33:III.517.B.1 within seven calendar days after effecting any modification to a facility authorized to operate under a standard oil and gas permit.	LAC 33:III.501.C.4	\$750	Per occurrence/ emission point
Failure to submit the Title V permit renewal application at least six months prior to the date of expiration, applicable only when the renewal application is submitted prior to permit expiration and a renewal permit is issued on or before the expiration date.	LAC 33:III.507.E.4	\$1,000	Per occurrence
Failure to provide notice of change of ownership within 45 days after the change.	LAC 33:III.517.G	\$200	Per occurrence

Expedited Penalties			
AIR QUALITY			
Violation	Citation	Amount	Frequency
Failure to submit an Annual Criteria Pollutant Emissions Inventory in a timely and complete manner when applicable.	LAC 33:III.919	\$500	Per occurrence
Control of Fugitive Emissions, sandblasting facilities: Failure to take all reasonable precautions to prevent particulate matter from becoming airborne.	LAC 33:III.1305.A	\$250	Per occurrence
Failure to maintain records for glycol dehydrators subject to LAC 33:III.2116.F.	LAC 33:III.2116.F	\$250	Per occurrence
Failure to submit an Annual Toxic Emissions Data Inventory in a timely and complete manner when applicable.	LAC 33:III.5107	\$500	Per occurrence
Failure to submit an initial perchloroethylene inventory report.	LAC 33:III.5307.A	\$250	Per occurrence
Failure to submit a perchloroethylene usage report by July 1 for the preceding calendar year.	LAC 33:III.5307.B	\$250	Per occurrence

Expedited Penalties			
AIR QUALITY—Stage II Vapor Recovery			
Note: LAC 33:III.2132 is only applicable to subject gasoline dispensing facilities in the parishes of Ascension, East Baton Rouge, West Baton Rouge, Iberville, Livingston, and Pointe Coupee.			
Violation	Citation	Amount	Frequency
Failure to use and/or diligently maintain, in proper working order, all air pollution control equipment installed at the site.	LAC 33:III.905	\$300	Per occurrence
Failure to submit an application to the administrative authority prior to installation of the Stage II vapor recovery system.	LAC 33:III.2132.B.6	\$500	Per occurrence
Failure to have at least one person trained as required by the regulations.	LAC 33:III.2132.C	\$300	Per occurrence
Failure to test the vapor recovery system prior to start-up of the facility and annually thereafter.	LAC 33:III.2132.D	\$750	Per occurrence
Failure to post operating instructions on each pump.	LAC 33:III.2132.E	\$100	Per occurrence
Failure to maintain equipment and tag defective equipment "out of order."	LAC 33:III.2132.F.1 and 3-4	\$500	Per inspection
Failure to perform daily inspections and accurately record results.	LAC 33:III.2132.F.2	\$300	Per inspection

Expedited Penalties			
AIR QUALITY—Stage II Vapor Recovery			
Note: LAC 33:III.2132 is only applicable to subject gasoline dispensing facilities in the parishes of Ascension, East Baton Rouge, West Baton Rouge, Iberville, Livingston, and Pointe Coupee.			
Violation	Citation	Amount	Frequency
Failure to maintain records on-site for at least two years and present them to an authorized representative upon request.	LAC 33:III.2132.G.1-7	\$200	Per compliance inspection

Expedited Penalties			
HAZARDOUS WASTE—Used Oil			
Violation	Citation	Amount	Frequency
* * *			
[See Prior Text]			

Expedited Penalties			
SOLID WASTE			
Violation	Citation	Amount	Frequency
Unauthorized on-site disposal of regulated solid waste generated at the site by the owner, lessee, or other person having an actual right, title, or interest in the property.	LAC 33:VII.315.C	\$250	Per occurrence
Unauthorized disposal of solid waste by the generator at an off-site location not permitted to receive such waste.	LAC 33:VII.315.C	\$250	Per occurrence
Operation of an unauthorized disposal site where solid waste is disposed.	LAC 33:VII.315.C	\$1,000	Per occurrence
An owner, lessee, or other person having an actual right, title, or interest in the property of an unauthorized disposal site in which solid waste is disposed.	LAC 33:VII.315.C	\$1,000	Per occurrence
Failure to report any discharge, deposit, injection, spill, dumping, leaking, or placing of solid waste into or on the water, air, or land.	LAC 33:VII.315.F	\$500	Per occurrence
Open burning of solid waste as prohibited by regulation.	LAC 33:VII.315.M	\$250	Per occurrence
Offering residential solid waste to an unauthorized transporter and/or facility not permitted to receive such waste.	LAC 33:VII.315.O	\$250	Per occurrence
Offering commercial solid waste and/or construction and demolition debris to an unauthorized transporter and/or a facility not permitted to receive such waste.	LAC 33:VII.315.O	\$500	Per occurrence

Expedited Penalties			
SOLID WASTE			
Violation	Citation	Amount	Frequency
Offering industrial solid waste to an unauthorized transporter and/or a facility not permitted to receive such waste.	LAC 33:VII.315.O	\$750	Per occurrence
Failure to notify the department after becoming subject to the regulations as a generator, transporter, processor, or disposer of solid waste.	LAC 33:VII.401.A	\$300	Per occurrence
Transportation of solid waste to processing or disposal facilities not permitted to receive such waste.	LAC 33:VII.505.D	\$1,000	Per occurrence

Expedited Penalties			
SOLID WASTE—Waste Tires			
Violation	Citation	Amount	Frequency
Storage of more than 20 whole tires without authorization from the administrative authority.	LAC 33:VII.10509.B	\$200	Per occurrence
Transporting more than 20 tires without first obtaining a transporter authorization certificate.	LAC 33:VII.10509.C	\$300	Per occurrence
Storing tires for greater than 365 days.	LAC 33:VII.10509.E	\$200	Per occurrence
Failure to maintain all required records for three years on-site or at an alternative site approved in writing by the administrative authority.	LAC 33:VII.10509.G; 10519.O and P	\$200	Per occurrence
Failure to obtain a waste tire generator identification number within 30 days of commencing business operations.	LAC 33:VII.10519.A	\$300	Per occurrence
Failure to accept one waste tire for every new tire sold unless the purchaser chooses to keep the waste tire.	LAC 33:VII.10519.B	\$100	Per occurrence
Failure to collect appropriate waste tire fee for each tire sold.	LAC 33:VII.10519.C; 10521.B; 10535.B	\$200	Per occurrence
Failure to remit waste tire fees to the state on a monthly basis as specified.	LAC 33:VII.10519.D; 10521.C	\$200	Per occurrence
Failure to post required notifications to the public.	LAC 33:VII.10519.E; 10521.D	\$100	Per occurrence
Failure to list the waste tire fee on a separate line on the invoice so that no tax will be charged on the fee.	LAC 33:VII.10519.F; 10521.E	\$100	Per occurrence
Failure to keep waste tires or waste tire material covered as specified.	LAC 33:VII.10519.H; 10521.H	\$200	Per occurrence

Expedited Penalties			
SOLID WASTE—Waste Tires			
Violation	Citation	Amount	Frequency
Storing waste tires for more than 120 days without complying with the exceptions for the extended storage time.	LAC 33:VII.10519.I	\$200	Per occurrence
Failure to use an authorized transporter for removal of tires from a place of business.	LAC 33:VII.10519.K	\$500	Per occurrence
Failure to segregate waste tires from new or used tires offered for sale.	LAC 33:VII.10519.M	\$200	Per occurrence
Failure of motor vehicle dealer to notify administrative authority within 30 days of commencing business operations.	LAC 33:VII.10521.A	\$300	Per occurrence
Failure to submit application and fees for transporter authorization.	LAC 33:VII.10523.A	\$300	Per occurrence
Failure to use a manifest when transporting greater than 20 waste tires.	LAC 33:VII.10523.C	\$200	Per occurrence
Failure of transporter to transport all waste tires to an authorized collection center or a permitted processing facility.	LAC 33:VII.10523.D	\$1,000	Per occurrence
Failure of out-of-state or out-of-country transporter to comply with state waste tire regulations.	LAC 33:VII.10523.E	\$200	Per occurrence
Failure to affix to driver's door and passenger's door the authorization certificate number, 3 inches in height.	LAC 33:VII.10523.F	\$100	Per occurrence
Failure to provide notification in writing within 10 days when any information on the authorization certificate form changes, or if the business closes and ceases transporting waste tires.	LAC 33:VII.10523.G	\$100	Per occurrence
Acceptance by a processor of more than five unmanifested tires per day per customer.	LAC 33:VII.10525.A.2	\$300	Per occurrence
Failure of a processor to maintain a log for all unmanifested loads.	LAC 33:VII.10525.A.2	\$200	Per occurrence
Failure to meet any of the facility standards listed in LAC 33:VII.10525.D.	LAC 33:VII.10525.D	\$300	Per occurrence
Failure by a collector or collection center to follow the requirements for receipt of tires.	LAC 33:VII.10527.A	\$200	Per occurrence

Expedited Penalties			
SOLID WASTE—Waste Tires			
Violation	Citation	Amount	Frequency
Failure of collection center operator to meet the standards in LAC 33:VII.10525.D.1-10 and 12-24.	LAC 33:VII.10527.B	\$300	Per occurrence
A collector or collection center exceeding the storage limit of waste tires or waste tire material.	LAC 33:VII.10527.C; 10531.C	\$300	Per occurrence
Failure of recycler to provide notification of its existence and obtain an identification number.	LAC 33:VII.10531.A	\$300	Per occurrence
Failure of waste tire or waste tire material recycler to meet the requirements of LAC 33:VII.10525.D.	LAC 33:VII.10531.B	\$300	Per occurrence
Failure to provide a manifest for all waste tire shipments containing more than 20 tires.	LAC 33:VII.10533.A	\$200	Per occurrence
Failure to follow the requirements for manifest discrepancies.	LAC 33:VII.10533.C	\$300	Per occurrence
Failure to maintain completed manifests for three years and have them available for inspection.	LAC 33:VII.10533.D	\$200	Per occurrence

Expedited Penalties			
WATER QUALITY			
Violation	Citation	Amount	Frequency
Failure to develop and/or implement a Spill Prevention and Control Plan (SPC):			
1. Failing to develop an SPC plan for any applicable facility.	LAC 33:IX.905	\$500	Per occurrence
2. Failing to implement any component of an SPC plan.	LAC 33:IX.905	\$100	Per occurrence
Unauthorized discharge of oily fluids.	LAC 33:IX.1701.B	\$1,000	Per occurrence
Unauthorized discharge of oil field wastes, including produced water.	LAC 33:IX.1901.A	\$1,000	Per occurrence
Failure to submit a Notice of Intent for coverage under the LAR050000 or LAR100000 LPDES Storm Water General Permit.	LAC 33:IX.2511.C.1	\$1,000	Per occurrence

Expedited Penalties			
WATER QUALITY			
Violation	Citation	Amount	Frequency
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule A permit.	LAC 33:IX.2701.A	\$200 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule A permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule B permit.	LAC 33:IX.2701.A	\$300 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule B permit.	LAC 33:IX.2701.A	\$500 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG540000 permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG540000 permit.	LAC 33:IX.2701.A	\$600 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG750000 permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG750000 permit.	LAC 33:IX.2701.A	\$600 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with monitoring requirements of LPDES Storm Water General Permits LAR050000 and LAR100000.	LAC 33:IX.2701.A	\$300	Per occurrence

Expedited Penalties			
WATER QUALITY			
Violation	Citation	Amount	Frequency
Failure to submit certain reports as required by any LPDES permit not previously defined as an LPDES General Permit in LAC 33:1.801, including noncompliance reports, storm water reports, pretreatment reports, biomonitoring reports, overflow reports, construction schedule progress reports, environmental audit reports as required by a municipal pollution prevention plan, and toxicity reduction evaluation reports.	LAC 33:IX.2701.A	\$300	Per required submittal
Failure to prepare and/or implement any portion or portions of a Storm Water Pollution Prevention Plan (SWPPP), Pollution Prevention Plan (PPP), or Best Management Practices/Plan (BMP) as required by any LPDES permit not previously defined as an LPDES General Permit in LAC 33:1.801.	LAC 33:IX.2701.A	\$500	Per occurrence

Expedited Penalties			
UNDERGROUND STORAGE TANKS			
Violation	Citation	Amount	Frequency
Failure to register an existing or new UST containing a regulated substance.	LAC 33:XI.301.A-B	\$300	Per inspection
Failure to certify and provide required information on the department's approved registration form.	LAC 33:XI.301.B.1-2	\$200	Per inspection
Failure to provide notification within 30 days after selling a UST system or acquiring a UST system; failure to keep a current copy of the registration form on-site or at the nearest staffed facility.	LAC 33:XI.301.C.1-3	\$300	Per inspection
Allowing a regulated substance to be placed into a new UST system that has not been registered.	LAC 33:XI.301.C.4	\$300	Per inspection
Failure to provide corrosion protection to tanks that routinely contain regulated substances using one of the specified methods.	LAC 33:XI.303.B.1	\$500 and completion of a department-sponsored compliance class	Per inspection

Expedited Penalties			
UNDERGROUND STORAGE TANKS			
Violation	Citation	Amount	Frequency
Failure to provide corrosion protection to piping that routinely contains regulated substances using one of the specified methods.	LAC 33:XI.303.B.2	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to provide corrosion protection to flex hoses and/or sub-pumps that routinely contain regulated substances using one of the specified methods.	LAC 33:XI.303.B.2	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to provide spill and/or overflow prevention equipment as specified.	LAC 33:XI.303.B.3	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to ensure that the individual exercising supervisory control over installation-critical junctures is certified in accordance with LAC 33:XI.Chapter 13.	LAC 33:XI.303.B.4.b.ii	\$1,000	Per occurrence
Failure to upgrade an existing UST system to new system standards as specified.	LAC 33:XI.303.C	\$1,300 and completion of a department-sponsored compliance class	Per inspection
Failure to pay fees by the required date.	LAC 33:XI.307.D	\$200	Per inspection
Failure to report any spill and overflow.	LAC 33:XI.501.C	\$500	Per inspection
Failure to investigate and/or clean up any spill and overflow.	LAC 33:XI.501.C	\$1,500	Per inspection
Failure to continuously operate and maintain corrosion protection to the metal components of portions of the tank and piping that routinely contain regulated substances and are in contact with the ground or water.	LAC 33:XI.503.A.1	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to have a UST system equipped with a cathodic protection system inspected for proper operation as specified.	LAC 33:XI.503.A.2	\$300 and completion of a department-sponsored compliance class	Per inspection

Expedited Penalties			
UNDERGROUND STORAGE TANKS			
Violation	Citation	Amount	Frequency
Failure to inspect a UST system with an impressed current cathodic protection system every 60 days to ensure that the equipment is running properly.	LAC 33:XI.503.A.3	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to comply with recordkeeping requirements.	LAC 33:XI.503.B	\$200 and completion of a department-sponsored compliance class	Per inspection
Failure to meet requirements for repairs to UST systems.	LAC 33:XI.507	\$300	Per inspection
Failure to ensure that the individual exercising supervisory control over repair-critical junctures is certified.	LAC 33:XI.507.A.2	\$1,000	Per occurrence
Failure to maintain required information and/or keep records at the UST site and make them immediately available or keep them at an alternative site and provide them after a request.	LAC 33:XI.509. B and C	\$200 and completion of a department-sponsored compliance class	Per inspection
Failure to meet the performance requirements when performing release detection required in LAC 33:XI.703.	LAC 33:XI.701; 703.A.1.b and c	\$750 and completion of a department-sponsored compliance class	Per inspection
Failure to use a method or combination of methods of release detection described in LAC 33:XI.701 for all new or existing tank systems.	LAC 33:XI.703.A.1, not including Subparagraphs a-c	\$1,500 and completion of a department-sponsored compliance class	Per inspection
Failure to monitor tanks for releases as specified.	LAC 33:XI.703.B.1	\$350 and completion of a department-sponsored compliance class	Per inspection
Failure to monitor underground piping for releases as specified.	LAC 33:XI.703.B.2	\$750 and completion of a department-sponsored compliance class	Per inspection
Failure to maintain release detection records.	LAC 33:XI.705	\$200 and completion of a department-sponsored compliance class	Per inspection

Expedited Penalties			
UNDERGROUND STORAGE TANKS			
Violation	Citation	Amount	Frequency
Failure to report any suspected release within 24 hours after becoming aware of the occurrence or when a leak detection method indicates that a release may have occurred.	LAC 33:XI.703. A.2 or 707	\$500 and completion of a department-sponsored compliance class	Per occurrence
Failure to investigate and confirm any suspected release of a regulated substance that requires reporting under LAC 33:XI.707 within seven days.	LAC 33:XI.711	\$1,500	Per occurrence
Failure to maintain corrosion protection and/or release detection on a UST system that is temporarily closed and contains more than 2.5 cm (1 inch) of residue, or 0.3 percent by weight of the total capacity of the UST system.	LAC 33:XI.903.A	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to comply with permanent closure and/or changes in service procedures.	LAC 33:XI.905	\$500	Per inspection
Failure to use a certified worker for tank closure.	LAC 33:XI.905.A.2	\$1,000	Per inspection
Failure to assess the site at closure or change-in-service where contamination is most likely to be present.	LAC 33:XI.907.A	\$500	Per occurrence
Failure to submit the assessment in duplicate within 60 days following permanent closure or change-in-service.	LAC 33:XI.907.A	\$500	Per occurrence
Failure to begin corrective action of contaminated soils, contaminated groundwater, or free product discovered through methods in LAC 33:XI.907.A, in accordance with LAC 33:XI.715.	LAC 33:XI.907.B	\$1,500	Per occurrence

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:2243 (December 2006), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 1. General Provisions and Definitions

§115. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Transport—to move solid waste off-site to a non-processing transfer station or collection, processing, or disposal facility.

Transporter—any person who moves solid waste off-site to a non-processing transfer station or collection, processing, or disposal facility, excluding individuals who transport their own residential waste to a collection facility, non-processing transfer station, or permitted processing facility and/or solid waste landfill.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514, 2609 (November 2000), amended by the Office of Environmental Assessment, LR 31:1576 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007), LR 34:1023 (June 2008), LR 34:

Chapter 3. Scope and Mandatory Provisions of the Program

§315. Mandatory Provisions

A. - N.2. ...

O. Generators shall not offer solid waste to transporters, processing facilities, or disposal facilities that have not received authorization and/or the required permits necessary to receive and/or manage the generator's solid waste.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1315 (October 1993), repromulgated LR 19:1421 (November 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), LR 30:1675 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005), LR 33:1030 (June 2007), LR 34:

Harold Leggett, Ph.D.
Secretary

0807#043

DECLARATION OF EMERGENCY

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs
(LAC 28:IV.Chapter 14)

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

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

This rulemaking will amend Chapter 14 to LASFAC's Scholarship/Grants rules to rename the Dual Enrollment Program as the Early Start Program; amend the initial eligibility requirements; provide definitions for Career Area of Concentration, Census Day, and LAICU; and add LAICU members to the postsecondary institutions authorized to participate in the program.

This Declaration of Emergency is effective June 12, 2008, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG0896E)

Title 28

EDUCATION

Part IV. Student Financial Assistance

Higher Education Scholarship and Grant Programs

Chapter 14. Early Start Program

§1401. General Provisions

A. The Early Start Program is administered by the Louisiana Office of Student Financial Assistance (LOSFA) in accordance with a memorandum of understanding by and between the Louisiana Board of Regents and the Louisiana Student Financial Assistance Commission (LASFAC).

B. Description, History and Purpose. The Early Start Program is established to provide funding to eligible Louisiana postsecondary institutions that enroll eligible 11th and 12th grade Louisiana public high school students in college degree, developmental, or work skills courses. The purpose of the Early Start Program is to provide an incentive for qualified Louisiana public high school students to prepare for a postsecondary education or career.

C. Effective Date. Early Start Program payments shall be made beginning with the 2007-2008 award year to postsecondary institutions for 11th and 12th grade students meeting the eligibility criteria set forth in this Chapter.

D. Eligible Semesters/Terms. The Early Start Program will pay for enrollment in each college course during each semester or term of the academic year. Early Start Program will not pay for summer semesters or sessions.

E. Award Amount. The Early Start Program will pay postsecondary institutions \$100 per college credit hour, not to exceed \$300 per course, for each course in which the student is eligible to enroll.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2609 (December 2007), amended LR 34:240 (February 2008), LR 34:

§1403. Definitions

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. 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.

* * *

Career Area of Concentration—a coherent sequence of courses or field of study approved by BESE that prepares a high school student for a first job and/or further education and training. It includes four sequential related credits in a specific area plus two credits in a related field; one must be a basic computer course.

Census Day—14th class day (or equivalent) census of current term enrollment.

College Degree Course—a course in an academic subject at a Louisiana postsecondary institution that generates postsecondary institutional credit and:

1. appears on the current Board of Regents' Statewide General Education Course Articulation Matrix for public postsecondary institutions; or

2. appears on a list of courses approved by the Board of Regents for LAICU postsecondary institutions.

Eligible Postsecondary Institution—Louisiana public colleges or universities and regionally accredited independent colleges or universities which are members of the LAICU.

Enrichment/Developmental Course—an English or mathematics course at an eligible Louisiana postsecondary institution that generates postsecondary institutional credit, but not degree credit, and is designed to prepare the student for college-level instruction.

LAICU—Louisiana Association of Independent Colleges and Universities.

Work Skills Course—a course at an eligible Louisiana postsecondary institution in a skill or occupational training area that is designed to lead to an industry-based certificate and, for students required to have a declared Career Area of Concentration, will contribute to the student's Career Area of Concentration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2610 (December 2007), amended LR 34:240 (February 2008), LR 34:

§1405. Establishing Eligibility

A. To establish eligibility for the Early Start Program, all student applicants must meet the following criteria:

1. be in the 11th or 12th grade in a Louisiana public high school;

2. be at least 15 years of age;

3. have taken either the PLAN[®] or ACT assessment (or SAT) and those scores are on file at the high school;

4. have completed and submitted a Early Start Program application to the high school in which the student is enrolled;

5. be approved by the high school in which the student is enrolled to participate in the program and to enroll in the course or courses; and

6. be enrolled in a course for which both high school and college credit is attempted and for which a Early Start Program payment is made.

B. Enrollment in a College Degree Course. In addition to the eligibility criteria in Paragraphs A.1-6:

1.a. for students graduating from high school in academic years (high school) 2008-2009 through 2010-2011, the student must be working towards and on track to complete the Regents/TOPS core by high school graduation; or

b. for students graduating from high school in academic years (high school) 2011-2012 and thereafter, the student must be working towards and on track to complete the Louisiana Core 4 curriculum as approved by the Board of Elementary and Secondary Education;

2.a. through the fall semester or fall and winter term of the 2008-2009 academic year (college) have a PLAN[®] or ACT (or an equivalent SAT) composite score of at least 17 to enroll in a college degree course unless the postsecondary institution requires the student to meet the criteria in §1405.B.2.b. below;

b. for the spring semester or term of the 2008-2009 academic year (college) and thereafter, have a PLAN[®] composite score of at least 17 or ACT (or an equivalent SAT) composite score of at least 18 to enroll in a college degree course;

3. have a PLAN[®] or ACT (or an equivalent SAT) English sub-score of at least 18 or meet the postsecondary institution's pre-requisite requirement to enroll in an entry level English college degree course;

4. have a PLAN[®] or ACT (or an equivalent SAT) mathematics sub-score of at least 18 or meet the postsecondary institution's pre-requisite requirement to enroll in an entry level mathematics college degree course.

C. Enrollment in an Enrichment/Developmental Course. In addition to the eligibility criteria in Paragraphs A.1-6:

1.a. for students graduating from high school in academic years (high school) 2008-2009 through 2010-2011, the student must be working towards and on track to complete the Regents/TOPS core by high school graduation; or

b. for students graduating from high school in academic years (high school) 2011-2012 and thereafter, the student must be working towards and on track to complete the Louisiana Core 4 curriculum as approved by the Board of Elementary and Secondary Education;

2.a. through the fall semester or fall and winter term of the 2008-2009 academic year (college), have a PLAN[®] or ACT (or an equivalent SAT) composite score of at least 12 to enroll in an enrichment/developmental course unless the

postsecondary institution requires the student to meet the criteria in §1405.C.2.b. below;

b. for the spring semester or term of the 2008-2009 academic year (college) and thereafter, have a PLAN[®] composite score of at least 14 or ACT (or an equivalent SAT) composite score of at least 15 to enroll in an enrichment/developmental course or meet the postsecondary institution's pre-requisite requirement to enroll in the course;

D. Enrollment in a Work Skills Course. In addition to the eligibility criteria in Paragraphs A.1-6, a student must have:

1. a. through the fall semester or fall and winter term of the 2008-2009 academic year (college), have a PLAN[®] or ACT Composite score (or an equivalent SAT score) of at least 12 unless the postsecondary institution requires the student to meet the criteria in §1405.D.1.b. below or a WorkKeys Bronze Certificate.

b. for the spring semester or term of the 2008-2009 academic year (college) and thereafter, PLAN[®] composite score of 14 or ACT Composite score (or an equivalent SAT score) of at least 15 or a WorkKeys Bronze Certificate.

2. a. for students graduating from high school in academic years (high school) 2008-2009 through 2010-2011 and thereafter:

i. be working towards and on track to complete the Regents/TOPS core curriculum by high school graduation, or

ii. be working towards and on track to graduate from high school and have a declared career area of concentration;

b. for students graduating from high school in academic year (high school) 2011-2012 and thereafter:

i. be working towards and on track to complete the Louisiana Core 4 curriculum as approved by the Board of Elementary and Secondary Education, or

ii. be working towards and on track to graduate from high school and have declared a Career Area of Concentration;

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2610 (December 2007), amended LR 34:240 (February 2008), LR 34:

§1407. Continuing Enrollment

A. To continue enrollment in subsequent semesters/terms in the Early Start Program, the student must:

1. have successfully completed and earned credit in the last course(s) in which a student enrolled through the Early Start Program. If the student resigns, or withdraws from a course or the student's registration in the course is cancelled, the student must receive permission from both the high school and college to continue enrollment in subsequent semesters/terms;

2 - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2610 (December 2007), amended LR 34:241 (February 2008), LR 34:

§1409. Responsibilities of High Schools and School Boards

A. - A.4.b. ...

B. By forwarding the student's application to the postsecondary institution, the student's high school certifies that it has determined that the student has met all criteria in §1405.A to participate in the Early Start Program and has approved the student's participation in the program and the course or courses in which the student will be enrolled.

C. Student must be enrolled in a college course for which high school credit is attempted and recorded on the student's secondary permanent academic record, including the high school course, units attempted, units earned, and course grade, unless the student withdraws before the college's census date or the student's enrollment is cancelled.

D. At the end of each semester or term of participation in the program, the student's high school shall determine whether the student has met the criterion in §1407.A.1 for continued enrollment in the Early Start Program. If the student is determined eligible and the high school approves the student's continued participation in the program, it shall so notify the postsecondary institution and provide the course or courses approved for enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2610 (December 2007), amended LR 34:241 (February 2008), LR 34:

§1413. Responsibilities of Eligible Louisiana Postsecondary Institutions

A. Each eligible Louisiana postsecondary institution that participates in the Early Start Program shall:

1. be responsible for determining that the student meets the PLAN or ACT eligibility criteria provided in §1405.B-D;

2. reserve Early Start Program funds when the student is accepted and enrolled in an appropriate course;

3. submit a payment request to LOSFA for students enrolled at the institution for whom a reservation was made as follows:

a. for each student eligible for the Early Start Program who is enrolled at the end of the 14th class day or later for semester schools, or the 9th class day or later for quarter and term schools;

b. payment request amount. Each semester or term, the postsecondary institution in which a student is enrolled in an Early Start course shall submit a payment request to LOSFA within 30 days of the census date of the semester/term for which payment is requested in the amount of \$100 per credit hour in which the student is enrolled, not to exceed \$300 for each college course;

c. the postsecondary institution may not charge the student any mandatory institutional and tuition fees for enrollment in a course paid for by the Early Start Program;

d. the payment request shall include the social security number, college code, high school code, term, date, college course type, hours attempted, and amount requested for each student;

4. for students who have been previously enrolled in the Early Start Program, determine whether the student is in good standing at that institution;

5. by submitting a payment request to LOSFA, the postsecondary institution certifies that:

a. the student meets the eligibility criteria provided in 1405.B-D for the college course in which the student is dually enrolled;

b. the student was enrolled at the end of the 14th class day or later for semester schools, or the 9th class day or later for quarter and term schools;

c. the student's high school has provided notice that the student is eligible for and has been approved to continue participation in the program; and

d. the student's high school has provided notice of the course or courses approved for enrollment;

e. the student is in good standing at the institution;

6. Student must be enrolled in a college course for which college credit is attempted and recorded on the student's postsecondary permanent academic record, including the college course, credit attempted, credit earned, and course grade, unless the student withdraws before the college's census date or the student's enrollment is cancelled.

7. Each participating eligible Louisiana postsecondary institution shall report student level outcome data to the Board of Regents according to specifications defined by the Board of Regents.

B. Records Retention

1. Records pertaining to the Early Start Program are subject to audit as required by LOSFA, LASFAC, the Louisiana Board of Regents, and the Louisiana Legislative Auditor. Postsecondary institutions shall maintain all records for a minimum of three years. All such records shall be made available upon request by LOSFA, LASFAC, the Louisiana Board of Regents and the Louisiana Legislative Auditor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2611 (December 2007), amended LR 34:241 (February 2008), LR 34:

§1415. Responsibilities of the Board of Regents

A. The Board of Regents shall provide a student application to participate in the Early Start Program.

B. The Board of Regents shall maintain a Statewide General Education Course Articulation Matrix.

C. The Board of Regents shall list the courses offered by LAICU postsecondary institutions that are approved for use in the Early Start Program. The Board of Regents shall review the list of LAICU courses at least on an annual basis and shall post the list on the Board of Regents web site.

D. In the event that the funds appropriated for the Early Start Program are insufficient to pay for all eligible students, the Board of Regents shall develop, approve and deliver a plan to LOSFA to address the shortfall.

E. The Board of Regents shall provide specifications for submitting student level outcome data as required by §1413.A.7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance,

LR 33:2611 (December 2007), amended LR 34:242 (February 2008), LR 34:

§1417. Responsibilities of LOSFA

A. Upon receipt of payment requests from institutions submitted in accordance with §1413.A, LOSFA shall pay the institution for each eligible student in accordance with §1413.

B. LOSFA shall conduct audits of the participating eligible Louisiana postsecondary institutions to ensure compliance with program requirements.

C. LOSFA shall provide the information necessary to fully inform Louisiana public high school students and their parents on the requirements of and procedures for applying for and maintaining eligibility for the Early Start Program.

D. LOSFA shall audit high schools and postsecondary institutions to ensure compliance with these rules.

E. LOSFA shall maintain a database of all students who have participated in the Early Start Program, including social security number, college code, high school code, term, date, college course type, hours attempted, payment amount, and aggregate amount paid.

F.1. After the receipt of fall semester or term payment requests, but no later than October 15 of each year, LOSFA shall determine whether sufficient funds are available for all anticipated program payments for subsequent semesters and terms of the academic year.

2. In the event projections indicate sufficient funds are not available, LOSFA shall notify the Board of Regents.

3. In the event additional funds are not allocated for all program payments anticipated for subsequent semesters and terms during the academic year, the Board of Regents shall develop, approve and deliver a plan to LOSFA to address the shortfall.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2611 (December 2007), amended LR 34:242 (February 2008), LR 34:

George Badge Eldredge
General Counsel

0807#002

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office for Citizens with Developmental Disabilities Office of Aging and Adult Services

Home and Community Based Services Waivers
Termination of Services for Displaced Recipients
(LAC 50:XXI.301)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services adopts LAC 50:XXI.301 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is being promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing eligibility for home and community-based services waivers (*Louisiana Register*, Volume 24, Number 3). The Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services adopted provisions governing the termination of services and limited retention of waiver opportunities for waiver recipients displaced by Hurricanes Katrina and Rita (*Louisiana Register*, Volume 32, Number 4). The department now proposes to amend the provisions of the April 20, 2006 Emergency Rule to further clarify these provisions for future declared disasters that may cause recipients to be displaced. This action is being taken to avoid federal sanctions for failure to comply with federal requirements to assure the health and welfare of recipients of home and community-based waiver services.

Effective August 14, 2008, the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services adopts the following provisions governing the eligibility for home and community-based waiver services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

Subpart 1. General Provisions

Chapter 3. Eligibility

§301. Termination of Coverage for Displaced Recipients

A. Effective July 1, 2006, waiver recipients who have been displaced by declared disasters, such as Hurricanes Katrina or Rita, and are currently residing in other states, will no longer be able to receive waiver services under the Louisiana Medicaid Program.

B. This termination of coverage is applicable to recipients receiving services in home and community-based waivers.

C. If the individual returns to live in Louisiana within two years of the date of the declared disaster, he/she must contact the department to report his/her address and to request that waiver services be restarted.

D. The individual's name will be placed on a preferred registry with other disaster evacuees who have returned to live in Louisiana and requested that their waiver services be restarted.

E. Waiver opportunities shall be offered to individuals on the preferred registry on a first-come, first-serve basis.

1. The first available waiver opportunity shall be offered to an individual on this registry based on the date that the request to restart services was received.

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 for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 34:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Center for Medicaid Services (CMS) if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P. O. Box 3117, Baton Rouge, LA 70821-3117 or Hugh Eley, Division of Long Term Supports and Services, P.O. Box 3767, Baton Rouge, LA 70821-3767. They are responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0807#073

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payments Non-Rural Community Hospitals (LAC 50.V.2701)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:V.2701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the rules governing the Disproportionate Share Hospital (DSH) payment methodology in LAC 50:V.Chapters 25 and 27 (*Louisiana Register*, Volume 34, Number 4). The department promulgated an Emergency Rule to amend the April 20, 2008 Rule to revise the provisions governing non-rural community hospitals and federally mandated statutory hospitals to clarify that hospitals qualifying as a non-rural community hospital in state fiscal year 2007-2008 may also qualify in the federally mandated statutory hospital category (*Louisiana Register*, Volume 34, Number 5). Effective June 25, 2008, the Department amended the May 1, 2008 Rule, by Emergency Rule, to revise the definition of a non-rural community hospital. The department now proposes to amend the provisions governing non-rural community hospitals in order to reallocate remaining funds not distributed to those hospitals.

This action is being taken to promote the public health and welfare of uninsured individuals, and ensure their continued access to health services by assuring that hospitals are adequately reimbursed for furnishing uncompensated care. It is estimated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2007-2008.

Effective June 28, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the April 20, 2008 Rule governing disproportionate share hospital payments.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2701. Non-Rural Community Hospitals

A. - J. ...

K. Remaining funds not distributed to non-rural community hospitals by the provisions of this section shall be reallocated to hospitals that meet the following criteria:

1. a qualifying acute care hospital that is classified as a major teaching hospital and is contractually affiliated with a university located within the state of Louisiana that is recognized by the Centers for Disease Control and Prevention and the Health Resource and Services Administration, Maternal and Child Health Bureau as maintaining a comprehensive hemophilia center; or

2. a qualifying acute care hospital that is classified as a major teaching hospital that operates a comprehensive burn unit consisting of dedicated pediatric and adult beds solely for the provision of burn related services , including the provision of intensive care services, and is classified as a special reimbursement category by the Department of Health and Hospitals.

3. Qualifying hospitals must submit program cost information as required by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008), amended LR 34:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Center for Medicaid Services (CMS) if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0807#005

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payments
Non-Rural Community Hospitals and
Federally Mandated Statutory Hospitals
(LAC 50.V.2701 and 2703)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:V.2701 and §2703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title

XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the Rules governing the Disproportionate Share Hospital (DSH) payment methodology in LAC 50:V.Chapters 25 and 27 (*Louisiana Register*, Volume 34, Number 4). The department promulgated an Emergency Rule to amend the April 20, 2008 Rule to revise the provisions governing non-rural community hospitals and federally mandated statutory hospitals to clarify that hospitals qualifying as a non-rural community hospital in state fiscal year 2007-2008 may also qualify in the federally mandated statutory hospital category (*Louisiana Register*, Volume 34, Number 5). The department now proposes to amend the May 1, 2008 Rule to revise the definition of a non-rural community hospital.

This action is being taken to promote the public health and welfare of uninsured individuals, and ensure their continued access to health services by assuring that hospitals are adequately reimbursed for furnishing uncompensated care. It is estimated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2007-2008.

Effective June 26, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the May 1, 2008 Emergency Rule governing disproportionate share hospital payments.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2701. Non-Rural Community Hospitals

A. Definitions

Non-Rural Community Hospital—a non-state, non-rural hospital that may be either publicly or privately owned. Psychiatric, rehabilitation and long term hospitals may also qualify for this category.

B. - I. ...

J. Hospitals qualifying as non-rural community hospitals in state fiscal year 2007-2008 may also qualify in the federally mandated statutory hospital category.

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 34:655 (April 2008), amended LR 34:

§2703. Federally Mandated Statutory Hospitals

A. Definition

Federally Mandated Statutory Hospital—a hospital that meets the federal DSH statutory utilization requirements in §2503.A.4.a-b.ii.

B. - D.2. ...

E. The federally mandated statutory hospital category may also include hospitals qualifying as non-rural community hospitals in state fiscal year 2007-2008.

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 34:656 (April 2008), amended LR 34:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Center for Medicaid Services (CMS) if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0807#006

DECLARATION OF EMERGENCY

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

Outpatient Hospital Services—State-Owned Hospitals
Reimbursement Methodology
(LAC 50:V.5715 and 6127)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.5715 and 6127 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.B(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

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

In compliance with Act 17 of the 2006 Regular Session of the Louisiana Legislature, the department amended the reimbursement methodology for outpatient services to increase the Medicaid reimbursement rates paid for outpatient services rendered in private (non-state) acute hospitals (*Louisiana Register*, Volume 33, Number 2). The department promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for outpatient hospital services rendered by small rural hospitals

(*Louisiana Register*, Volume 34, Number 5). The department now proposes to amend provisions governing the reimbursement of outpatient clinical laboratory services and other covered outpatient services rendered by state-owned hospitals.

This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$14,503,566 for state fiscal year 2008-2009.

Effective July 1, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology governing payments to state-owned hospitals for outpatient clinical laboratory services and other covered outpatient services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospitals

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5715. State-Owned Hospitals

A. For dates of service on or after July 1, 2008, state-owned hospitals shall be reimbursed for outpatient clinical laboratory services at 100 per cent of the current Medicare Clinical Laboratory Fee Schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Chapter 61. Other Covered Services

Subchapter B. Reimbursement Methodology

§6127. State-Owned Hospitals

A. Cost Based Services. The reimbursement methodology for state-owned outpatient hospital services are determined by a hospital cost to charge ratio based on each state hospital's latest filed cost report. These cost to charge ratio calculations will be reviewed on an ongoing basis as cost reports are filed and will be adjusted as necessary.

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 34:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Center for Medicaid Services (CMS) if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0807#010

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office of Aging and Adult Services

Disproportionate Share Hospital Payment Methodologies Mental Health Emergency Room Extensions (LAC 50:V.2711)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.2711 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an Emergency Rule to repeal and replace all Rules governing disproportionate share hospital (DSH) payment methodologies (*Louisiana Register*, Volume 31, Number 6). In compliance with Act 182 and Act 323 of the 2005 Regular Session of the Louisiana Legislature, the June 26, 2005 Emergency Rule was amended to establish provisions for provider fees levied on hospitals as a result of the Healthcare Affordability Act (*Louisiana Register*, Volume 31, Number 7) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 31, Number 9). The June 26, 2005 Emergency Rule was subsequently amended to incorporate the provisions of the July 1, 2005 and September 1, 2005 Emergency Rules (*Louisiana Register*, Volume 31, Number 10).

The October 25, 2005 Emergency Rule was amended to: 1) change the provisions governing DSH payments to other uninsured hospitals; 2) establish provisions governing payments to private community hospitals for services rendered to displaced, uninsured citizens from mandatory evacuation parishes affected by Hurricanes Katrina and Rita; 3) change the provisions governing DSH payments to high uninsured hospitals and to establish provisions governing payments to public community hospitals (*Louisiana Register*, Volume 32, Number 7); and 4) revise the provisions governing disproportionate share hospital payments to non-rural community hospitals as a result of the allocation of additional funds by the Legislature during the 2006 Regular Session (*Louisiana Register*, Volume 32, Number 9). The department subsequently amended the October 25, 2005 Emergency Rule to incorporate the provisions of the June 28, 2006 and September 15, 2006 Emergency Rules (*Louisiana Register*, Volume 32, Number 10) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 33, Number 1). The department amended the October 23, 2006 Emergency Rule to incorporate the provisions of the December 18, 2006 Emergency Rule (*Louisiana Register*, Volume 33, Number 2). In compliance with the directives of Act 6 and Act 18 of the 2007 Regular Session of the Louisiana Legislature, the department amended the February 21, 2007 Emergency Rule to: 1) revise the DSH qualifications and reimbursement methodologies for the state fiscal year 2007 payment to non-

rural community hospitals (*Louisiana Register*, Volume 33, Number 7); 2) repeal the provisions of the June 27, 2007 Emergency Rule governing DSH payments to public and private community hospitals; 3) repeal and replace the provisions governing non-rural community hospitals (*Louisiana Register*, Volume 33, Number 10); and 4) adopt provisions for the reimbursement of uncompensated care costs for psychiatric services provided by non-state acute care hospitals that expand their distinct part psychiatric units and enter into an agreement with OMH (*Louisiana Register*, Volume 34, Number 1). The department subsequently amended the January 1, 2008 Emergency Rule to establish provisions for DSH payments to non-state acute care hospitals that enroll a new distinct part psychiatric unit and enter into an agreement with OMH (*Louisiana Register*, Volume 34, Number 3). The department also repromulgated all of the provisions governing DSH payment methodologies in LAC 50:V.Chapters 25 and 27 (*Louisiana Register*, Volume 34, Number 1). The department promulgated an Emergency Rule to amend the February 18, 2008 Emergency Rule to adopt provisions for the reimbursement of uncompensated care costs for psychiatric services provided by non-state acute care hospitals that establish a Mental Health Emergency Room Extension (MHERE) and enter into an agreement with the Office of Mental Health (*Louisiana Register*, Volume 34, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 7, 2008 Emergency Rule. This action is being taken to avoid imminent peril to the health and welfare of Louisiana citizens who are in critical need of emergency psychiatric services.

Effective August 6, 2008 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments to allow payments to non-state acute care hospitals that establish a Mental Health Emergency Room Extension.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2711. Mental Health Emergency Room Extensions

A. Effective for dates of service on or after April 7, 2008, Medicaid-enrolled non-state acute care hospitals that establish a Mental Health Emergency Room Extension (MHERE), and sign an addendum to the Provider Enrollment form (PE-50) by June 1, 2008 with the Department of Health and Hospitals, Office of Mental Health, shall be reimbursed for their net uncompensated care costs for psychiatric services rendered to patients.

1. The net uncompensated care cost is the Medicaid shortfall plus the cost of treating the uninsured.

B. Qualifying non-state acute care hospitals must:

1. be located in a region of the state that does not currently have an MHERE; and

2. not receive funding for their MHERE from another source.

C. The amount appropriated for this pool in SFY 2008 is \$3,500,000. If the net uncompensated care costs of all hospitals qualifying for this payment exceeds \$3,500,000, payment will be each qualifying hospital's pro rata share of

the pool calculated by dividing its net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying for this payment multiplied by \$3,500,000.

D. Qualifying hospitals must submit costs and patient data in a format specified by the department.

E. Payments shall be made on a quarterly basis.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0807#072

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Aging and Adult Services

Home and Community Based Services Waivers
Adult Day Health Care—Medical Assistance Program
(LAC 50:XXI.2101, 2103, 2107,
2109, 2313, 2317 and Chapter 27)

The Department of Health and Hospitals, Office of Aging and Adult Services proposes to amend LAC 50:XXI.2101, 2103, 2107, 2109, 2313 and Chapter 27, and to adopt §2317 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated the provisions governing home and community-based waiver services for adult day health care (*Louisiana Register*, Volume 30, Number 9). The Department of Health and Hospitals, Office of Aging and Adult Services subsequently amended the September 20, 2004 Rule to: 1) clarify procedures for the allocation of ADHC waiver opportunities; 2) amend the provisions governing the medical certification process to remove preadmission screening and annual resident review requirements; and 3) eliminate the use of the Title XIX Medical-Social Information Form (Form 90-L) (*Louisiana Register*, Volume 32, Number 12). The department promulgated an Emergency Rule to amend the September

20, 2004 Rule to: 1) redefine the target population; 2) establish provisions governing placement on the request for services registry; 3) clarify the comprehensive plan of care requirements; and 4) establish provider reporting requirements and admission and discharge criteria for the ADHC Waiver (*Louisiana Register*, Volume 33, Number 3). The department amended the provisions contained in the March 20, 2007 Emergency Rule to more precisely define the target population, establish explicit provisions governing placement on the request for services registry and admission and discharge criteria for the ADHC Waiver (*Louisiana Register*, Volume 33, Number 5). The May 20, 2007 Emergency Rule was amended to further clarify the provisions governing the ADHC Waiver program (*Louisiana Register*, Volume 33, Number 8). This Emergency Rule is being promulgated to continue the provisions of the August 20, 2007 Emergency Rule. This action is being taken to avoid federal sanctions which may result from not having provisions to clearly define the ADHC target population and admission and discharge criteria.

Effective August 17, 2008, the Department of Health and Hospitals, Office of Aging and Adult Services amends the provisions governing the Adult Day Health Care Waiver program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services

Waivers

Subpart 3. Adult Day Health Care

Chapter 21. General Provisions

§2101. Introduction

A. These standards for participation specify the requirements of the Adult Day Health Care (ADHC) Waiver Program. The program is funded as a waiver service under the provisions of Title XIX of the Social Security Act and is administered by the Department of Health and Hospitals (DHH).

B. Waiver services are provided under the provisions of the approved waiver agreement between the Centers for Medicare and Medicaid Services (CMS) and the Louisiana Medicaid Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2034 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2103. Program Description

A. The Adult Day Health Care (ADHC) Waiver Program expands the array of services available to functionally-impaired individuals and helps bridge the gap between independence and institutional care by allowing them to remain in their own homes and communities. This program provides direct care for five or more hours in a 24-hour weekday to individuals who are physically and/or mentally impaired.

B. The target population for the ADHC Waiver Program includes individuals who:

1. are 65 years old or older; or
2. 22 to 64 years old and disabled according to Medicaid standards or the Social Security Administration's disability criteria; and

3. meet nursing facility level of care requirements.

C. The long-range goal for all adult day health care participants is the delay or prevention of long-term care facility placement. The more immediate goals of the Adult Day Health Care Waiver are to:

1. promote the individual's maximum level of independence;

2. maintain the individual's present level of functioning as long as possible, preventing or delaying further deterioration;

3. restore and rehabilitate the individual to the highest possible level of functioning;

4. provide support and education for families and other caregivers;

5. foster socialization and peer interaction; and

6. serve as an integral part of the community services network and the long-term care continuum of services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2034 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2107. Request for Services Registry

A. The Department of Health and Hospitals is responsible for the Request for Services Registry, hereafter referred to as "the registry", for the Adult Day Health Care Waiver. An individual who wishes to have his or her name placed on the registry shall contact a toll-free telephone number which shall be maintained by the department.

B. Individuals who desire their name to be placed on the ADHC Waiver registry shall be screened to determine whether they meet nursing facility level of care. Only individuals who meet this criterion will be added to the registry.

C. - D. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2035 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2256 (December 2006), LR 34:

§2109. Programmatic Allocation of Waiver Opportunities

A. When funding is appropriated for a new ADHC Waiver opportunity or an existing opportunity is vacated, the department shall send a written notice to an individual on the registry indicating that a waiver opportunity is available. That individual shall be evaluated for a possible ADHC Waiver opportunity assignment.

B. Adult Day Health Care Waiver opportunities shall be offered based upon the date of first request for services, with priority given to individuals who are in nursing facilities but could return to their home if ADHC Waiver services are provided. Priority shall also be given to those individuals who have indicated that they are at imminent risk of nursing facility placement.

1. A person is considered to be at imminent risk of nursing facility placement when he:

a. is likely to require admission to a nursing facility within the next 120 days;

b. faces a substantial possibility of deterioration in mental condition, physical condition or functioning if either home and community-based services or nursing facility services are not provided within 120 days; or

c. has a primary caregiver who has a disability or is age 70 or older.

C. Remaining waiver opportunities, if any, shall be offered on a first-come, first-serve basis to individuals who qualify for nursing facility level of care, but who are not at imminent risk of nursing facility placement.

D. If an applicant is determined to be ineligible for any reason, the next individual on the registry is notified and the process continues until an individual is determined eligible. An ADHC Waiver opportunity is assigned to an individual when eligibility is established and the individual is certified.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

Chapter 23. Provider Participation

§2313. Comprehensive Plan of Care (CPOC)

A. ...

B. Reimbursement shall not be made for ADHC Waiver services provided prior to the department's approval of the CPOC. Comprehensive plans of care must be completed and submitted timely in accordance with DHH policy and procedures.

C. The ADHC provider shall complete a CPOC which shall contain the type and number of services, including waiver and all other services, necessary to maintain the waiver recipient safely in the community.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2040 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2317. Reporting Requirements

A. ADHC facilities are obligated to report changes to the department that could affect the waiver recipient's eligibility including, but not limited to, those changes cited in the denial or discharge criteria.

B. ADHC facilities are responsible for documenting the occurrence of incidents or accidents that affect the health, safety and welfare of the recipient and completing an incident report. The incident report shall be submitted to the department with the specified requirements.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

Chapter 27. Admission and Discharge Criteria

§2701. Admission Criteria

A. Admission to the ADHC Waiver Program shall be determined in accordance with the following criteria:

1. initial and continued Medicaid financial eligibility;

2. initial and continued eligibility for a nursing facility level of care;

3. justification, as documented in the approved CPOC, that the ADHC Waiver services are appropriate, cost-effective and represent the least restrictive environment for the individual;

4. assurance that the health, safety and welfare of the individual can be maintained in the community with the provision of ADHC Waiver services.

B. Failure of the individual to cooperate in the eligibility determination process or to meet any of the criteria in §2701.A. above will result in denial of admission to the ADHC Waiver.

C. - G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2041 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2703. Denial or Discharge Criteria

A. Admission shall be denied or the recipient shall be discharged from the ADHC Waiver Program if any of the following conditions are determined:

1. The individual does not meet the criteria for Medicaid financial eligibility.

2. The individual does not meet the criteria for a nursing facility level of care.

3. The recipient resides in another state or has a change of residence to another state.

4. Continuity of services is interrupted as a result of the recipient not receiving and/or refusing ADHC Waiver services during a period of 30 consecutive days.

5. The health, safety and welfare of the individual cannot be assured through the provision of ADHC Waiver services.

6. The individual fails to cooperate in the eligibility determination process or in the performance of the CPOC.

7. It is not cost effective to serve the individual in the ADHC Waiver.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, Louisiana 70821-2031. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0807#071

DECLARATION OF EMERGENCY

Department of Natural Resources Office of Conservation

Application to Drill (LAC 43:XIX.103)

The Emergency Rule requires the notification of appropriate state and local authorities by drilling permit applicants upon issuance of a permit to drill for wells located

within 1,000 feet of an interstate highway to reduce the risks to public safety and commerce caused by the loss of well control.

Pursuant to the power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Administrative Procedure Act, Title 49, Sections 953(B)(1) and (2), 954(B)(2), as amended, the following Emergency Rule and reasons therefore are now adopted and promulgated by the Commissioner of Conservation as being necessary to protect the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally, by establishing rules for the notification of appropriate state and local authorities for wells drilled within 1,000 feet of interstate highways in the State of Louisiana.

Since 1987, there have been 95 incidents during drilling or workover operations on oil and gas wells which resulted in the loss of well control (blowout). Of this number, 68 blowouts occurred in wells drilled since 1987. Blowouts, although infrequent, pose a serious threat to the environment, commerce and public safety. The frequency of oil and gas exploration and production activity occurring in close proximity to residential and commercial areas is becoming more prevalent and has the potential to exacerbate impacts caused by a blowout event.

Following the blowout of the A Wilberts Sons LLC 72 No. 1 well on November 15, 2007, Interstate Highway 10 was closed to traffic for an extended period resulting in inconvenience to the public, and reported detrimental impact to the public and commerce in the area. As a result, Governor Blanco, requested that the Commissioner of Conservation review all current regulations and make any changes necessary to reduce the likelihood of a similar incident.

In response to Governor Blanco's request, a temporary moratorium on the drilling of wells within one quarter mile of any interstate highway was enacted by the Commissioner of Conservation on December 1, 2007 to allow time for a comprehensive review of the A Wilberts Sons LLC 72 No. 1 well control incident and all current state and federal regulations regarding drilling safety and well location requirements.

An ad hoc committee on drilling safety, formed to complete the requested review, found that notification of local and state authorities, including emergency responders, prior to the commencement of drilling operations within 1,000 feet of any interstate highway would likely reduce incident response time and reduce impacts to public safety and commerce in the event of a blowout.

As a result, amendments to the current rules were drafted by staff of the Office of Conservation, with technical input from the Ad Hoc Committee. The drilling moratorium is currently set to expire on June 28, 2008 and the proposed Rule amendments are being implemented as an Emergency Rule to preclude further extension of the moratorium while pursuing formal amendment of the rules.

Notification Requirements—upon receipt of a permit to drill for a well located within 1,000 feet of any Interstate highway, applicants are required to furnish a copy of the approved drilling permit and the certified location plat to the

appropriate state and local authorities, including all emergency responders.

Recognizing the potential advantages of notifying appropriate state and local authorities of drilling operations within 1,000 feet of interstate highways, it has been determined that failure to establish such requirements in the form of an administrative rule may lead to the existence of an imminent peril to the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally.

Protection of the public and our environment therefore requires the Commissioner of Conservation to take immediate steps to assure that appropriate local and state authorities are notified prior to drilling wells within 1,000 feet of any interstate highway. The Emergency Rule, Amendment to Statewide Order No. 29-B (Emergency Rule) set forth hereinafter is now adopted by the Office of Conservation.

To preclude further extension of the drilling moratorium, while pursuing formal amendment of the rules, the effective date of this Emergency Rule will be June 29, 2008.

The Emergency Rule herein above adopted evidences the finding of the Commissioner of Conservation that failure to adopt the above rules may lead to an imminent risk to public health, safety, welfare and commerce, and that there is not time to provide adequate notice to interested parties. However, the Commissioner of Conservation notes again that a copy of the permanent Amendment to Statewide Order No. 29-B will be developed in the near future, with a public hearing to be held as per the requirements of the Administrative Procedures Act.

The Commissioner of Conservation concludes that the above Emergency Rule will better serve the purposes of the Office of Conservation as set forth in Title 30 of the Revised Statutes, and is consistent with legislative intent. The adoption of the above Emergency Rule meets all the requirements provided by Title 49 of the Louisiana Revised Statutes. The adoption of the above Emergency Rule is not intended to affect any other provisions, rules, orders, or regulations of the Office of Conservation, except to the extent specifically provided for in this Emergency Rule.

Within five days from the date hereof, notice of the adoption of this Emergency Rule shall be given to all parties on the mailing list of the Office of Conservation by posting a copy of this Emergency Rule with reasons therefore to all such parties. This Emergency Rule with reasons therefore shall be published in full in the *Louisiana Register* as prescribed by law. Written notice has been given contemporaneously herewith notifying the Governor of the State of Louisiana, the Attorney General of the State of Louisiana, the Speaker of the House of Representatives, the President of the Senate and the Office of the State Register of the adoption of this Emergency Rule and reasons for adoption.

The effective date for this Emergency Rule shall be June 29, 2008.

The Emergency Rule herein adopted as a part thereof, shall remain effective for a period of not less than 120 days hereafter, unless renewed by the Commissioner of Conservation or until the adoption of the final version of an amendment to Statewide Order No. 29-B as noted herein, whichever occurs first.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§103. Application to Drill

A. ...

1. Applicants that receive a drilling permit for a well located within 1,000 feet of an Interstate highway shall furnish a copy of the approved drilling permit and the certified location plat to the appropriate state and local authorities, including all emergency responders.

B.- D.4. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (August 1958), (August 1961), (May 1973), amended by the Department of Natural Resources, Office of Conservation, LR 34:

James H. Welsh
Commissioner

0807#008

DECLARATION OF EMERGENCY

Department of Natural Resources Office of Conservation

Diverter Systems and Blowout Preventers (BOP) (LAC 43:XIX.111)

The Emergency Rule requires the proper design, testing and use of blowout preventers and diverter systems on wells in the State of Louisiana to reduce the potential for environment damage and the risks to public safety and commerce caused by the loss of well control.

Pursuant to the power delegated under the laws of the State of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Administrative Procedure Act, Title 49, Sections 953(B)(1) and (2), 954(B)(2), as amended, the following Emergency Rule and reasons therefore are now adopted and promulgated by the Commissioner of Conservation as being necessary to protect the public health, safety and welfare of the people of the State of Louisiana, as well as the environment generally, by establishing rules for the proper design, testing and use of blowout preventers and diverter systems on wells in the State of Louisiana.

Since 1987, there have been ninety-five (95) incidents during drilling or workover operations on oil and gas wells which resulted in the loss of well control (blowout). Of this number, sixty-eight (68) blowouts occurred in wells drilled since 1987. Blowouts, although infrequent, pose a serious threat to the environment, commerce and public safety. The frequency of oil and gas exploration and production activity occurring in close proximity to residential and commercial areas is becoming more prevalent and has the potential to exacerbate impacts caused by a blowout event.

Following the blowout of the A Wilberts Sons LLC 72 No. 1 well on November 15, 2007, Interstate Highway 10 was closed to traffic for an extended period resulting in

inconvenience to the public, and reported detrimental impact to the public and commerce in the area. As a result, Governor Blanco, requested that the Commissioner of Conservation review all current regulations and make any changes necessary to reduce the likelihood of a similar incident.

In response to Governor Blanco's request, a temporary moratorium on the drilling of wells within one quarter mile of any interstate highway was enacted by the Commissioner of Conservation on December 1, 2007 to allow time for a comprehensive review of the A Wilberts Sons LLC 72 No. 1 well control incident and all current state and federal regulations regarding drilling safety and well location requirements.

An ad hoc committee on drilling safety, formed to complete the requested review, found that existing Office of Conservation rules (Statewide Order No. 29-B) regarding well control, promulgated in August 1943, contained only basic requirements for the use of blowout preventers during specific well operations. Enhancement of these limited requirements was identified by the committee as the most effective method for reducing the frequency of well control failures and subsequent impacts.

As a result, amendments to the current rules were drafted by staff of the Office of Conservation, with technical input from the Ad Hoc Committee. The drilling moratorium is currently set to expire on June 28, 2008 and the proposed rule amendments are being implemented as an Emergency Rule to preclude further extension of the moratorium while pursuing formal amendment of the rules.

Diverter System Requirements—blowout preventers are frequently ineffective during the drilling of shallow and/or uncased portions of a wellbore. As a result, diverter systems are required in areas where drilling hazards are known to exist or anticipated to divert fluids safely away from the facilities and personnel during a blowout event. The district manager may, at his discretion require the use of a diverter system on any well.

The required minimum characteristics for diverter systems are specified, including the design, type and number of diverter lines, the number and location of control stations, valve types, and anchor and support systems. To ensure diverter systems are maintained and work properly when needed, inspections, function tests and pressure tests are required at specified intervals. Inspection and test records are required to be maintained at the well site for review by the Office of Conservation.

Blowout Preventer (BOP) Requirements—the rule requires the proper design, installation, use, maintenance, and testing of blowout preventers for all wells during drilling, workover, or other appropriate well operations. The required minimum characteristics for blowout preventer systems and associated auxiliary equipment are specified, including preventer types, the number and location of control stations, valve types and pressure ratings.

To ensure blowout preventer systems are maintained and work properly when needed, inspections, drills, function tests and pressure tests are required at specified intervals. Well control safety training is also required for employees to ensure that all required equipment is used correctly. Records of inspections, drills, tests are required to be maintained at the well site for review by the Office of Conservation.

Recognizing the potential advantages of using properly designed and tested well control equipment along with a properly trained workforce in avoiding blowout incidents, it has been determined that failure to establish such requirements in the form of an administrative rule may lead to the existence of an imminent peril to the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally.

Protection of the public and our environment therefore requires the Commissioner of Conservation to take immediate steps to assure that properly designed and maintained blowout preventers and diverter systems are used in all applicable situations. The Emergency Rule, amendment to Statewide Order No. 29-B (Emergency Rule) set forth hereinafter is now adopted by the Office of Conservation.

To preclude further extension of the drilling moratorium, while pursuing formal amendment of the rules, the effective date of this Emergency Rule will be June 29, 2008.

The Emergency Rule herein above adopted evidences the finding of the Commissioner of Conservation that failure to adopt the above rules may lead to an imminent risk to public health, safety, welfare and commerce, and that there is not time to provide adequate notice to interested parties. However, the Commissioner of Conservation notes again that a copy of the permanent Amendment to Statewide Order No. 29-B will be developed in the near future, with a public hearing to be held as per the requirements of the Administrative Procedures Act.

The Commissioner of Conservation concludes that the above Emergency Rule will better serve the purposes of the Office of Conservation as set forth in Title 30 of the Revised Statutes, and is consistent with legislative intent. The adoption of the above Emergency Rule meets all the requirements provided by Title 49 of the Louisiana Revised Statutes. The adoption of the above Emergency Rule is not intended to affect any other provisions, rules, orders, or regulations of the Office of Conservation, except to the extent specifically provided for in this Emergency Rule.

Within five days from the date hereof, notice of the adoption of this Emergency Rule shall be given to all parties on the mailing list of the Office of Conservation by posting a copy of this Emergency Rule with reasons therefore to all such parties. This Emergency Rule with reasons therefore shall be published in full in the *Louisiana Register* as prescribed by law. Written notice has been given contemporaneously herewith notifying the Governor of the State of Louisiana, the Attorney General of the State of Louisiana, the Speaker of the House of Representatives, the President of the Senate and the Office of the State Register of the adoption of this Emergency Rule and reasons for adoption.

The effective date for this Emergency Rule shall be June 29, 2008.

The Emergency Rule herein adopted as a part thereof, shall remain effective for a period of not less than 120 days hereafter, unless renewed by the Commissioner of Conservation or until the adoption of the final version of an amendment to Statewide Order No. 29-B as noted herein, whichever occurs first.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§111. Diverter Systems and Blowout Preventers (BOP)

A. Diverter System. A diverter system shall be required when drilling surface hole in areas where drilling hazards are known or anticipated to exist. The district manager may, at his discretion, require the use of a diverter system on any well. In cases where it is required, a diverter system consisting of a diverter sealing element, diverter lines, and control systems must be designed, installed, used, maintained, and tested to ensure proper diversion of gases, water, drilling fluids, and other materials away from facilities and personnel. The diverter system shall be designed to incorporate the following elements and characteristics:

1. dual diverter lines arranged to provide for maximum diversion capability;
2. at least two diverter control stations. One station shall be on the drilling floor. The other station shall be in a readily accessible location away from the drilling floor;
3. remote-controlled valves in the diverter lines. All valves in the diverter system shall be full-opening. Installation of manual or butterfly valves in any part of the diverter system is prohibited;
4. minimize the number of turns in the diverter lines, maximize the radius of curvature of turns, and minimize or eliminate all right angles and sharp turns;
5. anchor and support systems to prevent whipping and vibration;
6. rigid piping for diverter lines. The use of flexible hoses with integral end couplings in lieu of rigid piping for diverter lines shall be approved by the district manager.

B. Diverter Testing Requirements

1. When the diverter system is installed, the diverter components including the sealing element, diverter valves, control systems, stations and vent lines shall be function and pressure tested.
2. For drilling operations with a surface wellhead configuration, the system shall be function tested at least once every 24-hour period after the initial test.
3. After nipping-up on conductor casing, the diverter sealing element and diverter valves are to be pressure tested to a minimum of 200 psig. Subsequent pressure tests are to be conducted within seven days after the previous test.
4. Function tests and pressure tests shall be alternated between control stations.
5. Recordkeeping Requirements
 - a. Pressure and function tests are to be recorded in the driller's report and certified (signed and dated) by the operator's representative.
 - b. The control station used during a function or pressure test is to be recorded in the driller's report.
 - c. Problems or irregularities during the tests are to be recorded along with actions taken to remedy same in the driller's report.
 - d. All reports pertaining to diverter function and/or pressure tests are to be retained for inspection at the wellsite for the duration of drilling operations.

C. BOP Systems. The operator shall design, install, use, maintain and test the BOP system to ensure well control during drilling, workover and all other appropriate operations. The surface BOP stack shall be installed before drilling below surface casing. The BOP stack shall consist of an annular preventer and the appropriate number of ram-type preventers necessary to control the well under all potential conditions that might occur during the operations being conducted. The pipe rams shall be of proper size(s) to fit the drill pipe in use.

D. BOP Working Pressure. The working pressure rating of any BOP component shall exceed the maximum anticipated surface pressure (MASP) to which it may be subjected.

E. BOP Auxiliary Equipment. All BOP systems shall be equipped and provided with the following:

1. A hydraulically actuated accumulator system which shall provide 1.5 times volume of fluid capacity to close and hold closed all BOP components, with a minimum pressure of 200 psig above the pre-charge pressure without assistance from a charging system.

2. A backup to the primary accumulator-charging system, supplied by a power source independent from the power source to the primary, which shall be sufficient to close all BOP components and hold them closed.

3. Accumulator regulators supplied by rig air without a secondary source of pneumatic supply shall be equipped with manual overrides or other devices to ensure capability of hydraulic operation if the rig air is lost.

4. At least one operable remote BOP control station in addition to the one on the drilling floor. This control station shall be in a readily accessible location away from the drilling floor. If a BOP control station does not perform properly, operations shall be suspended until that station is operable.

5. A drilling spool with side outlets, if side outlets are not provided in the body of the BOP stack, to provide for separate kill and choke lines.

6. Choke and kill lines each equipped with two full-opening valves. At least one of the valves on the choke line and the kill line shall be remotely controlled. In lieu of remotely controlled valves, two readily-accessible manual valves may be installed provided that a check valve is placed between the manual valves and the pump.

7. A valve installed below the swivel (upper kelly cock), essentially full-opening, and a similar valve installed at the bottom of the kelly (lower kelly cock). A wrench to fit each valve shall be stored in a location readily accessible to the drilling crew.

8. An essentially full-opening drill-string safety valve in the open position on the rig floor shall be available at all times while drilling operations are being conducted. This valve shall be maintained on the rig floor to fit all connections that are in the drill string. A wrench to fit the drill-string safety valve shall be stored in a location readily accessible to the drilling crew.

9. A safety valve shall be available on the rig floor assembled with the proper connection to fit the casing string being run in the hole.

10. Locking devices installed on the ram-type preventers.

F. BOP Maintenance and Testing Requirements

1. The BOP system shall be visually inspected on a daily basis.

2. Pressure tests (low and high pressure) of the BOP system are to be conducted at the following times and intervals:

- a. during a shop test prior to transport of the BOPs to the drilling location;
- b. immediately following installation of the BOPs;
- c. within 14 days of the previous BOP pressure test;
- d. before drilling out each string of casing or liner

(The district manager may require that a conservation enforcement specialist witness the test prior to drilling out each casing string or liner);

e. before a well is drilled to a depth that is within 1000 feet of a hydrogen sulfide zone (The district manager may require that a conservation enforcement specialist witness the test prior to drilling to a depth that is within 1000 feet of a hydrogen sulfide zone);

f. when the BOP tests are postponed due to well control problem(s), the BOP test is to be performed on the first trip out of the hole, and reasons for postponing the testing are to be recorded in the driller's report.

3. Low pressure tests (200-300 psig) of the BOP system (choke manifold, kelly valves, drill-string safety valves, etc.) are to be performed at the times and intervals specified in LAC 43:XIX.111.F.2. in accordance with the following provisions.

a. Test pressures are to be held for a minimum of five minutes.

b. Variable bore pipe rams are to be tested against the largest and smallest sizes of pipe in use, excluding drill collars and bottom hole assembly.

c. Bonnet seals are to be tested before running the casing when casing rams are installed in the BOP stack.

4. High pressure tests of the BOP system are to be performed at the times and intervals specified in LAC 43:XIX.111.F.2 in accordance with the following provisions.

a. Test pressures are to be held for a minimum of five minutes.

b. Ram-type BOP's, choke manifolds, and associated equipment are to be tested to the rated working pressure of the equipment or 500 psi greater than the calculated MASP for the applicable section of the hole.

c. Annular-type BOPs are to be tested to 70% of the rated working pressure of the equipment.

5. The annular and ram-type BOPs with the exception of the blind-shear rams are to be function tested every seven days between pressure tests. All BOP test records should be certified (signed and dated) by the operator's representative.

a. Blind-shear rams are to be tested at all casing points and at an interval not to exceed 30 days.

G. BOP Record Keeping. The time, date and results of pressure tests, function tests, and inspections of the BOP system are to be recorded in the driller's report and are to be retained for inspection at the wellsite for the duration of drilling operations.

H. BOP Well Control Drills. Weekly well control drills with each drilling crew are to be conducted during a period of activity that minimizes the risk to drilling operations. The drills must cover a range of drilling operations, including drilling with a diverter (if applicable), on-bottom drilling,

and tripping. Each drill must be recorded in the driller's report and is to include the time required to close the BOP system, as well as, the total time to complete the entire drill.

I. Well Control Safety Training. Operators are required to ensure that all drilling personnel understand and can properly perform their duties prior to drilling wells which are subject to the jurisdiction of the Office of Conservation. Well control training plans shall include class room instruction, computer-based learning, films, or their equivalents. This training shall be reinforced by appropriate demonstrations and "hands-on" training. The operator shall be responsible for ensuring that contract drilling companies provide and/or implement the following:

1. periodic training for drilling contractor employees which ensures that employees maintain an understanding of, and competency in, well control practices;

2. procedures to verify adequate retention of the knowledge and skills that the contract drilling employees need to perform their assigned well control duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended by the Department of Natural Resources, Office of Conservation, LR 34:

James H. Welsh
Commissioner

0807#009

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Corrections Services**

Disciplinary Rules and Procedures for Adult Offenders
(LAC 22:I.341-363)

The Department of Public Safety and Corrections, Corrections Services, amends in its entirety LAC 22:I.341-365, the Disciplinary Rules and Procedures for Adult Inmates, as authorized by R.S. 36:404 and adds new rules and regulations pursuant to the Prison Rape Elimination Act of 2003 (PREA) (P.L. 108-179.)

The department is amending these rules to comply with PREA mandates and other statutory and judicial changes which have occurred since the previous promulgation of LAC 22:I.341-365. This action is being taken to promote the detection, prevention, reduction and punishment of prison rape and to implement the department's zero-tolerance policy regarding prison rape. The reason for the Emergency Rule is due to significant changes made to the definitions of sex offenses which are related to PREA requirements and federally mandated reporting.

For the foregoing reasons, the Department of Public Safety and Corrections, Corrections Services, has determined that the adoption of an Emergency Rule for implementation of the Disciplinary Rules and Procedures for Adult Offenders is necessary and hereby provides notice of its declaration of emergency effective on August 15, 2008, in accordance with R.S. 49:953. This Emergency Rule shall be in effect for 120 days or until adoption of the Final Rule, whichever occurs first.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT
Part I. Corrections

Chapter 3. Adult Services
Subchapter B. Disciplinary Rules and Procedures for Adult Offenders

§341. Preface

A. This book of disciplinary rules and procedures constitutes clear and proper notice of same for each offender sentenced to the Department of Public Safety and Corrections.

B. This book rescinds and supersedes the *Disciplinary Rules and Procedures for Adult Offenders* dated December 2000 (and any subsequent revisions) and appeal decisions rendered pursuant to those rules and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:413 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:

§343. Foreword

A. The *Disciplinary Rules and Procedures for Adult Offenders* is established to help provide structure and organization for the prisons and a framework within which the offender population can expect the disciplinary system to function. All offenders sentenced to the custody of the Department of Public Safety and Corrections, regardless of their housing facility, shall be placed on notice as to the requirements of the *Disciplinary Rules and Procedures for Adult Offenders* by providing each offender with a copy of the rules and obtaining a signed receipt.

B. The secretary of the Department of Public Safety and Corrections has sole authority to change these rules, regulations and procedures. Utilization of these procedures does not constitute the granting of any enforceable or vested right or privilege to any offender.

C. There are certain classifications or other actions which may be taken that affect an offender's custody status, job classification, housing assignment, institutional assignment and/or ability to participate in institutional programs or activities for which an offender may expect change during the course of his incarceration. Such changes may result from classification decision-making to promote institutional security or other legitimate institutional goals, or the imposition of disciplinary penalties. Such changes may not be disciplinary penalties in and of themselves. These and any similar changes which result from the action of other department regulations and institutional policies are not considered penalties in the context of the disciplinary process.

D. In the event of a genuine emergency, such as a serious disturbance disrupting normal operations or a natural disaster, the secretary or designee may suspend any and all disciplinary rules and procedures for the duration of the emergency. Full hearings must be held within a reasonable time after the end of the emergency for those offenders who were subject to the disciplinary sanction of forfeiture of good time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:414 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:

§345. Definitions

Administrative Segregation—a temporary holding area, preferably a cell, where an offender is housed when the offender's continued presence in the general population poses a threat to life, property, self, staff, other offenders, the security or orderly running of the institution or the offender is the subject of an investigation. In addition, offenders who are pending transfer to another institution or pending assignment or re-assignment within an institution may be held in "Administrative Segregation." (Refer to the section on "Disciplinary Procedures—Administrative Segregation Guidelines")

Appeal—a request by an offender for review of a disciplinary decision. (Refer to the section on "Appeals")

Attempt—when an offender has intent to violate any disciplinary rule, whether or not he actually takes a position, step or action toward violating the rule or is successful in violating the rule.

Classification—a process for determining the needs and requirements of those for whom confinement has been ordered and for assigning them to housing units, work assignments and programs according to their needs and existing resources. Classification actions, even if resulting from an incident handled in the disciplinary process, are not disciplinary sanctions.

Confidential Informant—person whose identity is not revealed to the accused offender but who provides an employee(s) with information concerning misbehavior or planned misbehavior.

Conspiracy—two or more persons working in combination for the specific purpose of violating any disciplinary rule.

Counsel and Counsel Substitutes—counsel is an attorney-at-law of the offender's choice who has been retained by the offender or offender's family for the purpose of representing the offender. Counsel substitutes are persons not admitted to the practice of law, but offenders who aid and assist, without cost or fee, an accused offender in the preparation and presentation of his defense and/or appeal. Counsel substitutes are only those offenders appointed by the warden or designee and may have diminished rights in the judicial system. (Refer to the section on "Disciplinary Procedures—Counsel Substitutes")

Custody—the type of housing and the level of supervision required for an offender. Custody assignments will reflect public safety as the first priority, staff and offender safety within the institution as the second priority and then institutional or offender need.

Disciplinary Detention—a punitive holding area where offenders are temporarily confined in a restricted situation after being so sentenced by the disciplinary board. (Refer to the section on "Disciplinary Procedures—Disciplinary Detention")

Disciplinary Detention/Extended Lockdown—a maximum security area for confining offenders. (Refer to the section on "Disciplinary Procedures—Disciplinary Detention/Extended Lockdown")

Disciplinary Report—a report on the approved form filed by an employee who has reason to believe that an offender(s) has violated one or more disciplinary rules. The disciplinary officer/disciplinary board may hear the disciplinary report; however, the party hearing the disciplinary report cannot have initiated the report.

Extra Duty—work to be performed in addition to an offender's regular job assignment as specified by the proper institutional authority. This work is performed without the benefit of incentive wages, if applicable.

Hearings—a fair and impartial review conducted by the disciplinary officer/disciplinary board.

Incentive Pay—compensation paid to an offender in the physical custody of the department and who is eligible to receive incentive wages and who has performed satisfactory work in the compensation grade in which he has been classified, unless he opts to receive good time in lieu of incentive wages in accordance with La. R.S. 15:571.3. See Department Regulation No. B-09-001 "Offender Incentive Pay and Other Wage Compensation" for additional information.

Investigation Report—a report submitted for disposition to the disciplinary board detailing the facts uncovered in an investigation.

Maximum Custody—assignment of an offender based upon the need to protect the offender, other offenders, the public, staff or the institution. This includes temporary assignment to administrative segregation or assignment to disciplinary detention/extended lockdown, working cellblocks and Maximum Custody Dormitory, and may include protective custody/extended lockdown. Movements inside the secure perimeter of a facility by maximum custody offenders are closely monitored by staff and may include the utilization of restraints in accordance with written institutional procedure. Movement outside of a secure perimeter is accomplished only under armed supervision or when appropriately restrained or otherwise secured and appropriately supervised.

Medium Custody—assignment of an offender to a general population dormitory housing area. Movement outside of a secure perimeter is accomplished only under armed supervision or when appropriately restrained or otherwise secured and appropriately supervised. Written institutional procedure governs internal movement controls.

Minimum Custody—assignment of an offender to a general population dormitory housing area. Movement outside of a secure perimeter is usually authorized without armed supervision or restraint. Written institutional procedure governs the level of staff supervision when outside the secure perimeter, as well as during internal movements.

Posted Policy—policy memorandums detailing what behavior is required or forbidden of offenders and generally reflecting the individual needs of the facility. Posted policies must be distributed and posted in such a manner that offenders are placed on notice as to what behavior is required or forbidden and that sanctions may be imposed should the policy be violated. See Department Regulation

No. C-01-006 "Institutional Policies/Procedures and Offender Posted Policies" for additional information.

Prison Rape Elimination Act of 2003 ("PREA")—a federal law enacted to establish a zero-tolerance standard for the incidence of rape concerning offenders sentenced to the custody of the department. (Refer to the section on Disciplinary Rules, Rule No. 21.) and Department Regulation No. C-01-022 "Sexual Assault and Sexual Misconduct" for additional information.

Protective Custody/Extended Lockdown—a classification utilized when an offender has a verifiable need for protection. (Refer to the section on "Disciplinary Procedures—Protective Custody/Extended Lockdown")

Sanction—a disciplinary penalty.

Security—the physical construction characteristics of the facility in terms of perimeter security, building construction type and internal movement controls.

Segregation—generic term used to encompass administrative segregation, protective custody and disciplinary detention.

Working Cellblock—a form of maximum custody distinguished by access to work and other programs consistent with security restrictions and institutional procedures.

NOTE: The pronouns "he" and "his" as used herein are for convenience only and are not intended to discriminate against female employees or offenders. Additionally, "employee" as used herein refers not only to an employee of the Department of Public Safety and Corrections, but also to any individual having the authority to exercise supervision over an offender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974), *Ralph v. Dees*, C.A. 71-94, USDC (Md. La.) and *Sandin v. Conner*, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:414 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:

§347. Disciplinary Procedures

A. General Segregation Guidelines—Mental Health. A mental health professional (as defined by the institution's designated health authority) must document a personal interview with any offender who remains in administrative segregation, protective custody or disciplinary detention for more than 30 consecutive days. A mental health assessment must be made at least every three months thereafter if confinement is continuous.

B. Administrative Segregation Guidelines. An offender whose continued presence in the general population poses a threat to life, property, self, staff or other offenders, or to the security or orderly running of the institution, or who is the subject of an investigation, may (with the approval of the highest ranking supervisor on duty in the unit where the incident occurred or the shift supervisor) be placed in administrative segregation until his appearance before the disciplinary officer/disciplinary board or classification board. The supervisor, before the conclusion of his tour of duty, will review documentation for completeness and correctness and investigate as needed to confirm the reasonableness of the allegation or circumstances prompting placement.

1. Offenders pending possible transfer to another facility, or pending assignment or re-assignment within an institution, may be held in administrative segregation.

Offenders in administrative segregation pending such transfer will be entitled only to privileges allowed other offenders in administrative segregation.

2. Upon the request of an offender or after review by appropriate institutional staff, an offender may be placed in administrative segregation for his protection and/or the protection of others until the disciplinary officer/disciplinary board or classification board can review the circumstances and recommend appropriate action.

3. Time spent in administrative segregation for the offense for which the offender was placed in administrative segregation must be credited against disciplinary detention or extra duty sentences even when such is suspended. Credit will not be given for time spent in administrative segregation upon a request for protection or while an offender is waiting transfer to another area. (This includes a transfer from a local jail facility to a state facility due to a rule violation charge and the department is waiting for the investigative reports from the local jail facility.)

4. Offenders in administrative segregation shall be allowed to receive all correspondence and to originate correspondence. Offenders in administrative segregation will be allowed visits, clean clothing on a scheduled basis, toothbrush and toothpaste, sufficient heat, light, ventilation, toilet facilities and the same meals as other offenders. An appropriate review board should review the status of offenders who are in administrative segregation at least every seven days for the first two months and every 30 days thereafter.

C. Counsel Substitutes. Behavior of counsel substitutes and legal aid office workers must be above reproach. A job change is mandatory following conviction for a serious offense. Counsel substitutes are not required to file appeals but should inform the offender who wants to appeal of the proper way to file. They may be removed from their positions if the warden or designee believes it appropriate. No offender, including counsel substitutes, can sell or trade for value legal services of any sort. Offenders who are not counsel substitutes may not provide services to other offenders without the approval of the warden or designee.

D. Disciplinary Board (High Court Hearing). A properly composed board will consist of two people, a duly authorized chairman and a duly authorized member, each representing a different section, i.e. security, administration or treatment. The secretary or designee must approve the chairman. The warden or designee must approve the member. Any member directly involved in the incident or one who is biased for or against the accused cannot hear the case unless the accused waives recusal. (Performance of routine administrative duty does not necessarily constitute "direct involvement" or "bias.") Decisions must be unanimous. If the decision is not unanimous, the case is automatically deferred for referral to a different disciplinary board.

1. If the second decision is not unanimous, then a finding of not guilty is appropriate. Hearings shall be held within seven days of the date of the report, excluding weekends and holidays, for those offenders not placed in administrative segregation, unless the hearing is prevented by exceptional circumstances, unavoidable delays or reasonable postponements. Reasons for all delays should be documented.

2. These hearings shall be recorded in their entirety and a written record of all motions, delays, etc. shall be preserved in accordance with the department's record retention policy.

E. Disciplinary Officer (Low Court Hearing). A ranking security officer (lieutenant or above) or any supervisory level employee from administration or treatment appointed by the warden or designee who conducts hearings of minor violations (Schedule A) and who may impose only sanctions listed herein as appropriate for a Schedule A rule violation. Any disciplinary officer directly involved in the incident or one who is biased for or against the accused cannot hear the case unless the accused waives recusal. (Performance of a routine administrative duty does not necessarily constitute "direct involvement" or "bias.") At these hearings, the accused offender represents himself and is given full opportunity to speak in his own behalf.

1. The presence of counsel substitutes, witnesses or the accusing employee is not permitted. These hearings are not recorded. Hearings shall be held within seven days of the date of the report, excluding weekends and holidays, for those offenders not placed in administrative segregation, unless the hearing is prevented by exceptional circumstances, unavoidable delays or reasonable postponements. Reasons for all delays should be documented. The disciplinary officer may also hear cases of offenders who have signed written requests for protection and may recommend appropriate action.

F. Disciplinary Detention. A determinate period of detention that is characterized by a maximum limit of 10 consecutive days without a 24-hour break or no more than 20 days in a 30 day period. After 10 consecutive days in disciplinary detention, the offender must be released for a period of time not less than 24 hours. No offender may be confined in disciplinary detention except by action of the disciplinary board on the basis of a disciplinary report. Offenders in disciplinary detention shall be allowed to receive all correspondence and to originate correspondence. They will also be allowed visits, clean clothing on a scheduled basis, toothbrush and toothpaste, sufficient heat, light, ventilation, toilet facilities and the same meals as other offenders.

G. Disciplinary Detention/Extended Lockdown. An indeterminate period of detention characterized by routine 90-day classification reviews to determine eligibility/suitability for release from this status. This type of segregation is used primarily after a disciplinary hearing for an offender found guilty of violating one or more serious rules, being dangerous to himself or others, being a serious escape risk or posing a clear threat to the security of the facility. A classification board hearing is sufficient for an offender who is initially classified as maximum custody.

1. Offenders who are in disciplinary detention/extended lockdown will have their cases reviewed by a classification board for possible release to a less restricted status approximately every 90 days.

H. Protective Custody/Extended Lockdown. Utilized for an offender in need of protection. A hearing by the disciplinary officer/disciplinary board or classification board is not necessary when an offender has signed a written request for protection and is transferred to protective custody/extended lockdown by the disciplinary

officer/disciplinary board or classification board. A classification board should review offenders in protective custody/extended lockdown for possible release to a less restricted status at least every seven days for the first two months and every 30 days thereafter.

I. Working Cellblock. An indeterminate period of assignment to a maximum custody status characterized by access to work and other programs consistent with security restrictions and institutional procedures. Classification reviews are utilized to determine eligibility/suitability for release from this status. This type of assignment is used primarily after a disciplinary hearing for an offender found guilty of violating one or more serious rules, being dangerous to himself or others, being a serious escape risk, being in need of protection or posing a clear threat to the security of the facility. A classification board hearing is sufficient for an offender who is initially classified as maximum custody.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974), *Ralph v. Dees*, C.A. 71-94, USDC (Md. La.) and *Sandin v. Conner*, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:415 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:

§349. Hearings

A. Disciplinary Board (High Court Hearing). Before the hearing can begin, an accused offender must acknowledge on the record that he is familiar with his rights as follows:

1. the right to present evidence and witnesses in his behalf and to request cross-examination of the accuser provided such request is relevant, not repetitious, not unduly burdensome to the institution and/or not unduly hazardous to staff or offender safety. (The board has the option of stipulating expected testimony from witnesses. In such cases, the record of the hearing shall contain a statement indicating the nature of the stipulated testimony. The board should assign proper weight to such testimony as though the witness had actually appeared.) The accusing employee must be present and testify when the report is based solely on information from confidential informants, if such a motion is raised.

2. the right to counsel substitute for all alleged violations or the right to retained counsel, if the alleged violation is one for which the offender could also be charged in a criminal court, e.g. possession of illegal drugs, rape or aggravated battery, etc.

3. the right to not be compelled to incriminate himself.

4. the right to a written summary of the evidence and reasons for the judgment, including reasons for the sanction imposed, when the accused pled not guilty and was found guilty. (This will usually appear on the finalized report.) The convicted offender will automatically be given or sent a written summary.

5. the right to appeal consistent with the appeal procedure. (Refer to the section on "APPEALS")

6. the right to a hearing within 72 hours of placement in administrative segregation. Official holidays, weekends, genuine emergencies and good faith efforts by the administration to provide a timely hearing are the only exceptions. When it is not possible to provide a full hearing within 72 hours of placement in administrative segregation,

the accused must be brought before the board, informed of the reasons for the delay and remanded back to administrative segregation or released to his quarters after a date for a full hearing has been set.

7. the right to an unbiased hearing. Any chairman or member directly involved in the incident, who is biased for or against the accused or who is in a therapeutic relationship with the offender that would be jeopardized by the therapist's presence on the disciplinary board, cannot hear the case unless the accused waives recusal. (Performance of a routine administrative duty does not necessarily constitute "direct involvement" or "bias.")

8. the right to be given a written copy of the disciplinary report at least 24 hours before the hearing begins which describes the contents of the charges against the offender (unless waived by him in writing.)

B. Conduct of the Hearing (High Court Hearing). All rights and procedural requirements must be followed unless waived by the accused. Disciplinary board hearings must be recorded in their entirety and the recordings preserved in accordance with the department's record retention policy for use in any subsequent judicial review or any other court proceedings. Hearings will generally be conducted as follows:

1. an offender who does not choose to be present may sign a waiver which shall be read into the record. A counsel substitute shall represent him. The same applies to a disruptive offender who refuses to cooperate or to allow orderly proceedings. If the offender refuses to sign a waiver, one shall be prepared and the refusal noted by two witnesses. The disciplinary chairman should also sign all waivers.

2. the accused enters his name and DOC number into the record as does his counsel or counsel substitute (if any) and confirms that he understands his rights. If the offender indicates he does not know or understand his rights, they must be explained to him. During the hearing, the accuser should only be present to testify. He should not be present for any other witness testimony and shall never be present during deliberations.

3. the chairman shall read the disciplinary report aloud to the accused and ask for a plea. Available pleas are not guilty or guilty. Should the accused attempt to enter an unavailable plea or refuse to enter a plea, the chairman will enter a not guilty plea for him and proceed with the hearing.

4. preliminary motions, if any, by the defense should now be made. Such motions must be raised at the first opportunity or be considered waived and may include:

a. dismissal of the charge(s);

b. continuance; (offenders are not entitled to a continuance to secure counsel unless they are charged with a violation that is also a crime under state law. Only one continuance need be granted unless new information is produced.)

c. requests to face accuser and call witness, etc.;

d. a motion due to lack of 24-hour notice must be made at this time, including any challenge to the waiver of the 24-hour notice rule having not been made in writing;

e. request for investigation;

f. any other appropriate motions;

g. all motions must be made at the same time in the proceedings. Subsequent verbal motions will be denied as having been waived.

5. the board should rule on motions at the time the motion is made, unless expressly deferred to the actual hearing. Written reasons for each ruling should be made.

6. after entering his plea and motions, if any, the accused may present his defense. The board may ask questions of the accused, his witnesses and/or his accuser.

7. a summary of motions presented will be documented on the "Summary of Motions Presented During Disciplinary Hearing" form. (The form is available from institutional classification or security staff.)

8. during deliberations, everyone except the board and any official observers must leave the room, and the board will decide the case on the basis of the evidence presented at the hearing. Official observers must not take part in the hearing or the deliberations. The disciplinary record of the accused may be examined to discover a pattern of similar misbehavior or to determine if a pending suspended sanction exists. The disciplinary record may be used to determine the appropriate sanction(s) to be imposed.

9. following the deliberations, the chairman will announce the verdict. If the verdict is guilty, the chairman will then announce the sanction(s). The board has full authority to suspend any sanction imposed for a period of up to 90 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974), *Ralph v. Dees*, C.A. 71-94, USDC (Md. La.) and *Sandin v. Conner*, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:416 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:

§351. Correcting Disciplinary Reports

A. A reviewing employee may change the rule number to fit the description prior to the hearing but should ensure that the accused gets a corrected copy of the report at least 24 hours before the hearing begins. Rule number(s) may be added if the offense is clearly described on the report. An incident may consist of several related events; however, each separate and distinct rule violation should be processed independently in the disciplinary system.

B. The board may change the rule number at any time prior to deliberation to more accurately reflect the alleged misbehavior but should offer the accused a continuance to prepare a new defense. It is the description of the conduct and not the rule number that determines the offense. The continuance may be waived and does not necessarily need to be for 24 hours.

NOTE: These actions shall be made on the record in the presence of the accused.

C. Evidence. The disciplinary board shall carefully evaluate all evidence presented or stipulated. When the disciplinary report is based solely on information from a confidential informant, two witnesses (who may be other confidential informants) must corroborate the record or other evidence. If requested, the accusing employee must be summoned to testify about the reliability and credibility of the confidential informant when the report is based solely on information from a confidential informant. (In order to accomplish this, the informant must have been reliable in the past and/or have legitimate knowledge of the present incident(s).)

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974), *Ralph v. Dees*,

C.A. 71-94, USDC (Md. La.) and *Sandin v. Conner*, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:417 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:

§353. Sanctions

A. Sanctions must fit the offense and the offender. An offender with a poor conduct record may receive a more severe sanction than an offender with a good conduct record for the same offense. Even so, serious offenses call for serious penalties. An offender who violates more than one rule or the same rule more than once during an incident may receive a permissible sanction for each violation. After a finding of guilt for a new violation, a previously suspended sanction may be imposed as well as a new sanction. State and federal criminal laws apply to offenders. In addition to being sanctioned by prison authorities, offenders may also be prosecuted in state and federal court for criminal conduct. Restitution may be imposed in accordance with Department Regulation No. B-05-003 "Imposition of Restitution" and is not considered a disciplinary penalty and may be assessed in addition to any other permissible penalties.

B. An offender who has established a documented pattern of behavior indicating that he is dangerous to himself or others is a habitual offender. This includes an offender who has been convicted of three major violations or a total of five violations in a six month period. Major violations are Schedule B offenses. A habitual offender may receive Schedule B penalties following a finding of guilt of a Schedule A offense when he has established a documented pattern of hostile or disruptive behavior as defined above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974), *Ralph v. Dees*, C.A. 71-94, USDC (Md. La.) and *Sandin v. Conner*, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:417 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:

§355. Penalty Schedule—Disciplinary Report (Heard by Disciplinary Officer/Low Court)

A. After a finding of guilt, the disciplinary officer may impose one or two of the penalties below for each violation:

1. reprimand;
2. extra duty - up to four days for each violation;
3. loss of minor privilege - up to two weeks.

B. minor privileges are as follows:

1. radio/tape or CD players and/or TV;
2. recreation and yard activities; (If the offender is housed in disciplinary detention or disciplinary detention/extended lockdown, the offender must be allowed a 24-hour break with access to recreation and/or yard activities after ten consecutive days in disciplinary detention or disciplinary detention/extended lockdown before any subsequent imposition of this penalty.)
3. telephone (except for emergencies and legal);
4. movies;
5. canteen;
6. any other similar privilege.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974), *Ralph v. Dees*, C.A. 71-94, USDC (Md. La.) and *Sandin v. Conner*, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:418 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:

§357. Penalty Schedule—Disciplinary Report (Heard by Disciplinary Board/High Court)

A. After a finding of guilt, the disciplinary board may impose one or two of the penalties below for each rule violation.

1. Schedule A:
 - a. reprimand;
 - b. extra duty - up to four days for each violation;
 - c. loss of minor privilege - up to four weeks;
 - d. disciplinary detention - up to five days for each violation;
 - e. forfeiture of good time - up to a maximum of 30 days for each violation;
 - f. quarters change;
 - g. job change;
 - h. confinement to dormitory, room or cell - up to 14 days; (this does not exclude participation in work, meals, medical or other essential call-outs.)
 - i. failure to earn incentive wages - up to three months.
2. Schedule B:
 - a. reprimand;
 - b. extra duty - up to eight days for each violation;
 - c. loss of minor privilege - up to 12 weeks, unless the violation involved abuse of that privilege, then up to 24 weeks;
 - d. disciplinary detention - up to ten days for each violation;
 - e. forfeiture of good time as follows:
 - i. attempted escape (simple or aggravated) - up to a maximum of 180 days for each violation;
 - ii. escape (simple or aggravated) - up to a maximum of all good time earned on that portion of the sentence served prior to the escape;
 - iii. all other Schedule B violations, up to a maximum of 180 days for each violation.
 - f. quarters change;
 - g. job change;
 - h. confinement to dormitory, room or cell - up to 30 days; (this does not exclude participation in work, meals, medical or other essential call-outs.)
 - i. failure to earn incentive wages - up to one year.
 - j. loss of hobby craft, up to 12 months; (at the discretion of the warden or designee, based upon the length of the sanction, this penalty may include loss of the hobby craft box assignment--in such cases, the offender would not be eligible to apply for resumption of this privilege until after the sanction has been served.) Loss of hobby craft privileges that result from custody status changes, classification actions, housing or institutional assignment changes, other changes that may routinely occur during the course of incarceration or the imposition of other disciplinary penalties are not to be considered as a "loss of hobby craft" sanction in the context of the disciplinary process.
 - k. custody change from minimum to medium custody status; (imposition of this sanction may include transfer to another institution.) Any change of quarters, job change or other changes that may result from imposition of

this sanction are not a separate penalty for purposes of this section unless expressly indicated as a sanction.

l. custody change from minimum or medium custody status to maximum custody status; (working cellblock or disciplinary detention/extended lockdown. Imposition of this sanction may include transfer to another institution.) Any change of quarters, job change or other changes that may result from imposition of this sanction are not a separate penalty for purposes of this section unless expressly indicated as a sanction.

m. loss of visiting privileges if the violation involves visiting, to be reviewed by the warden or designee every 90 days; (Department Regulation No. C-02-008 "Offender Visitation" governs restrictions relative to non-contact versus contact visiting and is not considered a disciplinary penalty.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:418 (March 2001), amended LR 28:94 (January 2002), repromulgated LR 28:1797 (August 2002), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:

§359. Penalty Clarifications

A. Good Time. An offender is presumed to have earned his good time for the month on the first day of the month and may forfeit such good time at any point during the month.

B. Incentive Pay. Any offender who has his incentive pay forfeited as a disciplinary sanction shall return to the introductory pay level for a six month period upon reinstatement of his right to earn incentive pay. At the end of the six month period, the offender's pay will be automatically adjusted to the lowest pay rate for the assigned job. See Department Regulation No. B-09-001 "Offender Incentive Pay and Other Wage Compensation" for additional information.

C. Suspended Sentences. The disciplinary officer/disciplinary board may suspend any sanction for a period of up to 90 days. The period of suspension begins on the date of the issuance of the ruling. When the time period has expired, the report itself remains a part of the record, although the sanction may no longer be imposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:418 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:

§361. Appeals

A. Appeals to the Disciplinary Board. An offender who wants to appeal a case heard by the disciplinary officer (low court) must appeal to the disciplinary board (high court) as soon as the ruling is issued. The offender must clearly say so to the disciplinary officer who will then automatically suspend the sanction and schedule the case for the disciplinary board. The appeal hearing before the disciplinary board is a full hearing the same as any other hearing conducted by the board. The disciplinary board cannot upgrade or increase the sanction imposed by the disciplinary officer. The appeal to the disciplinary board will

be the final appeal in a case heard by the disciplinary officer. No other appeals are allowed. The appeal from the disciplinary officer to the disciplinary board will constitute the final administrative remedy regarding the disciplinary decision. Decisions rendered by the disciplinary officer and appealed to the disciplinary board may not be appealed to the warden or to the secretary.

B. Appeals to the Warden

1. An offender who wants to appeal a case heard by the disciplinary board (high court) must, in all cases, appeal to the warden. The offender may appeal himself or through counsel or counsel substitute. In any case, the appeal must be received by the warden within 15 days of the hearing. The appeal should be clearly written or typed on form AF-1. Form AF-1 should be available from the offender's classification officer. If the form is not available, the appeal may be on plain paper but should contain all of the relevant information called for on the form, i.e. what action is being appealed and the reason for the appeal, etc. The warden will decide all appeals within 30 days of the date of receipt of the appeal and the offender will be promptly notified in writing of the results (unless circumstances warrant an extension of that time period and the offender is notified accordingly.)

2. Lengthy appeals of disciplinary actions will not be accepted into the appeals process. It is necessary for the offender to only provide basic factual information regarding his case. Appeals that are too long will be returned to the offender for summarization. If an appeal is rejected due to additional information being needed (such as summarization), the offender's administrative remedies have not yet been exhausted. The offender will have five days from receipt to comply with the instructions and resubmit. It is important to remember that abuse of the system impairs the department's ability to respond to legitimate problems in a timely fashion.

C. Appeals to the Secretary

1. An offender who wants to appeal the decision of the warden to the secretary will indicate that he is "not satisfied" in the appropriate box on the warden's "Appeal Decision" (form AF-2) and submit it to the administrative remedy procedure (ARP) screening officer or, in some units, the warden's office. The offender must submit the form within five days of the date of the receipt. No supplement to the appeal will be considered. It is only necessary that the offender check the box indicating, "I am not satisfied," date, sign and forward the form to the appropriate person. The offender will receive an acknowledgment of receipt and date forwarded to the secretary's office. The institution will provide a copy of the offender's original appeal to be attached to form AF-2 for submission to the secretary. Form AF-2 is available from the offender's classification officer.

2. The secretary will only consider appeals from decisions of the warden that resulted in an imposed or suspended sentence of one or more of the following penalties:

- a. disciplinary detention;
- b. forfeiture of good time;
- c. a custody change from minimum to medium if it involves transfer to another institution;
- d. a custody change to maximum;
- e. failure to earn incentive wages.

3. In addition, appeals for the amount of restitution assessments may be submitted to the secretary. The appeal of such assessments must be submitted in accordance with procedures outlined in Department Regulation No. B-05-003 "Imposition of Restitution."

4. The secretary will decide all appeals within 85 days of the date of receipt of the appeal and the offender will be promptly notified in writing of the results (unless circumstances warrant an extension of that time period and the offender is notified accordingly.) Absent unusual circumstances, the secretary will only consider review of the sanction(s) imposed of an offender who pled guilty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:419 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:

§363. Disciplinary Rules

A. An offender found guilty of violating one or more of the rules defined below will be sanctioned according to the penalty schedule designated for the rule and the type of hearing provided.

B. Contraband (Schedule B). No offender shall have under his immediate control any illicit drugs, any product that could be used to adulterate a urine sample, unauthorized medication, alcoholic beverage, yeast, tattoo machine, or tattoo paraphernalia, syringe or any type weapon, cellular phone or other electronic communications device, or any other item not permitted by department regulation or institutional posted policy to be received or possessed or any other item detrimental to the security of the facility. Money is contraband. Any item not being used for the purpose for which it was intended will be considered contraband if it is being used in a manner that is clearly detrimental to the security of the facility. Possession of cigarettes and other smoking materials, i.e. cigarette lighters, pipes, etc. are deemed to be contraband in non-smoking areas. To smuggle or attempt to smuggle prohibited items into or out of the facility will be in violation of this rule.

1. The area of immediate control is an offender's person, his locker(s) or storage area, his cell, his room, his bed, his laundry bag, his hobby craft and his assigned job equipment (such as, but not limited to, his desk, his tool box or his locker at the job) or the area under his bed on the floor unless the evidence clearly indicated that it belonged to another offender. Contraband found in a cell shared by two or more offenders will be presumed to belong to all equally.

2. Any offender who is tested and has a positive reading on a urinalysis or breathalyzer test will be considered in violation of this rule. An offender who refuses to be tested or to cooperate in testing, as well as an offender who alters his urine specimen, will also be found in violation of this rule (including being unable to provide a urine specimen within three hours of being ordered to do so.)

C. Repealed.

D. Defiance (Schedule B). No offender shall commit or threaten physically or verbally to commit bodily harm upon an employee, visitor, guest or their families. This includes throwing any object, liquid or substance, or spitting or attempting to spit on an employee, visitor, guest or their

families. No offender shall curse or insult an employee, visitor, guest or their families. No offender shall threaten an employee, visitor, guest or their families in any manner; however, an offender may advise an employee of planned legal redress even during a confrontational situation (although an offender's behavior in such a situation shall not be disrespectful or violate any other disciplinary rule.) No offender shall obstruct or resist an employee who is performing his proper duties. No offender shall try to intimidate an employee to make the employee do as the offender wants him to do. An employee, visitor, guest or their families shall not be subject to abusive or insulting conversation, correspondence, phone calls or gestures.

E. Disobedience (Schedule A). Offenders must obey the posted policies for the facility in which they are confined. They must obey signs or other notices of restricted activities in certain areas, safety rules or other general instructions. The only valid excuse for disobedience or aggravated disobedience is when the immediate result of obedience would result in bodily injury (this includes incapacity by virtue of a certified medical reason.)

F. Disobedience, Aggravated (Schedule B). Offenders must obey direct verbal orders cooperatively and promptly and not debate, argue or ignore the orders before obeying. The last order received must be obeyed when orders conflict. Even orders the offender believes improper must be obeyed; grievances must be pursued through proper channels. Sanctions imposed by the disciplinary officer/disciplinary board are to be carried out by the offender. Violations of duty status will apply to this rule as will a violation of an order from the disciplinary board. The only valid excuse for disobedience or aggravated disobedience is when the immediate result of obedience would result in bodily injury (this includes incapacity by virtue of a certified medical reason.)

G. Disorderly Conduct (Schedule A). All boisterous behavior is forbidden. This includes, but is not limited to, horseplay and/or disorderly conduct. Offenders shall not jump ahead or cut into lines at the canteen, recreational activities, dining/kitchen area or during group movements of offenders. Visitors and guests shall be treated courteously and not be subjected to disorderly or intrusive conduct. Offenders shall not communicate verbally into or out of cellblocks or other housing areas.

H. Disrespect (Schedule A). Employees, visitors, guests or their families shall not be subject to disrespectful conversation, correspondence, phone calls, actions or gestures. Offenders shall address employees, visitors, guests or their families by proper title or rank or by "Mr.," "Mrs." or "Miss" whichever is appropriate.

I. Escape or Attempt to Escape (Schedule B).

1. Attempted escape: The attempt to commit a simple or aggravated escape as defined herein.

2. Simple escape: The intentional, unauthorized departure of an offender under circumstances in which human life was not endangered, including but not limited to: from the grounds of an institution, a designated area or place within an institution, the custody of a corrections' employee while off the grounds of an institution or the custody of any law enforcement officer; the departure of a work release offender from the designated area where he is legally confined; the failure of an offender participating in a work

release program to report or return from his planned employment or other activity at the appointed time, or who leaves the job site for any reason without permission; or the failure of an offender on furlough to return to his place of confinement at the appointed time.

3. Aggravated escape: The intentional, unauthorized departure of an offender under circumstances in which human life was endangered, including but not limited to: from the grounds of an institution, a designated area or place within an institution, the custody of a corrections' employee while off the grounds of an institution or the custody of any law enforcement officer; the departure of a work release offender from the designated area where he is legally confined; the failure of an offender participating in a work release program to report or return from his planned employment or other activity at the appointed time, or who leaves the job site for any reason without permission; or the failure of an offender on furlough to return to his place of confinement at the appointed time. For the purpose of this rule, the commission of a crime while on escape constitutes aggravated escape.

NOTE: All costs associated with an escape may be recovered in accordance with procedures outlined in Department Regulation No. B-05-003 "Imposition of Restitution."

J. Repealed. (Refer to Rule No. 30.)

K. Fighting (Schedule B). Hostile physical contact or attempted physical contact is not permitted. This includes fist fighting, shoving, wrestling, kicking and other such behavior. Contact does not necessarily have to be made for this rule to be violated.

1. Self-Defense Clarification: Self-defense is a complete defense and can be established to the board by the offender demonstrating that his actions did not exceed those necessary to protect himself or others from injury.

L. Fighting, Aggravated (Schedule B). Offenders shall not fight with each other using any object as a weapon (including any liquid or solid substances thrown or otherwise projected on or at another person.) When two or more offenders attack another offender without using weapons, the attackers are in violation of this rule, as are all participants in a group or "gang" fight. The use of teeth will also be sufficient to constitute a violation of this rule. No offender shall intentionally inflict serious injury or death upon another offender. Contact does not necessarily have to be made for this rule to be violated.

1. Self-Defense Clarification: (Refer to clarification under Rule No. 10.)

M. Gambling (Schedule B). No offender shall operate or participate in any game of chance involving bets or wagers or goods or other valuables. Possession of one or more gambling tickets or stubs for football or any other sport is a violation. No offender shall operate a book-making scheme. Possession of gambling sheets with a list of names or codes, point spreads, how much owed or how much wagered will be considered a violation.

N. Repealed.

O. Intoxication (Schedule B). No offender shall be under the influence of any intoxicating substance while in physical custody. Returning from a furlough under the influence of an intoxicating substance is a violation.

P. Malingering (Schedule B).

1. A qualified medical staff person (as defined by the institution's designated health authority) determines that an

offender has made repeated and frequent complaints at sick call having little or no merit; or

2. A qualified medical staff person (as defined by the institution's designated health authority) determines that an offender has sought emergency medical treatment, not during scheduled sick call, when there was no ailment or when there was a minor ailment that was or could have been properly handled at sick call.

Q. Repealed.

R. Property Destruction (Schedule B). No offender shall destroy the property of others or of the state. No offender shall alter his own property when the result of such alteration is to render the article unsuitable according to property guidelines. Flooding an area and the shaking of doors ("racking down") are not permitted. Standing or sitting on face bowls is a violation. Whether or not the offender intended to destroy the property and/or the degree of negligence involved may be utilized in defense of the charge.

S. Radio/Tape or CD Player Abuse (Schedule A). Radios/tape or CD players must be used in accordance with the posted policies of the facility. Violations of posted policies regarding radios/tape or CD players may be processed under this rule. In addition to any sanction that may be imposed by the disciplinary officer/disciplinary board, the ranking employee on duty may confiscate the radio/tape or CD player for a period of up to 30 days. The offender will not be permitted to have a similar item sent to him for one year.

T. Self-Mutilation (Schedule B). No offender shall deliberately inflict or attempt to inflict injury upon himself or upon a consenting offender or consent to have an injury inflicted upon him. Tattoos, piercing of any parts of the body and alterations to teeth are specifically included in this rule. Not included are obvious suicide attempts.

U. Deleted. (Refer to Rule No. 21.)

V. Sex Offenses, Aggravated (Schedule B). Nonconsensual and/or consensual sexual acts involving offender-on-offender, offender-on-staff or non-incarcerated persons are strictly prohibited. Contact by any offender of any person without the person's consent or of a person who is unable to consent or refuse through coercion is strictly prohibited. (There is no consensual sex in a custodial or supervisory relationship.) The following sexual behaviors are prohibited:

1. nonconsensual sexual act (offender-on-offender). Contact between the penis and the vagina or the penis and the anus including penetration, however slight; contact between the mouth and the genitalia, anus, groin, breast, inner thigh or buttocks; penetration of the genitalia of another offender by a hand, finger or other object. No offender shall sexually harass another offender by force or threat of force;

2. abusive sexual contact (offender-on-offender). Contact such as, but not limited to, intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, buttocks and/or mouth of any person. No offender shall sexually assault another offender by force or threat of force;

3. sexual misconduct (offender-on-offender). Contact or attempted contact between the penis and the vagina or the penis and the anus including penetration or attempted

penetration, however slight; contact or attempted contact between the mouth and the penis, vagina or anus; penetration or attempted penetration of the anal or genital opening of another offender by a hand, finger or other object; carnal copulation by two or more offenders with each other, or by one or more offenders with an implement or animal(s); two or more offenders who have obviously been interrupted immediately before or after carnal copulation. Use of the genital organs of one of the offenders is sufficient to constitute the offense. Offenders may not participate in any sexual activity with each other;

4. sexual misconduct (offender-on-staff or non-incarcerated person). Contact or attempted contact between the penis and the vagina or the penis and the anus including penetration or attempted penetration, however slight; contact or attempted contact of the mouth and the penis, vagina or anus; penetration or attempted penetration of the anal or genital opening of another person by a hand, finger or other object; two or more persons who have obviously been interrupted immediately before or after carnal copulation. Offenders may not participate in any overt sexual activity with staff or non-incarcerated persons. Offenders may not participate in any sexual activity with staff or non-incarcerated persons;

5. obscenity. No offender shall deliberately expose the genital organs and/or masturbate in view of staff or non-incarcerated persons;

6. other prohibited sexual behavior (offender-on-offender, offender-on-staff or non-incarcerated person). No offender shall: make sexual remarks, gestures or sounds; flirt; exchange personal items, etc. or make sexual threats in conversation by correspondence or telephone;

7. overt display of affection in a manner that may elicit sexual arousal with anyone is prohibited;

8. there can be no consensual sex between an employee and an offender. Failure to report any improper advances made by an employee on an offender may result in a violation of this rule.

W. Theft (Schedule B). No offender shall steal from anyone. Forgery, which is a form of theft, is the unauthorized altering or signing of a document(s) to secure material return and/or special favors or considerations. (The very act of the forgery will constitute proof of the crime. It need not have been successful in its conclusion.) Fraud, which is also a form of theft, is the deliberate misrepresentation of fact to secure material return and/or special favors or considerations. An offender who knowingly submits obviously false information to any employee within the Department of Public Safety and Corrections is guilty of this violation. Lying to the secretary or warden on appeal or in any other part of the administrative remedy procedure or in correspondence will also be a violation. Those who file administrative remedy requests that are frivolous or deliberately malicious may be disciplined under this rule. No offender shall have stolen items under his immediate control. No offender shall have institutional property under his immediate control unless he has specific permission; this includes institutional foodstuffs. (Refer to Rule No. 1. for the definition of "area of immediate control.")

X. Repealed.

Y. Unauthorized Area (Schedule A). An offender must be in the area in which he is authorized to be at that particular

time and date, or he is in an unauthorized area. No offender shall go into any housing unit other than that to which he is assigned (this includes standing in the doorway) unless he has permission.

Z. Repealed. (Refer to Rule V.)

AA. Unsanitary Practices (Schedule A). Offenders must not spit or drop litter or cigarette butts anywhere but into a proper receptacle. Offenders must not smoke in any unauthorized areas. Offenders must maintain themselves, their clothing and their shoes in as presentable a condition as possible under prevailing circumstances. Each offender is responsible for keeping his bed and bed area reasonably clean, neat and sanitary. Beds will be made according to the approved posted policy at the facility. Offenders must wear shoes/boots and cannot wear shirts that leave the armpits exposed or shorts into the kitchen/dining area. Chewing gum in the kitchen/dining area is prohibited.

BB. Work Offenses (Schedule A). Offenders must perform their assigned tasks with reasonable speed and efficiency. Though offenders have specific job assignments, it may be required that they do work other than what their job assignments require. This work shall also be done cooperatively and with reasonable speed and efficiency. Being present, but not answering at the proper time at work roll call is a violation. (A school assignment is considered to be a work assignment for the purposes of this rule.)

CC. Work Offenses, Aggravated (Schedule B). An offender who flatly refuses to work or to go out to work or who asks to go to administrative segregation rather than work is in violation of this rule, as is an offender who disobeys repeated instructions as to how to perform his work assignment. Hiding out from work or leaving the work area without permission is a violation. Falling far short of fulfilling reasonable work quotas is not permitted. Being absent or late for work roll call without a valid excuse (such as no duty or callout) is a violation, as is not reporting for extra duty assignment. Being late to work or to school assignment is a violation. (A school assignment is considered to be a work assignment for the purposes of this rule.)

DD. Disturbance (Schedule B). No offender shall create or participate in a disturbance. No offender shall incite any other person to create or participate in a disturbance. A disturbance is considered as two or more offenders involving acts of force or violence toward persons or property or acts of resistance to the lawful authority of correctional officers and/or other law enforcement officers under circumstances which present a threat of injury to persons, to property, or to the security and good order of the institution.

EE. General Prohibited Behaviors (Schedule B). The following behaviors, which may impair or threaten the security or stability of the unit or wellbeing of an employee, visitor, guest, offender or their families are prohibited:

1. strong-arming or using threats of violence or perceived harm or reprisal to secure gain or favor for oneself or others;

2. directly or indirectly threatening harm to oneself (except obvious suicide attempts), another offender, an employee, a visitor, a guest or their families;

3. directly or indirectly threatening harm to oneself (except obvious suicide attempts), another offender, an employee, a visitor, a guest or their families;

4. engaging in or making an attempt to engage in a non-professional relationship with an employee, visitor, guest, their families or other person the offender may come in contact with while incarcerated;

5. trafficking in drugs or alcohol, stolen goods or sexual favors;

6. organizing or participating in a scam or similar behavior;

7. making unsolicited contact or attempted contact with the victims of the offender's criminal activity or any immediate family member of the victim;

8. bribing, influencing or coercing anyone to violate institutional policies procedures, rules, or state and federal laws or to attempt to do so;

9. giving an employee anything of any value;

10. harassing behaviors conducted via telephone, correspondence or during activities, etc;

11. the communication of malicious, frivolous, false, and/or inflammatory statements or information, the purpose of which is reasonably intended to harm, embarrass, or intimidate an employee, visitor, guest, offender or their families; (this rule shall not apply to information and/or statements communicated for the express purpose of obtaining legal assistance.)

12. using telephones, computers and/or office equipment without approval;

13. purchasing or trading for offender legal or other services. Performing legal work for another offender or being in possession of another offender's legal work when not assigned as a counsel substitute or when not approved by the warden. (it is a violation for any offender to give or receive anything of value relative to the provision of paralegal services.) An offender may not perform or be in possession of staff legal work;

14. communicating or visiting with non-incarcerated persons when not approved or communicating or visiting with any person after being given instructions not to communicate or visit with that person;

15. participating in a loud or boisterous argument or dispute even when a fight does not ensue;

16. participating in, organizing or advocating a work stoppage;

17. making or attempting to make credit purchases;

18. abusing the administrative remedy procedure;

19. belonging to a gang, advocating membership in a gang, or participating in any gang related activities, including any form of gang or group identification or signaling;

20. misrepresenting oneself to an employee, visitor, guest or the public;

21. starting or attempting to start a fire and/or attempting to heat substances utilizing electrical/mechanical devices or any other means;

22. failing to cooperate with an investigation;

23. any behavior not specifically enumerated herein that may impair or threaten the security or stability of the unit or well-being of an employee, visitor, guest, offender or

their families may still be the subject of a disciplinary report and all Schedule B penalties except for forfeiture of good time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974), *Ralph v. Dees*, C.A. 71-94, USDC (Md. La.) and *Sandin v. Conner*, 115 S.Ct. 2293 (1995), *Cassels v. Stalder*, 342 F. Supp. 2d 555.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:419 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 31:1099 (May 2005), LR 34:

James M. Le Blanc
Secretary

0807#067

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2008 Spring Inshore Shrimp Season Closure—Zone 2

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 1, 2008 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2008 Spring Inshore Shrimp Season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or if enforcement problems develop, the Secretary hereby declares:

The 2008 spring inshore shrimp season within those portions of Shrimp Management Zone 2 extending from the Atchafalaya River Ship Channel at Eugene Island as delineated by the Channel red buoy line westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island and from the western shore of Bayou Lafourche eastward to the eastern shore of South Pass of the Mississippi River will close on Monday, June 30, 2008 at 6:00 a.m. Zones 1 and 3 will remain open until further notice.

The state territorial waters south of the inside/outside shrimp line, as described in R.S. 56:495, shall also remain open to shrimping.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within the remaining portions of Zone 2 to be closed has rapidly increased in recent weeks and these waters are being closed to protect these developing shrimp.

Robert J. Barham
Secretary

0808#007

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2008 Spring Inshore Shrimp Season Closure—Zones 1 and 3

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 1, 2008 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2008 Spring Inshore Shrimp Season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or if enforcement problems develop, the secretary hereby declares:

The 2008 spring inshore shrimp season within Shrimp Management Zones 1 and 3 will close on Tuesday, July 1, 2008 at 6:00 a.m. except for that portion of Zone 1 including Lake Pontchartrain, Rigolets Pass from the mouth of Lake Pontchartrain extending eastward to the western side of the CSX Railway Bridge, Chef Menteur Pass from the mouth of Lake Pontchartrain southeasterly to the mouth of Lake Borgne, the Mississippi River Gulf Outlet beginning at its juncture with the Industrial Canal, that portion of Mississippi Sound beginning at a point on the Louisiana-Mississippi Lateral Boundary at latitude 30 degrees 09 minutes 39.6 seconds north and longitude 89 degrees 30 minutes 00 seconds west; thence southeasterly to a point at latitude 30 degrees 03 minutes 12 seconds north and longitude 89 degrees 21 minutes 30 seconds west; thence northeasterly to the most easterly point on Isle Au Pitre at latitude 30 degrees 09 minutes 20.5 seconds north and longitude 89 degrees 11 minutes 15.5 seconds west, which is a point on the double-rig line as described in R.S. 56:495.1(A)2; thence northerly along the double-rig line to a point on the Louisiana-Mississippi Lateral Boundary at latitude 30 degrees 12 minutes 37.9056 seconds north and longitude 89 degrees 10 minutes 57.9725 seconds west; thence westerly along the Louisiana-Mississippi Lateral Boundary to the point of beginning, and the open waters of Breton and Chandeleur Sounds as described by the double-rig line and except for that portion of Zone 3 which includes the Calcasieu Ship Channel originating at a line between Channel Markers 85 and 86 southward to a point originating along the inside/outside shrimp line at Calcasieu Pass as described in R.S. 56:495(A) and including East Pass from its origin at the Calcasieu Ship Channel to the south end of Calcasieu Lake and West Pass from its origin at the Calcasieu Ship Channel to the south end of West Cove.

Lake Pontchartrain, Chef Menteur Pass, Rigolets Pass, the Mississippi River Gulf Outlet, a portion of Mississippi Sound, the open waters of Breton and Chandeleur Sounds all

located in Shrimp Management Zone 1 and a portion of the Calcasieu Ship Channel located in Shrimp Management Zone 3 will remain open until further notice.

The state territorial waters south of the inside/outside shrimp line, as described in R.S. 56:495, shall also remain open to shrimping.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within those portions of Zones 1 and 3 to be closed has rapidly increased in recent weeks and these waters are being closed to protect these developing shrimp.

Robert J. Barham
Secretary

0807#011

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2008 Spring Inshore Shrimp Season Closure Portion of Zone I

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 1, 2008, which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2008 Spring Inshore Shrimp Season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or if enforcement problems develop, the secretary hereby declares:

The 2008 spring inshore shrimp season within Shrimp Management Zone 1 will close on Saturday, July 12, 2008 at 6:00 p.m. except for that portion of Zone 1 which includes Mississippi Sound beginning at a point on the Louisiana-Mississippi Lateral Boundary at latitude 30 degrees 09 minutes 39.6 seconds north and longitude 89 degrees 30 minutes 00 seconds west; thence southeasterly to a point at latitude 30 degrees 03 minutes 12 seconds north and longitude 89 degrees 21 minutes 30 seconds west; thence northeasterly to the most easterly point on Isle Au Pitre at latitude 30 degrees 09 minutes 20.5 seconds north and longitude 89 degrees 11 minutes 15.5 seconds west, which is a point on the double-rig line as described in LA R.S. 56:495.1(A)2; thence northerly along the double-rig line to a point on the Louisiana-Mississippi Lateral Boundary at latitude 30 degrees 12 minutes 37.9056 seconds north and longitude 89 degrees 10 minutes 57.9725 seconds west; thence westerly along the Louisiana-Mississippi Lateral Boundary to the point of beginning, and the open waters of Breton and Chandeleur Sounds as described by the double-rig line.

A portion of Mississippi Sound and the open waters of Breton and Chandeleur Sounds all located in Shrimp Management Zone 1 as well as that portion of Zone 3 which includes the Calcasieu Ship Channel originating at a line

between Channel Markers 85 and 86 thence southward to a point originating along the inside/outside shrimp line at Calcasieu Pass as described in LA R.S. 56:495(A) and including East Pass from its origin at the Calcasieu Ship Channel to the south end of Calcasieu Lake and West Pass from its origin at the Calcasieu Ship Channel to the south end of West Cove will remain open until further notice.

The State Territorial waters south of the Inside/Outside Shrimp Line, as described in R.S. 56:495, shall also remain open to shrimping.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within Zone 3 and those portions of Zone 1 to be closed has rapidly increased in recent weeks and these waters are being closed to protect these developing shrimp.

Robert J. Barham
Secretary

0807#068

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2008 Spring Inshore Shrimp Season Closure Portion of Zone 2

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 1, 2008 which authorized the secretary of the Department of Wildlife and Fisheries to close the 2008 Spring Inshore Shrimp Season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or if enforcement problems develop, the Secretary hereby declares:

The 2008 spring inshore shrimp season within that portion of Shrimp Management Zone 2 extending from the Atchafalaya River Ship Channel at Eugene Island as delineated by the channel red buoy line to the western shore of Bayou Lafourche will close on Tuesday, June 24, at 6:00 a.m. The remaining portions of Zone 2 west of the Atchafalaya River and east of Bayou Lafourche and all of Zones 1 and 3 will remain open until further notice.

The state territorial waters south of the inside/outside shrimp line, as described in R.S. 56:495, shall also remain open to shrimping.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within that portion of Zone 2 to be closed has rapidly increased in recent weeks and these waters are being closed to protect these developing shrimp.

Robert J. Barham
Secretary

0807#001

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Large Coastal Shark Commercial Season Closure

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its Rule LAC 76:VII.357.M.2 which allows the secretary to declare a closed season when he is informed that the commercial large coastal shark seasonal quota for that species group and fishery has been met in the Gulf of Mexico, and that such closure order shall close the season until the date projected for the re-opening of that fishery in the adjacent federal waters, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Effective 12:01 a.m., July 1, 2008, the commercial fishery for large coastal sharks in Louisiana waters, as described in LAC 76:VII.357.B.2, (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, sandbar shark, silky shark, spinner shark and tiger shark) will remain closed until 12:01 a.m., January 1, 2009. Nothing herein shall preclude the legal harvest of large coastal sharks by legally licensed recreational fishermen during the open season for recreational harvest. Effective with this closure, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell or attempt to purchase, exchange, barter, trade or sell large coastal sharks or fins thereof, whether taken from within or without Louisiana waters. Also effective with the closure, no person shall possess large coastal sharks in excess of a daily bag limit whether taken from within or without Louisiana waters, which may only be in possession during the open recreational season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure provided that all commercial dealers possessing large coastal sharks taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The secretary has been notified by the National Marine Fisheries Service that the harvest of large coastal sharks in the federal waters of the Gulf of Mexico will be closed for the first trimester of 2008 and for the second trimester until Amendment 2 of the Highly Migratory Species Fishery Management Plan is effective. The season closure is necessary to ensure that compatible regulations are in effect while options are considered for future management of large coastal sharks in federal waters.

Robert J. Barham
Secretary

0807#003

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Reef Fish Harvest

The reef fish fishery in the Gulf of Mexico is cooperatively managed by the Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC) and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., which in Louisiana is generally three miles offshore. Rules were established by NMFS on January 3, 2008 to reduce the commercial and recreational vermilion snapper minimum size limit; eliminate the bag limit restriction for vermilion snapper within the existing 20-fish aggregate reef fish bag limit; eliminate the 40-day commercial closure for vermilion snapper, and modify Individual Fishing Quota (IFQ) requirements for the commercial red snapper fishery. Further rules were promulgated by NMFS on January 29, 2008 to enact provisions of the red snapper rebuilding plan (Reef Fish Amendment 27/Shrimp Amendment 14). These rules included modifications to the recreational season and bag limit, charter vessel captain and crew limit, commercial size limit, among other provisions. Some of the provisions of Amendment 27/14 had previously been addressed as "interim rules" by NMFS in April 2007, and the Wildlife and Fisheries Commission had enacted compatible rules through a Declaration of Emergency at their April 2007 meeting. Some of the provisions enacted by NMFS as part of the final Amendment 27/14 are not within the authority of the Wildlife and Fisheries Commission rulemaking process, but others can be established by the commission. NMFS typically requests consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In order to enact regulations in a timely manner so as to have compatible regulations in place in Louisiana water to coincide with the regulation set forth by NMFS, it is necessary that Emergency Rules be enacted. This Emergency Rule includes the provisions of the Emergency Rule passed by the Wildlife and Fisheries Commission at their February 2008 meeting, as well as provisions related to establishing rules compatible with Amendment 27/14, since both sets of rules pertain to the same fisheries and to the same section of commission rules.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the Wildlife and Fisheries Commission hereby declares:

NMFS has clarified landing and offloading requirements for the red snapper Individual Fishing Quota (IFQ) program. Effective 6 a.m. February 8, 2008, IFQ fishermen can land their vessels anytime during the day and night, provided that a landing notification has been given 3 to 12 hours prior to landing; can only offload red snapper from 6 a.m. to 6 p.m.; and do not need to give law enforcement an offloading notification for red snapper. For the purposes of these regulations, the term *landing* means tying a vessel to a dock. *Offloading* means removing red snapper from a vessel.

Effective immediately, the commercial and recreational vermilion snapper minimum size limit is reduced from 11 inches to 10 inches total length; the 10 fish recreational bag limit restriction for vermilion snapper within the existing 20-fish aggregate reef fish bag limit is eliminated; and the 40-day commercial closure for vermilion snapper is eliminated, which extended from April 22 through May 31 each year.

Effective immediately, the commercial minimum size for red snapper is reduced from 15 inches to 13 inches total length.

The recreational red snapper season is established to open on June 1, 2008, and remain open until 12:01 a.m., August 5, 2008. The recreational bag limit for red snapper shall be 2 fish per person per day during this open season. Captain and crew members shall not harvest or possess red snapper or grouper of any species while operating as charter vessels and headboats as defined in Federal Regulations 50 CFR Part 622.2. Their bag limit is zero for all of these species.

This Declaration of Emergency will become effective on July 3, 2008 and will supersede those published in the March 20, 2008 and June 20, 2008 *Louisiana Register*.

Robert J. Barham
Secretary

0807#012

Rules

RULE

Department of Civil Service Division of Administrative Law

Ethics Adjudicatory Board
(LAC 1:III.Chapter 8)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and under the authority of R.S. 49:996(7), the director of the Division of Administrative Law has implemented the provisions of R.S. 42:1141 as amended by Acts 2008, No. 23 to provide procedural processes for the selection of the members of the Ethics Adjudicatory Board, three judge panels, recusal of board members and panel procedure.

Title 1

ADMINISTRATIVE LAW

Part III. Division of Administrative Law

Chapter 8. Ethics Adjudicatory Board

§801. Selection of Board Members and Panels

A. Public Meeting. The selection of the Ethics Adjudicatory Board will take place during a public meeting of the Louisiana Board of Ethics.

B. Random Selection Process

1. The director of the Division of Administrative Law, or his designee, shall place into a container, the names of all probationary and permanent Division of Administrative Law administrative law judges who meet the statutory qualifications. They must have:

- a. not less than two years experience as an administrative law judge; or
- b. not less than 10 years experience in the practice of law.

2. The director or his designee shall blindly select seven names from the container, one at a time. Each name shall be recorded and assigned a number, according to the order of its selection.

C. Term of Board. These seven administrative law judges shall constitute the Ethics Adjudicatory Board. The first board shall serve from August 15, 2008, until January 1, 2009. Thereafter, the Ethics Adjudicatory Board members shall be selected annually in December, to serve one year terms from January 1 to December 31 of the following calendar year.

D. Three Judge Panels. The judges shall sit in three judge panels. The first three names selected shall be a three judge panel designated "A." The next three names selected shall be a three judge panel, "B." When a new case is docketed, it will be allotted alternately between the two panels. A case docketed and assigned to panel A or B shall remain with that designated panel letter until final decision.

E. Alternate Judge. The seventh name selected shall be an alternate administrative law judge to be substituted for administrative law judges who are unavailable due to

recusal, end of employment with the Division of Administrative Law, or for other good cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 34:1346 (July 2008).

§803. Recusal of an Ethics Adjudicatory Board

Member

A. An Ethics Adjudicatory Board member shall voluntarily recuse himself and withdraw from any adjudication in which he cannot accord a fair and impartial hearing or consideration, when required by applicable rules governing the practice of law in Louisiana or for other good cause such as conflict of interest. Applicable recusal provisions include R.S. 49:960, R.S. 49:999, or other conflict of interest provisions.

B. When an Ethics Adjudicatory Board member is recused from a panel or a case to be adjudicated, the alternate administrative law judge shall be assigned to the panel or case.

C. In the event the alternate judge is unavailable, the administrative hearings clerk shall randomly select a name from the remaining Ethics Adjudicatory Board members by placing their names in a container and blindly selecting one. The selected individual shall be substituted on the panel or the case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 34:1346 (July 2008).

§805. Panel Procedure

A. The administrative law judge most senior in service for the Division of Administrative Law who is present, shall preside over the hearing.

B. The determination of the majority of the panel in a particular case shall be the determination of the Ethics Adjudicatory Board.

C. After the hearing, the presiding judge shall assign authorship responsibility for the determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 34:1346 (July 2008).

§807. Appeals to the Court of Appeals

A. When a decision of the Ethics Adjudicatory Board is adopted by the Board of Ethics pursuant to R.S. 42:1141(C)(5) is appealed to the Court of Appeals, copies of the motion for appeal shall be served upon the Division of Administrative Law and all parties of record.

B. The Division of Administrative Law shall prepare the record on appeal after payment of costs pursuant to §305 of these rules.

C. Any motion for an appeal shall comply with the local rules of that court and Uniform Rules of Louisiana Courts of Appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 34:1346 (July 2008).

Ann Wise
Director

0807#023

RULE

Department of Economic Development Office of Business Development Office of Entertainment Industry Development

Sound Recording Production and Infrastructure
Tax Credit Programs
(LAC 61:I.1631-1639)

The Department of Economic Development, Office of Business Development, Office of Entertainment Industries Development pursuant to the authority of R.S. 47:6023 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has adopted the following rules of the Louisiana Entertainment Industry Tax Credit Programs, specifically the Sound Recording Production and Infrastructure Tax Credit Programs. The purpose of this Rule is to establish program policies and procedures in the administration of the Sound Recording Incentive program which includes a production and infrastructure portion. This Rule is to be effective upon approval by the House or Representatives Ways and Means Committee and the Senate Revenue and Fiscal Affairs Committee.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 16. Louisiana Entertainment Industry Tax Credit Programs

Subchapter D. Louisiana Sound Recording Investor Tax Credit Program

§1631. Purpose and Description of Louisiana Sound Recording Investor Tax Credit Program

A. The purpose of this program is to encourage development in Louisiana of a strong capital and infrastructure base for musical recording productions in order to achieve an independent, self-supporting music industry, and to encourage investments in multiple state-certified musical production projects and infrastructure.

B. Approvals and certifications as to whether a project qualifies as a state-certified production as required for Sound Recording Investor Tax Credits are not to be considered as entitlements for sound recording production companies, and the Louisiana Department of Economic Development shall have the discretion to determine whether or not each particular sound recording or infrastructure project, meets the criteria for such qualification as provided herein.

C. These Rules implement the Louisiana Sound Recording Investor Tax Credit pursuant to R.S. 47:6023. This credit was created by Act 485 (H.B. 631), Laws 2005 and amended by Act 368 (S.B. 70), Laws 2007 of Reg. Sess., effective July 1, 2007.

D. These provisions are in addition to and shall not limit the authority of the Secretary of the Department of Revenue to assess or to collect under any other provision of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, and the Department of Revenue, LR 34:1347 (July 2008).

§1633. Definitions

A. The following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

Base Investment—shall mean the actual investment made and expended by:

a. a state-certified production in the state as production expenditures incurred in this state that are directly used in state-certified production or productions;

b. a person or other legal entity in the development of a state-certified infrastructure project. Infrastructure Expenditures shall include, but are not limited to, expenditures for sound recording infrastructure project development, sound recording production spaces, sound production equipment, facilities, equipment for sound recording companies domiciled within Louisiana, sound processing and recording equipment, land acquisition and closing costs, construction costs, design and professional consulting fees associated with the state-certified infrastructure project, furniture, fixtures, percussion, pianos, keyboards, organs, musical and amplification equipment, and financing costs which shall remain permanently located within Louisiana for the useful life of the object. Infrastructure Expenditures shall not include indirect costs, any amounts that are later reimbursed by a third party, any costs related to the allocation of tax credits, or any amounts that are paid to persons or entities as a result of their participation in profits from the exploitation of the State-certified Infrastructure Project.

Department—the Louisiana Department of Economic Development, or its successor.

Expended in the State—in the case of tangible property which is acquired from a source within the state, and in the case of services, shall mean services procured and performed in the state.

Holder—the holder of a partnership interest, membership interest, or other similar ownership interest on any entity not taxed as a corporation.

Investor—any individual or entity domiciled in Louisiana and that makes an investment in a state-certified production or infrastructure project.

Secretary—Secretary of the Louisiana Department of Economic Development.

Series—more than one state-certified production being financed, or produced by or on behalf of the sound recording company or an affiliate grouped together in such a way that the group meets the minimum in-state spend of \$15,000.

Sound Recording—a recording of music, poetry, or spoken-word performance made in Louisiana, in whole or in part. The term *sound recording* shall not include the audio portions of dialogue or words spoken and recorded as part of a motion picture, video, theatrical production, television news coverage, and athletic events.

Sound Recording Production Company—a company engaged in the business of producing sound recordings as defined in this Section. *Sound recording production company* shall not mean or include any person or company, or any company owned, affiliated, or controlled, in whole or in part, by any company or person, which is in default on a loan made by the state or a loan guaranteed by the state, nor which has ever declared bankruptcy under which an obligation of the company or person to pay or repay public funds or monies was discharged as a part of such bankruptcy.

State-Certified Musical Recording Infrastructure Project—a musical recording capital infrastructure project and costs related to such project that are approved by the Louisiana Department of Economic Development.

State-Certified Production—a sound recording production or a series of productions occurring over the course of a 12-month period, and costs related to such production or productions that are approved by the Louisiana Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, and the Department of Revenue, LR 34:1347 (July 2008).

§1635. Rules of Application

A. The sound recording investor tax credit authorized by R.S. 47:6023(C) may be earned and claimed as follows.

1. Until January 1, 2010, a taxpayer may claim a credit against the state income tax for investments made in state-certified productions and state-certified musical recording infrastructure projects, which credit will be earned by investors at the time expenditures are certified by the Louisiana Department of Economic Development according to the total base investment certified for the sound recording production company per calendar year. No credit shall be allowed for any expenditures for which a credit was granted under R.S. 47:6007. No sound recording production company shall earn a sound recording investor tax credit in more than three years out of any five year period.

2. An application for initial certification of a project shall be submitted to the Louisiana Department of Economic Development prior to the granting of the credit, and the granting of the credits under this Rule shall be on a first-come, first-served basis based on when the proper cost reports as defined here under RS 47:6023, are submitted to DED for certification of tax credits, which shall be determined by the date of a signed receipt via certified or registered mail, courier, hand or other delivery, or the date on a proof of transmission via facsimile and/or by the DED stamped and staff initialed date. The Secretary of the Department of Economic development shall determine annually the annual aggregate maximum. If the total amount of credits earned for any particular year exceeds the aggregate amount of tax credits allowed for that year, the excess will be treated as having been earned on the first day of the subsequent year.

3. Individuals or entities may earn sound recording investor tax credits pursuant to R.S. 47:6023(C).

4. Any individual or entity shall be allowed to claim the sound recording investor tax credit authorized by R.S. 47:6023(C) against its Louisiana income tax liability:

a. whether or not any such individual is a Louisiana resident; and

b. whether or not any such entity is domiciled in Louisiana, organized under Louisiana law, or headquartered in Louisiana.

5. The credit shall be allowed against the individual or corporate income tax for the taxable period in which the credit is earned. Any excess of the credit over the income tax liability against which the credit can be applied shall constitute an overpayment, as defined by R.S. 47:1621(A), and the secretary of the Department of Revenue shall make a refund of such overpayment from the current collections of the taxes imposed by Chapter 1 of Subtitle II of Title 47, as amended. The right to a refund of any such overpayment shall not be subject to the requirements of R.S. 47:1621(B).

6. Individuals, estates, and trusts shall claim any credit allowed under this Section on their income tax return. Entities not taxed as corporations shall claim any credit allowed under this Section on the returns of the partners or members. Corporate partners or members shall claim their share of the credit on their corporation income tax returns. Individual partners or members shall claim their share of the credit on their individual income tax returns. Partners or members that are estates or trusts shall claim their share of the credit on their fiduciary income tax returns.

7. Any taxpayer applying for the credit shall be required to reimburse the department for any audits required in relation to granting the credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, and the Department of Revenue, LR 34:1348 (July 2008).

§1637. Certification

A. Initial Certification of State-Certified Productions

1. To obtain the approval of the department for a "state-certified production" as required by R.S. 47:6023(B)(5) and (6), the sound recording production company that will produce the sound recording production must submit a written request to the department requesting approval of the production as a "state-certified musical recording infrastructure project" or as a "state-certified production" and setting forth the following facts, when applicable:

a. working title of the sound recording production for which approval is requested;

b. name of the requesting production company;

c. telephone number of requesting production company;

d. name and telephone number of the requesting production company's contact person;

e. approximate beginning and ending date of production in Louisiana;

f. Louisiana office address of requesting production company (if available);

g. telephone number of requesting production company's Louisiana office address (if available);

h. estimated total production-related costs of the sound recording production for which approval is requested;

i. estimated total amount of production-related costs to be expended in Louisiana in connection with the sound recording production for which approval is requested;

j. estimated percentage of each of pre-production, production, and post-production work to be performed in Louisiana in connection with the production for which approval is requested;

k. estimated total payroll to be paid by the requesting production company to Louisiana residents employed by the requesting production company in connection with the production for which approval is requested.;

l. facts sufficient to determine each of the following:

i. that the requesting production company is a sound recording production company as defined by R.S. 47:6023(B)(4);

m. for "state-certified productions" the application shall also include:

i. the distribution plan;

ii. a preliminary budget including estimated Louisiana payroll and estimated base investment;

iii. a description of the type of sound to be recorded;

iv. a list of the principal creative elements including performing artist(s) and producer;

v. the name and address of the recording studio or other location where the recording production will take place;

vi. a statement that the production will qualify as a state-certified production; and

vii. estimated start and completion dates;

n. for "state-certified musical recording infrastructure projects" the application shall also include:

i. a detailed description of the infrastructure project;

ii. a preliminary budget;

iii. a statement that the project meets the definition of a state-certified infrastructure project; and

iv. estimated start and completion dates;

v. a business plan for start up sound recording infrastructure.

2. The department shall submit its initial certification of a project as an "initial state-certified production" or an "initial state-certified musical recording infrastructure project" to investors and to the Secretary of the Department of Revenue, containing a unique identifying number. The department shall issue their written approval of a project as a "state-certified musical recording infrastructure project" or of a sound recording production as a "state-certified production" within 90 business days after receiving a request with respect to such production that complies with Paragraph 1 of this Section. In the alternative, if the department determines that a request for approval of a project as a "state-certified musical recording infrastructure project" or of a sound recording production as an "initial state-certified production" received from a production company is not in compliance with Paragraph 1 of this Section, then within 45 business days after receiving such request, the department shall request in writing from the requesting production company any information necessary in their determination for such request to comply with Paragraph 1 of this Section. Upon receiving all of the requested additional information in writing from the

production company, and if the department determine that the request for approval with respect to such project or production complies with Paragraph 1 of this Section, the department shall issue to the requesting production company their written approval of the project as a "state-certified musical recording infrastructure project" or of a sound recording production as a "state-certified production."

3. The approval of a project as an "initial state-certified musical recording infrastructure project" or of a sound recording production as an "initial state-certified production" issued by the department pursuant to the above Paragraph 2 of this Section will include the following, as appropriate.

a. For initial state-certified musical recording infrastructure projects:

"Based solely on our examination of the factual representations set forth in your request for state certification of ["Name of Project"] dated [Date of Request] attached hereto as Exhibit A, the Department of Economic Development does hereby certify that ["Name of the Project"] qualifies as of [Date] as a initial state-certified musical recording infrastructure project as such term is defined in Louisiana Revised Statutes 47:6023 B(6).

["Identifying Number"] is hereby assigned to ["Name of Project"] and such number shall constitute such project's identifying number as contemplated by R.S. 47: 6023 E(2)(c)."

b. For initial state-certified sound recording productions:

"Based solely on our examination of the factual representations set forth in your request for state certification of ["Name of Production"] dated [Date of Request] attached hereto as Exhibit A, the undersigned does hereby certify that ["Name of the Production"] qualifies as of [Date] as a initial sound recording state-certified production as such term is defined in Louisiana Revised Statutes 47:6023 B(5).

["Identifying Number"] is hereby assigned to ["Name of Production"] and such number shall constitute such production's identifying number as contemplated by R.S. 47: 6023 E(2)(c)."

B. Any funds expended prior to the date of notification of intent to apply for initial credit shall not qualify as part of the base investment and will not be certified for tax credits except for those funds expended by projects that applied after July 12, 2005 and before final approval of these rules. Notification of intent to apply must be in writing to the department.

C. Certification of Sound Recording Investor Tax Credits

1. Prior to any certification of the state-certified production or infrastructure project, the sound recording production company, in the case of an infrastructure project, shall submit to the department a cost report of production or project expenditures to be prepared and audited by an independent Louisiana certified public accountant. The department shall review such expenditures and shall issue a tax credit certification letter to the investors indicating the amount of tax credits certified for the state-certified production or state-certified infrastructure project. The following procedures set forth minimum standards for acceptability of the audit to be performed. The auditor is to

make its certification on the basis of having performed, at a minimum, these procedures.

a. The auditor must be a Certified Public Accountant licensed in the state of Louisiana and must be an independent third party, not related to the producer.

b. The auditor's opinion must be addressed to the party which has engaged the auditor (e.g., directors of the production company, producer of the production).

c. The auditor's name, address, and telephone number must be evident on the report.

d. The auditor's opinion must be dated as the completion of the audit fieldwork.

e. The audit must be performed in accordance with auditing standards generally accepted in the United States of America and the auditor must have sufficient knowledge of accounting principles and practices generally recognized in the music and sound recording industry.

2. Within 30 business days after receiving a written request from an investor and after the meeting of all criteria, the department shall issue a letter of certification to such investor signed by the secretary reflecting the investor's name, the dollar amount of sound recording investor tax credits earned by the investor pursuant to R.S. 47:6023(C) through the date of such request, the calendar year in which the sound recording investor tax credits were earned by the investor, the state-certified musical recording infrastructure project or the state-certified production with respect to which the investor earned the sound recording investor tax credits, and the identifying number assigned to such state-certified musical recording infrastructure project or state-certified production.

3. Any taxpayer claiming sound recording investor tax credits against its Louisiana income tax liability shall submit to the Louisiana Department of Revenue within 60 calendar days after filing its Louisiana tax return for the year in which the taxpayer is claiming the sound recording investor tax credits a letter of certification issued by the department pursuant to this rule evidencing the dollar amount of the sound recording investor tax credits being claimed. Within 45 business days after receipt of such request, the department shall issue the letter of certification signed by the secretary reflecting, in addition to the amount of sound recording investor tax credits, the taxpayer's name, the calendar year in which the sound recording investor tax credits were originally earned by an investor pursuant to R.S. 47:6023(C), the state-certified production or state-certified musical recording infrastructure project with respect to which such investor earned the sound recording investor tax credits, and the identifying number assigned to such state-certified production or state-certified musical recording infrastructure project. The taxpayer shall then submit to the Louisiana Department of Revenue within 60 calendar days after the filing its Louisiana tax return the letter of certification evidencing the dollar amount of the sound recording investor tax credits being claimed. The tax credits when issued and upon receipt shall not be transferred to any third party and will be held valid only to the party which was certified by the Department of Economic Development.

4. Once certification of a project has been granted under the criteria established within this provision and pursuant to 47:6023, the granting of such credit will be

based upon a first come, first serve basis and shall be set for a maximum aggregate amount not to exceed \$3 million. For purposes of this Section the applicant will be considered the investor

5. If the total amount of qualifying credits in any particular year exceeds the aggregate amount of tax credits allowed for that year the excess credits will be treated as having been certified for the first day of the subsequent year.

6. The failure of the department to issue a letter of certification in accordance with this Subpart shall not:

a. void or otherwise affect, in any way, the legality or validity of any allocation of sound recording investor tax credits;

b. prohibit any Louisiana taxpayer from claiming sound recording investor tax credits against its Louisiana income tax liability if the sound recording investor tax credits are otherwise allocated or claimed in accordance with R.S. 47:6023(C) and this Subpart; or

c. result in any recapture, forfeiture or other disallowance of sound recording investor tax credits under R.S. 47:6023(G) or otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, and the Department of Revenue, LR 34:1348 (July 2008).

§1639. Credits

A. Application of the Sound Recording Investor Tax Credits

1. Any individual or entity claiming sound recording investor tax credits may apply such sound recording investor tax credits to offset tax liabilities that:

a. accrued during a taxable year of such individual or entity, provided the sound recording investor tax credits were originally earned by an investor during that same taxable year; and

b. accrued during a taxable year of such individual or entity that is within the period for which the sound recording investor tax credits could have otherwise been carried forward by the investor originally earning such sound recording investor tax credits.

2. Any individual or entity claiming sound recording investor tax credits may not apply such sound recording investor tax credits to offset tax liabilities that accrued during a taxable year prior to the taxable year in which the sound recording investor tax credits were originally earned by an investor.

3. Any individual or entity claiming sound recording investor tax credits may claim such sound recording investor tax credits prior to other equally applicable, refundable Louisiana tax credits, and receive a refund of the refundable tax credits that such individual or entity is thereby unable to use.

4. The sound recording investor tax credit cannot be used to offset penalties and interest on any overdue taxes because although penalties and interest can be collected and accounted for in the same manner as if they were part of the tax in certain circumstances, they are not tax.

B. Recapture of Credits

1. If the Department of Economic Development and the Department of Revenue find that funds for which an investor received credits according to this program are not invested in and expended with respect to a state-certified

production within 24 months of the date that such credits are earned, then the investor's state income tax for such taxable period shall be increased by such amount necessary for the recapture of credit provided by this program.

2. Credits previously granted to a taxpayer, but later disallowed, may be recovered by the secretary of the Department of Revenue through any collection remedy authorized by R.S. 47:1561 and initiated within three years from December 31 of the year in which the 24 month investment period specified in the above Paragraph ends.

3. The only interest that may be assessed and collected on recovered credits is interest at a rate three percentage points above the rate provided in Civil Code Article 2924(B)(1), which shall be computed from the original date of the return on which the credit was taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, and the Department of Revenue, LR 34:1350 (July 2008).

Sherri McConnell
Director

0807#028

RULE

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment
Standards and Practices

(LAC CXI.305, 307, 312, 501, 511, 701, 1801, and 2501)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 118—Statewide Assessment Standards and Practices*: §305. Test Security Policy, §307. Change of District Test Coordinator Notification, §312. Administrative Error, §501. District Test Coordinator Role, §511. School Test Coordinator Role, §701. Overview of Assessment Programs in Louisiana, §1801. Description, and §2501. General Provisions.

Bulletin 118—Statewide Assessment Standards and Practices contains the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. These revisions will provide new and updated statewide test information and provide easy access to that information. It was necessary to revise the bulletin at this time to incorporate new and edited guidelines to the test security policy, responsibilities of district and school test coordinators, end-of-course tests. New policy language updates were made to the statewide assessment programs' chart and field testing.

Title 28

EDUCATION

Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 3. Test Security §305. Test Security Policy

A. - A.14. ...

a. The Louisiana Department of Education's LEAPdata Query is designed for teachers and contains students' private information, including state test scores and state identification numbers. The system is password protected and requires a user ID and an assigned password for access. The system is not for public use, and any student information from the system must not be disclosed to anyone other than a state, district, or school official as defined by the Family Educational Rights and Privacy Act of 1974 (FERPA). A state, district, or school official is a person employed by the state, district, or school as an administrator, supervisor, district test coordinator, school test coordinator, principal, teacher, or principal's designated office staff. Such a user must have a legitimate educational purpose to review an educational record in order to fulfill his/her professional responsibility. Curiosity does not qualify as a right to know. State, district and school officials who are granted a password to these systems must abide by FERPA law. Disclosure of passwords to anyone other than those authorized is prohibited. Disclosure of a student's data to their parent or guardian must be in accordance with FERPA. For more information on FERPA, see the U.S. Department of Education Web page at <http://www.ed.gov/offices/OM/fpco/ferpa/>.

14.a.i. - 17. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.7 (C) (G).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 33:424 (March 2007), LR 33:2033 (October 2007), LR 34:65 (January 2008), LR 34:431 (March 2008), LR 34:1351 (July 2008).

§307. Change of District Test Coordinator Notification

A. ...

1. The former district test coordinator must inform the new district test coordinator of passwords for LEAPweb and LEAPdata, location of placement tests, and location of "Old" GEE testing materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:234 (February 2006), LR 33:257 (February 2007), LR 34:1351 (July 2008).

§312. Administrative Error

A. - B. ...

C. If administrative errors result in a question of the accuracy of the test data, the LEA superintendent or the parent, or legal guardian of an affected student may initiate a request for an opportunity to retest prior to the next scheduled test administration. The LEA superintendent or parent must provide the state superintendent of education with school- and student-level documentation describing the administrative error.

D. If the LDE determines that an administrative error that allows for a retest did occur the tests will be voided. LDE will notify the LEA of the determination and of arrangements for the retest. The LEA must provide a corrective plan of action.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 32:390 (March 2006), amended LR 33:257 (February 2007), LR 34:66 (January 2008), LR 34:1351 (July 2008).

Chapter 5. Test Coordinator Responsibilities

Subchapter A. District Test Coordinator

§501. District Test Coordinator Role

A.1. - A.2.u.iii. ...

v. confirming that TA numbers have been assigned at each school for each scheduled test administration;

w. distributing passwords annually to each school's STC.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1533 (July 2005), amended LR 33:258 (February 2007), LR 34:1352 (July 2008).

Subchapter B. School Test Coordinator

§511. School Test Coordinator Role

A. - A.20. ...

21. assigning TA numbers before scheduled test administrations.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1533 (July 2005), amended LR 33:258 (February 2007), LR 34:1352 (July 2008).

Chapter 7. Assessment Program Overview

§701. Overview of Assessment Programs in Louisiana

A. Norm-Referenced and Criterion-Referenced Testing Programs since 1986

Name of Assessment Program	Assessment Population	Administered
Kindergarten Screening		
Kindergarten Developmental Readiness Screening Program (KDRSP)	Kindergarten	Fall 1987-
Norm-Referenced Tests (NRTs)		
California Achievement Test (CAT/F)	grades 4, 6, and 9	spring 1988-spring 1992 (no longer administered)
California Achievement Test (CAT/5)	grades 4 and 6 grade 8	spring 1993-spring 1997 spring 1997 only (no longer administered)
Iowa Tests of Basic Skills (ITBS) (form L) and Iowa Tests of Educational Development (ITED) (form M)	grades 4, 6, 8, 9, 10, and 11	spring 1998 (no longer administered)
ITBS ITED (form M)	grades 3, 5, 6, and 7 grade 9	spring 1999-spring 2002 (no longer administered)
ITBS ITED (form B)	grades 3, 5, 6, and 7 grade 9	spring 2003-spring 2005 (no longer administered)
Criterion-Referenced Tests (CRTs)		
National Assessment of Educational Progress (NAEP)	grades 4, 8, and 12	spring 1990-

Name of Assessment Program	Assessment Population	Administered
Louisiana Educational Assessment Program (LEAP)	grades 3, 5, 6, and 7	spring 1989-spring 1998 (no longer administered)
Graduation Exit Examination ("old" GEE)	grades 10 and 11	spring 1989-spring 2003 (state administered) fall 2003- (district administered)
Louisiana Educational Assessment Program (LEAP) (ELA and Mathematics)	grades 4 and 8	spring 1999-
LEAP (Science and Social Studies)	grades 4 and 8	spring 2000-
Graduation Exit Examination (GEE) (ELA and Mathematics)	grade 10	spring 2001-
GEE (Science and Social Studies)	grade 11	spring 2002-
End-Of-Course Tests (EOCT)	Algebra I	fall 2007 and spring 2008
Integrated NRT/CRT		
Integrated Louisiana Educational Assessment Program (iLEAP)	grades 3, 5, 6, 7, and 9	spring 2006
Special Population Assessments		
Louisiana Alternate Assessment, Level 1 (LAA 1)	Students with Individualized Education Programs (IEPs) who meet participation criteria in grades 3-11.	spring 2000-2007
LAA 1 (Revised)	Students with Individualized Education Programs (IEPs) who meet participation criteria in grades 3-11.	Revised spring 2008-
Louisiana Alternate Assessment, Level 2 (LAA 2) ELA and Mathematics (Grades 4, 8, and 10) Science and Social Studies (Grade 11)	grades 4, 8, 10, and 11	spring 2006-
LAA 2 ELA and Mathematics	grades 5, 6, 7, and 9	spring 2007-
LAA 2 Science and Social Studies	grades 4 and 8	spring 2008
Louisiana Alternate Assessment-B (LAA-B) ["out-of-level" test]	Students with Individualized Education Programs (IEPs) who met eligibility criteria in grades 3-11.	spring 1999-spring 2003 (no longer administered)
English Language Development Assessment (ELDA)	Limited English Proficient (LEP) students in grades K-12	spring 2005-

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1534 (July 2005), amended LR 32:235 (February 2006), LR 34:66 (January 2008), LR 34:1352 (July 2008).

Chapter 18. End-of-Course Tests

§1801. Description

A. The tests which are both criterion-referenced and standards-based assessments will be available online to high school students beginning fall 2007. The tests will be phased in over a period of five years beginning with Algebra I. In the first years of administration, policies regarding the use of EOCT results shall be determined by the district's local pupil progression plan. The tests measure the knowledge and skills a student should have mastered by the end of the course. The results of the EOCT will help ensure that all Louisiana students have access to a rigorous curriculum that meets high academic standards. The tests will assess student learning in the high school courses:

1. - 8. ...

B. Any student enrolled in and/or receiving credit for an EOCT course, regardless of grade inclusive of middle school students taking high school courses for high school credit is required to take the EOCT upon completion of that course.

C. - D. ...

E. Since these tests are being developed for use in Louisiana schools, any school selected for field tests shall participate in the field tests. In spring 2008, the English II field tests will be administered.

F. Students completing the following courses will take the Algebra I test:

- 1. Algebra I: course code 160321;
- 2. Algebra I, Part 2: course code 160338;
- 3. Integrated Mathematics I: course code 160339;
- 4. Algebra I—Middle School: course code 160380.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:258 (February 2007), amended LR 34:432 (March 2008), LR 34:1353 (July 2008).

Chapter 25. Field Testing

§2501. General Provisions

A. - A.3. ...

- 4. End-of-Course Tests (EOCT)

B. - C.2.f.iii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1557 (July 2005), amended LR 32:239 (February 2006), LR 34:1353 (July 2008).

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0807#018

RULE

Board of Elementary and Secondary Education

**Bulletin 121—Students Teaching and Reaching (STAR)
Content Standards Curriculum Framework
Students Teaching and Reaching (STAR) II
(LAC 28:CXXV.1501, 1701, and 1901-1915)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted Sections in *Bulletin 121—Students Teaching and Reaching (STAR) Content Standards Curriculum Framework*:Subpart 3.Students Teaching and Reaching (STAR) II. The proposed addition of Subpart 3 to the career and technical course offerings is designed to serve as an expansion of the concepts presented in STAR I for schools offering a two-year program in teacher preparation. Students will develop skills of being reflective practitioners, teacher/leaders, and civic advocates for education and educational equity. The action is being proposed to update career and technical course offerings. In updating these course offerings our career and technical program of studies will be more aligned with national standards. STAR II is designed to encourage secondary students to examine teaching as a career and in effect, improve the state of Louisiana.

Title 28

EDUCATION

Part CXXV. Bulletin 121—Students Teaching and Reaching (STAR)

Content Standards Curriculum Framework

Subpart 3. Students Teaching and Reaching (STAR) II

Chapter 15. General Provisions

§1501. Introduction

A. In an effort to confront the national crisis of "Teacher Shortage", Louisiana has been offering secondary courses in teacher preparation for over 10 years. Through a consolidated effort between the Louisiana Department of Education (LDOE), Northwestern State University (NSU), and the Consortium for Education, Research, and Technology of North Louisiana (CERT), a committee of various educators was formed. This committee has compiled a complete curriculum titled, STAR-Students Teaching and Reaching, to serve as the one teacher preparation course to be used by secondary teachers in Louisiana. Students Teaching and Reaching II (STAR II) provides an expansion of the concepts presented in STAR for schools offering a two-year program in teacher preparation.

B. The STAR II curriculum is designed to continue the development of teaching skills begun in STAR, emphasizing lesson planning and assessment development with an opportunity for expanded, meaningful field experiences, including national and state critical shortage areas. This curriculum may include designing individual internships or collaborating to create a service-learning project with school or community partners. Students will develop the skills of

being reflective practitioners, teacher/leaders, and civic advocates for education and educational equity. They will be given tools that help them manage what is one of the most important and ever-changing careers.

C. STAR II:

1. attracts high school students to explore teaching as a career and addresses the teacher shortage. Based on Louisiana's occupational forecast, there is an annual demand for over 2,200 teachers. STAR II continues nurturing young people's interest in teaching;

2. offers a standards-based curriculum. STAR II is a challenging, authentic curriculum that is aligned with the Louisiana Content Standards, Foundation Skills, National Council for Accreditation of Teacher Education (NCATE), and Louisiana Components of Effective Teaching;

3. serves as a recruitment and retention tool for Louisiana schools and universities through articulation agreements; and

4. provides structured field experiences which allow the STAR II students to assume more ownership. STAR II encourages students to consider teaching in elementary, middle, and high schools, as well as in critical shortage areas such as math, science, and special education.

D. The goal of STAR II is to encourage secondary students to examine teaching as a career and, in effect, improve the state of Louisiana.

E. Course Description

1. STAR II curriculum is designed to continue the development of teaching skills begun in STAR I, emphasizing lesson planning and assessment development with an opportunity for expanded, meaningful field experiences, including national and state critical shortage areas. This curriculum may include designing internships or collaborating to create a service-learning project with school or community partners. Students will develop the skills of being:

- a. reflective practitioners;
- b. teachers/leaders; and
- c. civic advocates for education and educational equity.

2. Students will be given tools that help them manage what is one of the most important and ever-changing careers.

F. Prerequisite—STAR I

G. Course Code—080101

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1353 (July 2008).

Chapter 17. Objectives

§1701. Objectives

STAR—Students Teaching and Reaching Objectives	
1A-1	Develop a working definition of moral leadership.
1A-2	Examine components of moral leadership and relate them to students' development of personal ethics.
1B-1	Create moral leadership life journey maps.
1B-2	Create personal moral leadership statement.
1C-1	Identify major educational philosophies and ethics.
1C-2	Apply educational philosophies and ethics to classroom situations.
1C-3	Develop personal leadership growth plan.
1D-1	Develop a teaching philosophy that incorporates personal values.

STAR—Students Teaching and Reaching Objectives	
1D-2	Expand teaching philosophy to include professional ethics and moral leadership.
1E-1	Describe characteristics of critical friends groups (CFG).
1E-2	Relate characteristics of CFG to leadership goals.
1E-3	Plan process for how critical friends groups will operate.
1E-4	Relate characteristics of self-efficacy to teaching effectiveness, persistence, and CFG.
2A-1	Research lesson plans to find lesson plans that address student thinking preferences.
2A-2	Analyze lesson plans to determine whether all student thinking preferences have been addressed.
2B-1	Create lesson plans that address all student thinking preferences.
2B-2	Demonstrate the use of a variety of resources to create lesson plans that address all student preferences.
3A-1	Identify characteristics of major categories of students with exceptionalities.
3A-2	Research and identify needs of students with exceptionalities through a detailed student profile.
3B-1	Research and list teaching strategies to facilitate constructing and teaching a differentiated lesson that will differentiate between age-appropriate and developmentally appropriate learning materials.
3B-2	Research "best practice" for facilitating learning of students with exceptionalities.
3C-1	Construct and teach differentiated lesson for students with exceptionalities.
3C-2	Incorporate lesson activities that address students' individual strengths.
4A-1	Observe behavior management plans in classrooms.
4A-2	Analyze behavior management plans in classrooms.
4B-1	Analyze personal time management skills.
4B-2	Integrate technology to create an effective time management plan.
4C-1	Observe patterns of traffic and student interaction in classroom physical environments.
4C-2	Analyze patterns of traffic and student interaction in classroom physical environments.
5A-1	Describe characteristics of problem-based learning.
5B-1	Develop a lesson plan implementing either: problem-based learning; project-based learning; or inquiry-based learning.
5B-2	Teach a problem-based, project-based, or inquiry-based lesson.
5C-1	Identify the elements of a cross-discipline lesson.
5D-1	Implement a cross-discipline lesson plan.
6A-1	Identify components of Web Quest.
6A-2	Create a Web Quest lesson that meets specified higher-level learning targets.
6A-3	Teach a Web Quest lesson.
7A-1	Review basic parts of lesson plans (i.e., anticipatory set, modeling, guided practice, independent practice, evaluation, closure).
7B-1	Identify components of a rubric.
7B-2	Design a rubric that is adaptable to different types of lessons.
8A-1	Define characteristics of teacher professional development.
8A-2	Develop qualities of teacher professionalism into toolkit.
8A-3	Define professional development growth plan (PDGP).
8A-4	Identify components of PDGP.
8B-1	Locate and synthesize skill-building training opportunities.
8B-2	Develop an implementation plan for PDGP.
8C-1	Demonstrate the roles that teachers play in the classroom.
8C-2	Analyze the roles that teachers play in the classroom.
8C-3	Identify the qualities of reflective practice.
8C-4	Identify the constraints of becoming reflective.
8D-1	Develop an action plan to implement new practice/strategies/actions as part of lessons.
8E-1	Identify need of a community partner school.
8E-2	Develop a service learning proposal.
8E-3	Submit a service learning proposal for approval and implementation.

STAR—Students Teaching and Reaching Objectives	
8F-1	Identify the differences and similarities in the Louisiana Center for Educational Technology (LCET), Interstate New Teacher Assessment and Support Consortium (INTASC), and National Board of Professional Teaching Standards (NBPTS) assessments.
8G-1	Implement a test review strategy in preparation for PRAXIS and teacher licensure.
9A-1	Identify educational policy such as, "No Child Left Behind" (NCLB).
9B-1	Describe the stages of development in the relationship between educational policy and court case decisions.
9B-2	Develop a flowchart for a strategic plan to address a specific concern from NCLB.
10A-1	Identify components of school improvement plans.
10B-1	Research and critique at least one school improvement plan using evaluative standards based on research.
10C-1	Interpret a School Performance Score (SPS) and compare this data to the school improvement plan.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1354 (July 2008).

Chapter 19. Strands, Standards, Benchmarks, and Objectives

§1901. Strand 1. Self-Efficacy

A. Focus. Students will identify personal characteristics and values that will empower them to be effective, productive, visionary educators who are committed to developing students who are life-long learners and productive citizens.

1. Standard 1. STAR II students will identify and analyze elements of moral leadership and professional ethics.

Benchmarks	Standards
1A	The student will identify characteristics of moral leadership.
1B	The student will demonstrate the qualities of moral leadership (vision, service, etc.) and character building (fairness, trustworthiness, caring, respect, responsibility, and citizenship).
1C	The student will identify attributes of major educational philosophies and ethics and apply them in classroom situations.
1D	Building on personal philosophy, students will develop a philosophy of education that includes standards for personal and professional ethics and moral leadership.
1E	The student will identify elements of teacher self-efficacy and practice techniques to build it.

2. Standard 2. STAR II students will design projects that demonstrate qualities of moral leadership and professional ethics.

Benchmarks	Standards
2A	Students will identify components of service learning.
2B	Students will organize and lead a service learning project demonstrating qualities of moral leadership and professional ethics.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1355 (July 2008).

§1903. Strand 2. The Diverse Learner

A. Focus. This strand naturally follows that of Self Efficacy. Once the STAR II student has been empowered to be a productive, visionary educator, he/she is prepared to explore the development of cognitive processes in all students.

1. Standard 3. STAR II students will identify and analyze differences and similarities in the way students learn.

Benchmarks	Standards
3A	Students will develop instruction for inclusion and exceptional students.
3B	Students will differentiate between age appropriate and developmentally appropriate learning materials.

2. Standard 4. STAR II students will apply the differences and similarities in ways that students learn in large and small group instruction.

Benchmarks	Standards
4A	Students will identify and integrate the strengths that each individual brings to a lesson to maximize the learning of all students.
4B	Students will analyze lesson plans to determine whether all student thinking preferences have been addressed.
4C	Students will construct lesson plans that engage all students in the learning process by addressing all thinking preferences.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1355 (July 2008).

§1905. Strand 3. Management

A. Focus. The focus of this strand is to build on the student's understanding of the crucial role of management in effective teaching and learning. This management includes ways of developing behavior management plans, time management plans, stress management plans, and classroom management as it affects teaching and learning.

1. Standard 5. STAR II students will demonstrate knowledge of diverse approaches to management.

Benchmarks	Standards
5A	Students will develop an age/developmentally appropriate classroom/behavior management plan.
5B	Students will apply the tools of time management to their personal and classroom schedules.
5C	Students will apply the tools of stress management to their personal and classroom experiences.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1355 (July 2008).

§1907. Strand 4. Instructional Design

A. Focus. Once STAR II students understand themselves both as learner and teacher, they are ready to collaborate with peers to develop problem-based, cross-discipline, differentiated lessons, using scientifically-based strategies.

1. Standard 6. STAR II students will identify elements of problem-based, cross-discipline, differentiated lessons and construct lessons based on these elements.

Benchmarks	Standards
6A	Students will identify and describe components of problem-based learning.
6B	Students will construct and teach problem-based lessons.
6C	Students will identify elements of cross-discipline lessons.
6D	Students will construct and teach cross-discipline lessons.
6E	Students will identify and describe elements of differentiated lessons.
6F	Students will construct and teach differentiated lessons for students with exceptionalities (including the range from gifted/talented to students with disabilities.)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1355 (July 2008).

§1909. Strand 5. Technology

A. Focus. In order to produce citizens who are able to deal with the rigors of a highly technological world, STAR II students must be versed in a variety of methods to integrate technology in learning facilitated by research-based strategies.

1. Standard 7. STAR II students will utilize technology to enhance student learning, educational research, and their growth as a future professional.

Benchmarks	Standards
7A	Students will use available technology to develop a Web Quest lesson as well as other technology-enriched lessons.
7B	Students will be able to use available technology to gather and analyze data for educational research topics.
7C	Students will identify elements of their professional development that can be enhanced through technology-training and design their own growth plan.
7D	Students will identify and explore elements of grant-writing and grant-writing resources.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1356 (July 2008).

§1911. Strand 6. Field Experiences

A. Focus. The focus of this strand is to build on STAR II students' previous field experience by providing opportunities to assume more ownership in their field experience. This may include designing their own internships or collaborating to create a service-learning project with school or community partners.

1. Standard 8. STAR II students will participate in a variety of field experiences and provide leadership in developing service learning projects.

Benchmarks	Standards
8A	Students will reflect on previous field experiences and expand their expertise beyond the previous field experience during their STAR I year.
8B	Students will construct and teach a minimum of three lessons and be responsible for major project components during each field experience.
8C	Students will collaborate with STAR II program teacher and peers to develop appropriate student assessment rubrics for each lesson.

Benchmarks	Standards
8D	Students will collaborate with STAR II program teacher to develop student demonstration practice teaching experiences for STAR students (in cases where classes run concurrently).
8E	Students will be trained in the implementation and use of PASSPORT as a field experience documentation tool.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1356 (July 2008).

§1913. Strand 7. Professionalism

A. Focus. STAR II students must develop skills of being reflective practitioners; teacher/leaders; and civic advocates for education and educational equity.

1. Standard 9. STAR II students will examine the roles and attributes of teaching professionals, reflective practitioners, educational leaders, and civic advocates for education and educational equity.

Benchmarks	Standards
9A	Students will identify qualities of a reflective practitioner.
9B	Students will demonstrate their ability to revise lesson plans, unit plans, etc., based on peer feedback and self-reflection.
9C	Students will be able to evaluate a classroom setting using the Louisiana Components of Effective Teaching (LCET) instrument.
9D	Students will describe and apply elements of site-based decision making and teacher/leader roles in collaborative decision making.
9E	Students will collaborate with community partners to develop a service learning project that addresses specific learning needs in the school community.
9F	Students will research information on the NBPTS accreditation process and compare it to Louisiana Teacher Assistance and Assessment Program (LaTAAP) and LCET.
9G	Students will review and practice sections of the PRAXIS using the ETS Testreview website.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1356 (July 2008).

§1915. Strand 8. Educational Policy and Governance

A. Focus. Based on No Child Left Behind, it is essential that students be able to develop instruction that insures that all students learn. As a result, the federal government is now mandating specific legislation and policy to guide instruction. The student will become familiar with procedures that are used in this process.

1. Standard 10. STAR II students will examine and critique educational policy and governmental structure of American education.

Benchmarks	Standards
10A	Students will research how an educational policy is developed as well as how it impacts teaching and learning in schools.
10B	Students will review educational case law related to selected educational policy and report how policy has evolved based on court decisions.

2. Standard 11. STAR II students will analyze the reasons and processes for school improvement.

Benchmarks	Standards
11A	Students will identify the components of change theory and apply them to school improvement.
11B	Students will explore and critique different school improvement models.
11C	Students will interpret data from the Louisiana Department of Education school performance scores and compare it to the information in a school improvement plan.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1356 (July 2008).

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RULE

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools
(LAC 28:CXXXIX.Chapters 1-35)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted *Bulletin 126—Charter Schools* (LAC 28:CXXXIX), which contains policy regulating charter schools approved by the Board of Elementary and Secondary Education. The Bulletin provides for the authorizing responsibilities of BESE, the charter school application process, performance contracting, the evaluation of charter schools, charter school extension, renewal and revocation, charter school amendments, charter school governance, charter school funding, charter school fiscal responsibilities, charter school enrollment, and charter school staff.

Bulletin 126 reiterates responsibilities currently imposed on charter schools through, law, contract, and procedures. Bulletin 126 also articulates functions carried out by the BESE office and the Louisiana Department of Education. Such functions will not require the employment of staff in addition to what is currently approved for both agencies to carry out the functions of charter school authorizing and oversight, as set forth in the bulletin.

This bulletin replaces *Bulletin 904—Guidelines for Submission of a Charter School Proposal* (LAC 28:XXIII), an obsolete document that is being repealed. It is necessary to set forth the functions of BESE and the Department of Education with respect to charter schools and to outline all requirements in law and contract imposed on charter schools authorized by BESE.

Title 28 EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 1. General Provisions

§101. Purpose, Scope, and Effect

A. The purpose of this bulletin is to provide rules to govern the implementation of R.S. 17:3971 et seq., the

"Charter School Demonstration Programs Law" (hereafter, the "Charter School Law").

B. This bulletin is established to set forth the requirements for applying for a charter to operate an independent public school, the principles and requirements of authorizing the operation of a charter school, the requirements of performance contracting, the funding of charter schools, and the implementation of and enactment of regulatory requirements that must be met in the operation of a charter school. It is further established to set forth procedures for monitoring and evaluating charter schools, and amending, renewing, and revoking charters approved by the Board of Elementary and Secondary Education.

C. The regulations set forth in this bulletin are incorporated into all charters approved by BESE and shall bind all charter schools approved by BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1357 (July 2008).

§103. Definitions

A. The words defined in this Section shall have the meanings set forth below whenever they appear in this policy, unless:

1. the context in which they are used clearly requires a different meaning; or
2. a different definition is prescribed for a particular provision.

B. *At-Risk Pupil*—any pupil about whom at least one of the following is true:

1. is eligible to participate in the federal free or reduced lunch program by demonstrating that he meets the income requirements established for participation in the program, not necessarily by participating in the program;
2. is under the age of 20 and has been withdrawn from school prior to graduation for not less than one semester;
3. is under the age of 20 and has failed to achieve the required score on any portion of the examination required for high school graduation;
4. is in the eighth grade or below and is reading two or more grade levels below grade level as determined by one or more of the tests required pursuant to R.S. 17:24.4;
5. has been identified as an exceptional child as defined in R.S. 17:1943 not including gifted and talented; or
6. is the mother or father of a child.

C. *BESE* and/or *Board*—the Board of Elementary and Secondary Education as created by the Louisiana Constitution and the Louisiana Revised Statutes.

D. *Charter*—the agreement and authorization to operate a charter school, which includes the charter contracts and exhibits, which incorporate the charter school application.

E. *Charter Operator*—the nonprofit corporation authorized by BESE to operate a Type 2, Type 4, or Type 5 charter school.

F. *Charter School*—an independent public school that provides a program of elementary and/or secondary education established pursuant to and in accordance with the provisions of the Louisiana Charter School Law to provide a learning environment that will improve pupil achievement.

G. *Charter School Application*—the proposal submitted to BESE, which includes but is not limited to, responses to questions concerning a charter school's education program;

governance, leadership, and management; financial plan; and facilities.

H. *Charter School Law*—Louisiana Laws, R.S. 17:3971 et seq., governing the operation of a charter school.

I. *Chartering Authority*—a local school board or the State Board of Elementary and Secondary Education.

J. *Core Subject*—core subject shall include those subjects defined as core subjects in Bulletin 741.

K. *Department of Education* or *LDE*—the Louisiana Department of Education.

L. *Department of Education Charter School Office*—the unit within the Department of Education responsible for the administration of the state charter school program and for providing oversight of the operation of charter schools chartered by BESE.

M. *Hearing Officer*—the individual assigned by BESE to perform adjudicatory functions at charter school revocation hearings.

N. *Local School Board*—any city, parish, or other local public school board.

O. *Public Service Organization*—any community-based group of 50 or more persons incorporated under the laws of this state that meets all of the following requirements:

1. has a charitable, eleemosynary, or philanthropic purpose; and is qualified as a tax-exempt organization under Section 501(c) of the United States Internal Revenue Code and is organized for a public purpose.

P. *State Superintendent*—the Superintendent of Education, who is the chief administrative officer of the Louisiana Department of Education, and who shall administer, coordinate, and supervise the activities of the department in accordance with law, regulation, and policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3973.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1357 (July 2008).

§105. Purpose of Charter Schools

A. The Charter School Law was enacted by the Louisiana legislature to create a structure whereby city, parish, and other local public school boards and BESE can authorize the creation of innovative kinds of independent public schools for the students in Louisiana.

B. The Charter School Law provides a mechanism for all persons with valid ideas and motivation to participate in the development of innovative schools and a mechanism to analyze results of charter schools. Analysis of results allows for the positive results to be repeated or replicated, if appropriate, and the negative results identified and eliminated.

C. The Charter School Law expresses the intention of the legislature that the best interests of at-risk pupils shall be the overriding consideration in implementing the provisions of the law.

D. The purposes of charter schools include providing opportunities for educators and others interested in educating pupils to form, operate, or be employed within a charter school, with each such school designed to accomplish one or more of the following objectives:

1. improve pupil learning and, in general, the public school system;

2. increase learning opportunities and access to quality education for pupils;

3. increase educational opportunities for students in formerly failing schools;

4. increase learning opportunity choices for parents and students;

5. encourage the use of different and innovative teaching methods and a variety of governance, management, and administrative structures;

6. require appropriate assessment and measurement of academic learning results;

7. account better and more thoroughly for educational results;

8. create new professional opportunities for teachers and other school employees, including the opportunity to be responsible for the learning program at the school site;

9. provide competition within the public school system in order to stimulate continued improvement in all public schools; and/or

10. expand the capacity of the public school system.

E. It is not a purpose of the Charter School Law or this bulletin to permit the establishment of a charter school to be used as the means of keeping open an existing public school that otherwise would be closed. Such a circumstance, however, shall not preclude approval of a proposed charter that otherwise fulfills a purpose of the Charter School Law and for which the application/proposal clearly demonstrates that the educational program proposed to be offered will improve the achievement levels of the students enrolled in that school.

1. For the purposes of this bulletin, the term *existing public school* shall be defined as a school that is open during the school year in which the charter applicant is submitting a charter application or was open in the school year immediately preceding the school year in which the charter applicant is submitting a charter application.

F. It is not a purpose of the Charter School Law or this bulletin to provide a means of funding for nonpublic schools or any home study program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3972, and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1358 (July 2008).

§107. Types of Charter Schools

A. A Type 1 charter school is a new school operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and a local school board.

B. A Type 2 charter school is a new school or a preexisting public school converted and operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and the State Board of Elementary and Secondary Education.

C. A Type 3 charter school is a preexisting public school converted and operated as the result of and pursuant to a charter between a nonprofit corporation and the local school board.

D. A Type 4 charter school is a preexisting public school converted and operated or a new school operated as the result of and pursuant to a charter between a local school board and the State Board of Elementary and Secondary Education.

E. A Type 5 charter school is a preexisting public school transferred to the recovery school district pursuant to R.S.

17:10.5 or R.S. 17:10.7 and operated as the result of and pursuant to a charter between a nonprofit corporation and the State Board of Elementary and Secondary Education, or between a nonprofit corporation and a city, parish, or other local school board or other public entity in the case of the renewal of a Type 5 charter of a school that has been transferred back to the jurisdiction of the local school board or other public entity pursuant to R.S. 17:10.5(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3973.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1358 (July 2008).

§109. Limit on the Number of Charter Schools

A. There shall be no more than 42 Type 1, Type 2, Type 3, and Type 4 charters entered into by charter school authorizers.

B. For the purposes of this Section, charters entered into shall include charter schools approved by a charter school authorizer, but which have not opened.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1359 (July 2008).

Chapter 3. Charter School Authorizers

§301. Charter School Authorizers

A. The State Board of Elementary and Secondary Education authorizes the operation of Type 2, Type 4, and Type 5 charter schools.

B. Local school boards authorize the operation of Type 1 and Type 3 charter schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3982.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1359 (July 2008).

§303. BESE Authorizing Responsibilities

A. BESE, as the authorizer of Type 2, Type 4, and Type 5 charter schools, has the following authorizing responsibilities:

1. to implement a comprehensive application process with fair procedures and rigorous criteria that results in applications recommended that demonstrate strong capacity for establishing and operating a quality charter school;

2. to review each proposed charter in a timely manner to determine whether each charter school application complies with the Charter School Law and this bulletin and whether the application is valid, complete, financially well-structured, educationally sound, and offers potential for fulfilling the purposes of the Charter School Law;

3. to enter into any proposed Type 2, Type 4, or Type 5 charter only after there has been a specific determination by BESE that the proposed school will be operated in compliance with all applicable state and federal laws, rules, and regulations; that the accounting and financial practices to be used are sound and in accordance with generally accepted standards for similar entities; and that the educational program to be offered will comply with all requirements of the Charter School Law and be based on generally accepted education research findings applicable to the pupils to be served;

4. to enter into performance contracts with approved charter schools that articulate the rights and responsibilities of each party regarding school autonomy, expected outcomes, measures for evaluating success or failure,

performance consequences, operating terms, and other material terms;

5. to direct the Department of Education in providing adequate administrative and programmatic support and oversight; monitoring compliance; measuring progress; and implementing interventions, when necessary, with respect to Type 2, Type 4 and Type 5 charter schools; and

6. to implement a transparent and rigorous process that uses comprehensive academic data and financial, legal, and contractual reporting and compliance to make merit-based recommendations for charter extension, renewal, and revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1359 (July 2008).

§305. BESE Duties Relating to Charter Schools

A. BESE has the following duties relating to charter schools:

1. subject to the availability of funds, to administer loans pursuant to the Charter School Law for assisting in meeting the costs required to establish a charter school as well as the costs of operation;

2. to determine the policy and provide direction to the Department of Education for providing oversight of the operation of charter schools chartered by BESE;

3. upon the request of any school system with fewer than 5,000 students, to provide technical assistance to the system in determining the potential financial impact of any proposed charter school on the operation of the system;

4. to notify all local school boards that no more charters shall be awarded if, at any time prior to December 1 of each chartering period, the number of Type 1, Type 2, Type 3, and Type 4 charters would result in a total of 42 charters having been entered into;

5. to notify local school boards of the receipt of any Type 2 charter school application for a school which is proposed to be located within the district. In addition, the local board as well as other interested groups shall be allowed to provide written information regarding the application and be allowed to present information at a scheduled public meeting of BESE prior to any determination being made by BESE; and

6. to fulfill all other obligations created by state and federal law with respect to students attending charter schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1359 (July 2008).

§307. Local School Board Duties

A. Local school boards have the following duties relating to charter schools:

1. except as otherwise provided herein relating to local school systems in academic crisis, to review and formally act upon each proposed charter within 30 days of its submission and in the order in which submitted:

a. formal review of a charter proposal and action does not require final approval or disapproval of such charter school proposal within 30 days, but within such time the local school board shall indicate whether it is interested in working with the charter school group on its proposal and

what specific time line, and procedures the local school board will follow prior to coming to a final decision:

i. if the local school board expresses no interest in working with the group within 30 days, the chartering group may submit its proposal to BESE for its review;

ii. if the local school board does not reach a final decision within 60 days after the submission of the proposal, the chartering group may submit its proposal to BESE for its review;

2. to make public the process used to review any charter proposals;

3. to make available to chartering groups any vacant school facilities or any facility slated to be vacant for lease or purchase at fair market value. In the case of a Type 2 charter school created as a result of a conversion, all property within the existing school shall also be made available to that chartering group under similar terms. If such facilities were constructed at no cost to the local school board, then such facilities, including all equipment, books, instructional materials, and furniture within such facilities, shall be provided to the charter school at no cost;

4. prior to approving a charter for a Type 1 or Type 3 school, to hold a public meeting for the purpose of considering the proposal and receiving public input. Such meeting shall be held after reasonable efforts have been made by the local school board to notify the public of the meeting and its content;

5. to report any charter entered into to BESE within two business days following the approval; and

6. to report the number of schools chartered, the status of those schools, and any recommendations relating to the charter school program to BESE no later than July 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3982, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1359 (July 2008).

Chapter 5. Charter School Application and Approval Process

§501. Organization of Nonprofit Corporation

A. A nonprofit corporation may be formed for the purpose of submitting a charter school by:

1. a group of three or more teachers;

2. a group of 10 or more citizens;

3. a public service organization;

4. a business or corporate entity registered to do business in Louisiana pursuant to law, excluding any business or corporate entity subject to the provisions of R.S. 18:1505.2(L) as provided in R.S. 18:1505.2(L)(3);

5. a Louisiana college or university, licensed by the Board of Regents, pursuant to R.S. 17:1808;

6. the faculty and staff of any city or parish public school or any local school board; or

7. the Department of Education, subject to the approval of BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981(3), and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1360 (July 2008).

§503. Eligibility to Apply for a Type 2 Charter School

A. To be eligible to submit a Type 2 charter school application, a group must:

1. be organized as a nonprofit corporation under Chapter 2 of Title 12 of the Louisiana Revised Statutes, Nonprofit Corporation Law;

2. be recognized as or have applied for recognition as a nonprofit corporation under applicable federal law;

3. have a board of directors with a minimum of three members;

4. include three or more persons holding valid and current Louisiana teaching certificates in the development of the charter application;

5. except as provided in Subsection B of this Section, has submitted a proposal for a Type 1 or Type 3 charter school to the local school board in whose jurisdiction the charter school is proposed to be located which:

a. has been denied, as evidenced by a motion or resolution of the local school board; or

b. has conditions that have been placed on it that are unacceptable to the group proposing the charter; or

c. the local school board has, within 30 days of receipt of the proposal, indicated that it has no interest in working with the group; or

d. the local school board has made no final decision within 60 days after the submission of a proposal; and

6. have met the requirement set forth in §507, if proposing to convert from a pre-existing school to a charter school.

B. Applicants applying to operate a charter school which is to be located in a local school system in academic crisis are not required to submit a Type 1 or Type 3 charter application to such local school system and may submit a proposal for a Type 2 charter school directly to BESE.

C. The eligibility criteria set forth in this section shall be the minimum criteria necessary to apply for a Type 2 charter, but shall in no way limit the information required in §513.C., Eligibility Review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, R.S. 17:3982, R.S. 17:3983, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1360 (July 2008).

§505. Eligibility to Apply for a Type 4 Charter School

A. To be eligible to submit a Type 4 charter school proposal, a group must:

1. be a local school board;

2. include three or more persons holding valid and current Louisiana teaching certificates in the development of the charter application; and

3. have met the requirement set forth in §507, if proposing to convert from a pre-existing school to a charter school.

B. The eligibility criteria set forth in this Section shall be the minimum criteria necessary to apply for a Type 2 charter, but shall in no way limit the information required in §513.C., Eligibility Review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, and R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1360 (July 2008).

§507. Existing Public Schools Converting to Charter Schools

A. Prior to applying for a Type 2 or Type 4 charter school, which proposes to be a school converted from a preexisting public school to a charter school, an applicant must receive approval from the professional faculty and staff of the pre-existing school and the parents or guardians of children enrolled in the school.

B. Approval of the professional faculty and staff requires a favorable vote of two-thirds of the faculty and staff who are certified by BESE and who were employed at the pre-existing school. The number needed for approval shall be determined by the number of professional faculty and staff assigned to the pre-existing school on October 1 preceding the election.

1. An election must be held for the purpose of voting to convert a preexisting public school to a charter school.

2. Employees eligible to vote in an election are members of the faculty and staff who are employed at the pre-existing school and who are certified by BESE.

3. Each eligible employee may cast only one vote.

4. The election must be held by secret ballot.

C. Approval by the parents or guardians requires a favorable vote of the majority of the voting parents or guardians of pupils enrolled in the school.

1. An election must be held for the purpose of voting to convert a pre-existing public school to a charter school.

2. The number of votes cast by the parents or guardians in an election must equal at least 50 percent of the number of students enrolled in the school at the time of the election.

3. Only one vote may be cast by one parent or guardian for each student enrolled in the school at the time of the election.

4. The election must be held by secret ballot.

D. An election of the professional faculty and staff or of the parents and guardians may be repeated in any school for approval of the same or a different charter proposal; however, such an election may not occur more than once in any school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1361 (July 2008).

§509. Eligibility to Apply for a Type 5 Charter School

A. To be eligible to submit a Type 5 charter school proposal, a group must:

1. be organized as a nonprofit corporation under Chapter 2 of Title 12 of the Louisiana Revised Statutes, Nonprofit Corporation Law;

2. be recognized as or have applied for recognition as a nonprofit corporation under applicable federal law;

3. have a board of directors with a minimum of three members;

4. include three or more persons holding valid and current Louisiana teaching certificates in the development of the charter application; and

5. include a person, whether a natural person or artificial entity, who or which has at least five years of significant experience operating or working for or with a

person who operates a public, private, or charter school; a public or private postsecondary institution; or a for-profit business or a nonprofit entity which provides academic instruction to students.

B. The eligibility criteria set forth in this Section shall be the minimum criteria necessary to apply for a Type 2 charter, but shall in no way limit the information required in §513.C., Eligibility Review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3983, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1361 (July 2008).

§511. Charter School Application Process

A. Application Cycle

1. All Type 2, Type 4, and Type 5 charter applications will be received, reviewed, and approved pursuant to a charter application cycle.

2. All proposed charter application cycles must be approved by BESE.

3. Type 2, Type 4, and Type 5 charter applications must be submitted in accordance with a charter application cycle approved by BESE to be considered by BESE.

4. There shall be at least one charter application cycle per year for the submission of Type 2, Type 4, and Type 5 charter school applications. Such cycle shall be established between dates April 1 and October 31 of each year.

5. BESE may approve additional cycles for the submission of Type 5 charter school applications.

6. There shall be a period of at least 90 days from the release of the charter school application to the date on which the charter application is due, except when there are exceptional circumstances as recognized by BESE in its approval of the application cycle.

a. In submitting a proposed Charter Application Cycle, which provides for a period of less than 90 days from release of the charter application to the date on which the charter application is due, the Department of Education must demonstrate that the circumstances necessitating an application cycle warrant a shorter time period from release to due date.

B. Competitive Process

1. The charter application process shall be a competitive process whereby any entity meeting eligibility requirements shall be permitted to participate.

2. The charter application shall be in the form of a request for applications.

3. The release of a request for applications must include public notice; notice to national, regional, and state organizations that support charter schools; and notice to all known interested parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1361 (July 2008).

§513. Stages of Charter Application Cycle

A. Each charter application cycle shall include an eligibility review, a completeness review, a due diligence review, an application evaluation, and an applicant interview.

B. Eligibility Review. Each charter applicant shall be required to meet the eligibility criteria set forth in the Request for Applications, which must at a minimum include the eligibility requirements as set forth in §503, §505, and

§509. Failure to meet the eligibility criteria set forth in the request for applications shall result in an applicant being deemed ineligible to apply.

C. **Completeness Review.** Each charter school application shall be reviewed to determine if all questions requiring a response have been completed. Failure to respond as required may result in an applicant not being permitted to proceed through the application cycle.

D. **Due Diligence Review.** A due diligence review shall be performed on each charter school application/applicant. It may include, but not be limited to, background and reference checks of nonprofit corporation board members and individuals and agencies associated with the charter application; analysis of school performance and nonprofit corporation and management company financial performance; and school site visits for existing operators.

E. **Application Evaluation by Team of Evaluators**

1. Teams of local, state, and national evaluators with expertise in charter schools and charter school authorizing, curriculum and instruction, governance and management, and finance shall be assembled for the review of charter applications.

2. Each application review team shall consist of no less than three and no more than seven evaluators.

3. Each charter application will be reviewed by the evaluation team and scored with a uniform evaluation rubric.

F. **Applicant Interview.** Each charter school applicant will be interviewed by the evaluators to assess the overall capacity of the charter applicant and to permit applicants to address questions in reference to the charter school application.

G. **Evaluator Recommendations.** Evaluators shall make recommendations to the Department of Education for approval or denial of each charter school application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1361 (July 2008).

§515. Charter School Application Components

A. The charter school application shall be prepared as a Request for Applications. Each request for applications shall consist of sections that provide applicants with information on charter schools in Louisiana, an explanation of the application process and timelines, charter school application questions, and any other information which is necessary for an applicant to be able to respond to the charter application questions.

B. All requests for applications must be approved by BESE prior to the release of the request.

C. The charter school application questions contained in the request for applications shall consist of questions in the following areas: executive summary, education program, governance, leadership and management, financial plan, and facilities.

D. The charter school application questions shall address the following:

1. for Type 2 charter schools created as new schools, that the charter school will serve the percentage of at-risk students defined in the Charter School Law and in this Bulletin;

2. a statement of the school's role, scope, and mission;

3. admission requirements, if any, that are consistent with the school's role, scope, and mission may be established

in accordance with that permitted in Charter School Law and this bulletin;

4. a description of the jurisdiction within which a pupil shall reside or otherwise be eligible to attend a public school in order to be eligible for admission;

5. a description of the school's recruitment, enrollment, and admission process;

6. a financial and accounting plan sufficient to permit a governmental audit;

7. a description of how the proposed charter school fulfills one or more of the purposes specified in the Charter School Law and this bulletin;

8. a description of the education program offered by the school and how that program will meet the needs of the at-risk pupils to be served, including a discussion of the school's proposed curriculum;

9. a description of how the charter school will meet the needs of students with exceptionalities;

10. the specific academic and other educational results to be achieved, the timelines for such achievement, and how results will be measured and assessed;

11. an agreement to provide a report at the end of each semester to parents of pupils enrolled in the school, the community, the local school board, and the state board indicating progress toward meeting the performance objectives as stated in the charter;

12. the organizational, governance, and operational structure of the school, including its policies regarding its compliance with applicable public body laws;

13. policies, programs, and practices to ensure parental involvement;

14. staffing plan, including the number of teachers and employees;

15. personnel policies and employment practices applicable to the school's officers and employees;

16. manner in which teachers and other school employees will be evaluated;

17. school rules and regulations applicable to pupils, including disciplinary policies and procedures;

18. information concerning the school location and the adequacy of its facilities and equipment. Such information shall include a statement of the procedures to be followed and disposition of facilities and equipment should the charter be terminated or not renewed;

19. management and accounting practices to be employed;

20. provisions regarding liability issues;

21. types and amounts of insurance coverage provided;

22. a requirement that curriculum shall be focused on the intellectual domain with intellectual development defined as acquisition of discrete technical and academic skills;

23. a requirement that charter schools regularly assess the academic progress of their pupils, including the participation of such pupils in the state testing programs, and the sharing of such information with parents;

24. a requirement that a pupil shall have a mastery of grade-appropriate skills before the pupil can be recommended for promotion or promoted; and

25. provisions regarding the security of the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1362 (July 2008).

§517. Consideration of Charter Applications, Awarding of Charters

A. BESE shall consider each Type 2 and Type 4 charter school application and vote to approve or deny the application.

B. BESE shall consider each Type 5 charter school application that is recommended by the State Superintendent of Education and may vote to approve or deny the recommended application.

C. BESE shall carefully review each Type 2, Type 4, and Type 5 charter school application it receives and may approve a charter application only after it has made a specific determination that the proposed school will be operated in compliance with all applicable state and federal laws, rules, and regulations; that the accounting and financial practices to be used are sound and in accordance with generally accepted standards for similar entities; and that the educational program to be offered will comply with all requirements of the Charter School Law and be based on generally accepted education research findings applicable to the pupils to be served.

D. Approval of Type 2, Type 4, and Type 5 charter schools shall require an affirmative vote of at least six board members.

E. Type 2 and Type 4 charter school applications can be approved only from May 1 through January 31 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008).

§519. Pre-Opening Procedures Following Approval

A. Following charter application approval by BESE, approved nonprofit corporations must complete pre-opening requirements approved by BESE prior to executing a charter contract and prior to opening a school.

B. The pre-opening requirements of approved charter schools shall be developed by the Department of Education Charter School Office and presented for BESE's approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008).

Chapter 7. Charter School Performance Contract

§701. Charter School Contract

A. The charter school contract shall represent the legal agreement between BESE and the Charter Operator, which defines the rights and responsibilities of the parties.

B. The charter school contract shall define the performance standards to which the charter school will be held accountable and the general terms and conditions under which the charter school will operate. The charter school contract template shall include, but not be limited to, provisions regarding the establishment of the charter school; the operation of the charter school; charter school financial matters; charter school personnel; charter term, renewal and revocation; and other provisions determined necessary by BESE. The charter school contract shall also include exhibits that provide detailed information about the terms and conditions under which the school will operate, including but not limited to, the approved charter school application; pre-opening requirements; education service provider

contract, if applicable; student discipline policy; and student enrollment.

C. Each contract entered into by BESE for the operation of a charter school shall contain provisions set forth in a standard contract template; however, BESE shall not be precluded from allowing for provisions that may be specific to an individual Charter Operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008).

§703. Performance Measures

A. The charter school contract shall provide for specific student performance, financial, and legal and contractual standards which must be met by the charter operator during the term of the charter contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008).

§705. Contract Execution

A. A duly authorized officer of the board of directors of the charter operator shall sign the charter contract on behalf of the charter operator.

B. The president of BESE shall sign the charter contract on behalf of BESE.

C. The charter contract shall not be fully executed until the charter operator completes all pre-opening requirements identified for completion prior to contract execution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008).

Chapter 9. Opening of Charter School

§901. Timeline for Charter School Opening

A. A Type 2, Type 4, or Type 5 charter school shall begin operation by not later than 24 months after the final approval of the charter, unless such charter school is engaged in desegregation compliance issues and, therefore, must begin operation by not later than 36 months.

B. If a Type 2 or Type 4 charter school fails to begin operation within the time periods set forth in §901.A., the charter for that school shall be automatically revoked although a new charter may be proposed in a subsequent application cycle.

C. A Type 2 or Type 4 charter school, once approved, may begin operation only in July, August, or September of a given year.

D. A Type 2 and Type 4 charter school shall not begin operation sooner than eight months after approval of the charter school has been granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008).

Chapter 11. Ongoing Review of Charter Schools

§1101. Charter School Evaluation

A. BESE authorizes the operation of charter schools to provide schools with increased educational and operational autonomy in exchange for accountability for performance.

B. The performance of Type 2, Type 4, and Type 5 charter schools will be reviewed and/or evaluated annually in the following categories:

1. student performance,

2. financial performance, and
3. legal and contract performance.

C. BESE will receive a report on the review and/or evaluation of charter schools in January of each year. This annual review and/or evaluation will be used in charter contract extension determinations.

D. Student Performance

1. Student performance is the primary measure of school quality. BESE shall use the state's assessment and accountability programs as objective and verifiable measures of student achievement and school performance. Student performance is the primary indicator of school quality; therefore, BESE will heavily factor all annual evaluations and contract extensions and renewal decisions on a school's achievement of the student performance standards.

2. Charter schools are required to administer all state assessments and are subject to the Louisiana School and District Accountability System. The evaluation of a charter school's performance in its early years differs from the evaluation of existing public schools because the data necessary for certain types of accountability determinations to be made does not yet exist. However, data produced in a charter school's first years of existence is used in a manner that enables BESE to track student performance by the assignment of an assessment index. An assessment index represents student performance on state assessments, as opposed to student performance on state assessments combined with other data like attendance and dropout rates. Each charter school will receive an assessment index until sufficient data exists for the school to receive a school performance score (SPS). Each charter school will receive its assessment index or school performance score (SPS), as applicable, when scores are released statewide.

3. Beginning in each charter school's second year of operation, it will receive an assessment index or a school performance score (SPS) no later than the fall of each year. The assessment index or school performance score (SPS) is based on previous year or years' data. As a result, the review or evaluation criteria described in this bulletin will reference the school year in which performance results are reported, but the data used to reach the results is based on assessment that occurred in the previous school year.

4. A charter school serving high school grades will only receive an assessment index during its initial charter term. As a result, all references in this bulletin to receipt of a school performance score in a charter school's third through sixth year of operation, which is based on student assessments administered in a charter school's first through fifth year of operation, apply to charter schools serving elementary grades. Charter schools serving high school grades will receive a school performance score pursuant to Bulletin 111.

5. Charter School's First Year of Operation (Year One)

a. In the fall of each charter school's first year of operation, the Department of Education may provide each charter school with a diagnostic assessment index.

b. The diagnostic assessment index will consist of the test results of the students enrolled in the charter school from the immediately preceding spring state testing, where available.

c. Charter school students will participate in spring state testing during the school's first year of operation, which

will be used to determine how its students performed in its first year of operation. Student performance in year one will be reported in year two, as set forth herein.

6. Charter School's Second Year of Operation (Year Two)

a. In each charter school's second year of operation, the charter school will receive an assessment index year one. An assessment index received in year two will be based on year one student assessment data aggregated as defined in Bulletin 111.

b. Assessment index year one will be reported in January of a charter school's second year of operation.

7. Charter School's Third Year of Operation (Year Three)

a. In each charter school's third year of operation, the charter school will be measured on the following indicators: baseline school performance score; assessment index year two; and, if necessary, assessment index year three; assessment index comparison over two years; and required growth.

i. The following indicators will be evaluated in January of a charter school's third year of operation:

(a). Baseline School Performance Score (SPS). In the fall of each elementary and combination charter school's third year of operation, a baseline SPS will be determined for the charter school. The baseline SPS will be determined as defined in Bulletin 111.

(b). Assessment Index Year Two. In the fall of each charter school's third year of operation, an assessment index will be determined for the charter school. The assessment index received in January of year three will be based on year two student assessment data aggregated as defined in Bulletin 111.

(c). The indicator standards evaluated in January of the charter school's third year of operation based on year two data shall be as follows.

Indicator (January)	Standard
Baseline SPS	60.0 or Above
Assessment Index Year Two	60.0 or Above

ii. The following indicators will be measured no later than June of a charter school's third year of operation, if necessary, for purposes of charter extension only.

(a). Assessment Index Year Three. Each charter school for which a decision on contract extension will be made based on year three spring state testing data will receive an assessment index. The assessment index received in year three will be based on year three assessment data aggregated as defined in Bulletin 111.

(b). Assessment Index Increase over a Two Year Period. Each charter school for which a decision on contract extension will be made based on year three spring state testing data will receive an assessment index comparison calculation which measures growth over a two year period. The assessment index increase over a two year period will compare assessment index year three to assessment index year one. Increase will be determined for the charter school by subtracting the charter school's assessment index year three from its assessment index year one.

(c). Required Growth. Each charter school for which a decision on contract extension will be made based on year three spring state testing data will be measured based on its required growth. Required growth represents the required increase in a school's assessment index when comparing one school year to the school year that immediately follows. The required growth measurement following the charter school's third year of operation shall compare the school's assessment index year three to its assessment index year two.

(d). The evaluation indicator standards measured in June of the charter school's third year of operation based on year three data shall be as follows.

Indicator (June)	Standard
Assessment Index Year Three	60.0 or Above
Assessment Index Increase Over Two Year Period	10 Points
Required Growth	10 Points

8. Charter School's Fourth Year of Operation (Year Four)

a. In each charter school's fourth year of operation, the school will be measured on the following indicators: baseline school performance score (SPS); growth school performance score (SPS); assessment index year three; and, if necessary, assessment index year four; and required growth.

i. The following indicators will be measured in January of a charter school's fourth year of operation.

(a). Baseline School Performance Score (SPS). In the fall of each elementary and combination charter school's fourth year of operation, a baseline SPS will be determined for the charter school. The baseline SPS will be determined as defined in Bulletin 111.

(b). Growth School Performance Score (SPS). In the fall of each elementary and combination charter school's fourth year of operation, a Growth SPS will be determined for charter schools. The Growth SPS calculation will be determined as defined in Bulletin 111.

(c). Assessment Index Year Three. In the fall of the fourth year of operation for each charter school serving high school grades, an assessment index year three will be determined for the charter school. The assessment index received in year four will be based on year three assessment data aggregated as defined in Bulletin 111.

(d). The evaluation indicator standards measured in January of a charter school's fourth year of operation, as applicable, based on year three data shall be as follows.

Indicator (January)	Standard
Baseline SPS	60.0 or above
Growth SPS	Meet growth target as determined pursuant to Bulletin 111
Assessment Index Year Three (High Schools)	60.0 or above

ii. The following indicators will be measured in June of a charter school's fourth year of operation, if necessary for purposes of charter extension only.

(a). Assessment Index Year Four. Each charter school for which a decision on contract extension will be

made based on year four spring state testing data will receive an assessment index. The assessment index received in year four will be based on year four assessment data aggregated as defined in Bulletin 111.

(b). Required Growth. Each charter school for which a decision on contract extension will be made based on year four spring state testing data will be measured based on its required growth. Required growth represents the required increase in a school's assessment index when comparing one school year to the school year that immediately follows. The required growth measurement following the charter school's fourth year of operation shall compare the school's baseline assessment index year four to its baseline assessment index year three.

(c). The evaluation indicator standards measured no later than June of the charter school's fourth year of operation based on year four data shall be as follows.

Indicator (June)	Standard
Assessment Index Year Four	60.0 or above
Required Growth	10 Points

b. Type 5 charters schools transferred to the recovery school district (RSD) pursuant to R.S. 17:10.5 will also be evaluated pursuant to R.S. 17:10.5 no later than June of the Type 5 charter school's fourth year of operation.

9. Charter School's Fifth Year of Operation (Year Five)

a. In each charter school's fifth year of operation, the school will be measured on the following indicators: baseline school performance score (SPS), growth school performance score (SPS), and assessment index year four.

i. The following indicators will be reported in January of a charter school's fifth year of operation:

(a). Baseline SPS. In the fall of each elementary and combination charter school's fifth year of operation, a Baseline SPS will be determined for the charter school. The Baseline SPS will be determined as defined in Bulletin 111.

(b). Growth School Performance Score (SPS). In the fall of each elementary and combination charter school's fifth year of operation, an SPS Growth will be determined for the charter school. The SPS Growth calculation will be determined as defined in Bulletin 111.

(c). Assessment Index Year Four. In the fall of the fifth year of operation for each charter school serving high school grades, an assessment index year four will be determined for the charter school. The assessment index received in year five will be based on year four assessment data aggregated as defined in Bulletin 111.

(d). The evaluation indicator standards reported in January of a charter school's fifth year of operation based on year four data shall be as follows.

Indicator (January)	Standard
Baseline SPS	60.0 or above
Growth SPS	Meet growth target as determined pursuant to Bulletin 111
Assessment Index Year Four (High Schools)	60.0 or above

10. Charter School's Sixth Year of Operation and Thereafter

a. In each charter school's sixth year of operation and thereafter, the school in its annual evaluation shall be measured on the following indicators: baseline SPS and growth SPS for elementary and combination schools, and assessment index for high schools, until such schools receive a school performance score pursuant to Bulletin 111.

i. Baseline SPS. In the fall of each year, a baseline SPS will be determined for each charter school as defined in Bulletin 111.

ii. Growth School Performance Score (SPS). In the fall of each year an SPS growth will be determined for each charter school as defined in Bulletin 111.

iii. Assessment Index. In the fall of each year of operation for charter school serving high school grades, an assessment index will be determined for the charter school until the charter school receives an SPS pursuant to Bulletin 111. The assessment index received in a particular year will be based on assessment data from the previous year aggregated as defined in Bulletin 111.

b. The evaluation indicator standards measured in the charter school's sixth year of operation and thereafter shall be consistent with those measures set forth in the charter school's renewal proposal, contract, and applicable law and policy.

E. Financial Performance

1. Type 2, Type 4, and Type 5 charter schools are required to engage in financial practices, financial reporting, and financial audits as set forth in Charter School Law, this bulletin, and the charter. The requirements imposed by law, regulation, and contract ensure the proper use of public funds and the successful fiscal operation of the charter school.

2. Charter schools will be evaluated annually on the timely submission of budgets, audits, annual financial reports, and all other financial reporting and compliance with applicable financial budgeting; accounting; and auditing laws, regulations, and procedures.

3. The evaluation financial performance indicator standards measured annually shall be as follows:

Indicator	Standard
Prior and Current Year Budgets	Both budgets balanced using realistic and responsible assumptions
Annual Financial Report	Timely and Sufficient Filing
Financial Audit	Unqualified opinion; No major findings
Financial Obligations	All in good standing
Financial Reporting	Timely and sufficient filing of all LDE-required financial reports
Student Count Audit	No major findings from LDE audit staff

4. An audit finding shall be considered "Major" if it indicates a deliberate act of wrongdoing, reckless conduct, or causes the loss of confidence in the abilities or integrity of the school or seriously jeopardizes the continued operation of the school.

5. Financial Obligations shall include, but not be limited to, pension payments, payroll taxes, insurance coverage, and loan payments and terms.

F. Legal and Contract Performance

1. BESE shall evaluate a charter school's performance based on the Department of Education's oversight and monitoring of the charter school's compliance with its statutory, regulatory, and contractual obligations and all reporting requirements.

2. BESE's legal and contract performance evaluation of each charter school shall be based on, but not limited to, the following indicators. All other requirements in the charter contract that are otherwise captured in the Department of Education's charter school oversight, monitoring, and reporting structure shall be subject to evaluation. In assessing legal and contract indicators, BESE may consider information from various sources.

Indicator	Standard
Special Education and ELL Program	Pursuant to applicable law and regulation and contract provisions
Student Enrollment	Pursuant to applicable law and regulation, and contract provisions
Student Discipline	Pursuant to applicable law and regulation, and contract provisions
Health and Safety	Pursuant to applicable law and regulation, and contract provisions
Governance	Pursuant to applicable law and regulation, and contract provisions
Facilities	Pursuant to applicable law and regulation, and contract provisions

3. BESE will consider a standard not met if a violation indicates a deliberate act of wrongdoing, reckless conduct, or causes a loss of confidence in the abilities or integrity of the school or seriously jeopardizes the rights of students, safety of students, or the continued operation of the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008).

§1103. Alternate Evaluation of Charter Schools

A. The provisions of §1101 shall not apply to any charter operator whose charter contract provides for an alternate evaluation system.

B. BESE may provide for an alternate evaluation system for a charter school serving a unique population or populations, as reflected in its approved charter, or for a charter school serving students in grades that do not participate in state mandated assessments and are thus not included in the Louisiana School and District Accountability System.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1366 (July 2008).

Chapter 13. Charter Term

§1301. Initial Charter

A. An initial charter shall be valid for a period of up to five years, with an initial charter contract term of three years, subject to a two year extension, which shall be contingent upon the results of its third year report and a third year evaluation.

B. A charter operator shall have a right to operate a charter school during its initial charter unless the charter is revoked or surrendered.

C. A charter operator's right to operate a charter school shall cease upon the expiration of the initial charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1366 (July 2008).

§1303. Third Year Review

A. Each Type 2, Type 4, and Type 5 charter school shall provide a comprehensive report to BESE at the end of the third year of operation in compliance with guidelines and timelines established by the Department of Education.

B. Each Type 2, Type 4, and Type 5 charter school's comprehensive report and its third year evaluation shall be used to determine if the school will receive a two-year extension, as follows.

1. Contract Extension

a. A charter school meeting the following standards in January of its third year of operation will receive a two year extension, contingent upon the submission of its comprehensive third year report at the conclusion of its third year:

- i. all financial performance standards;
- ii. all legal and contractual standards; and
- iii. one of the following student performance

standards:

- (a.) SPS Year Two is 60.0 or above; or
- (b.) Assessment Index Year Two is 60.0 or

above.

b. A charter school meeting the following standards in June of its third year of operation will receive a two-year extension:

- i. submission of its comprehensive third year report;
- ii. all financial performance standards;
- iii. all legal and contractual standards; and
- iv. one of the following student performance

standards:

- (a.) Assessment Index Year Three is 60.0 or above; or
- (b.) Assessment Index increase of 10 points over two years of has been met; or
- (c.) Required Growth of 10 points has been met.

c. A Type 5 charter school authorized pursuant to R.S. 17:10.5 meeting the standards set forth in §1303.B.1.a or b, but not meeting any standard set forth in R.S. 17:10.5, will receive a one-year extension.

2. Contract Probation

a. A charter school not meeting all of the standards set forth in §1303.B.1.a or b, but meeting the following standard, may receive a one year probationary extension in June of its third year, subject to any conditions and/or monitoring required by BESE:

- i. submission of its comprehensive third year report;
- ii. all financial performance standards;
- iii. all legal and contractual standards; and
- iv. required growth of 10 points not met, but 5 point increase made.

b. A charter school not meeting all of the standards set forth in §1303.B.1, but meeting the following standard,

may receive a one-year extension and be placed on contract probation in June of its third year, subject to any conditions and/or monitoring required by BESE:

i. submission of its comprehensive third year report;

ii. at least one student performance measure necessary to receive an extension has been met; and

iii. three or fewer financial standards or legal and contractual standards or a combination thereof have not been met.

3. Charter Revocation

a. A charter school not meeting the standards set forth in §1303.B.1 or §1303.B.2 shall be recommended for revocation of its charter and shall proceed to a revocation hearing as set forth in Chapter 17 of this bulletin.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1367 (July 2008).

§1305. Fourth Year Review of Charter Schools on Contract Probation

A. A charter school granted a one-year extension and placed on probation after its third year of operation pursuant to §1303.B.2 shall comply with all conditions of probation established by BESE and the Department of Education Charter School Office.

1. A charter school meeting the following standards in January of its fourth year of operation may receive a one-year extension, at the conclusion of its fourth year:

- a. all financial performance standards;
- b. all legal and contractual standards; and
- c. one of following student performance measures:
 - i. Baseline SPS Year Three is 60.0 or above; or
 - ii. Growth SPS met.

2. A charter school meeting the following standards in June of its fourth year of operation shall receive a one-year extension:

- a. all financial performance standards;
- b. all legal and contractual standards; and
- c. one of the following student performance

standards:

- i. Assessment Index Year Four is 60.0 or above;
- ii. Required Growth of 10 points has been met.

B. A charter school not meeting the standards set forth in §1305.A.1 shall be recommended for revocation of its charter and shall proceed to a revocation hearing as set forth in Chapter 17 of this bulletin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1367 (July 2008).

Chapter 15. Charter Renewal

§1501. Renewal of Charter

A. At the conclusion of a Type 2, Type 4, or Type 5 charter school's fifth year of operation and the expiration of its initial charter contract, a charter operator no longer has a continuing right to operate a charter school.

B. A charter school may apply for a renewal of its charter in compliance with processes and timelines established by the Department of Education Charter School Office and approved by BESE.

C. The Department of Education Charter School Office shall make a recommendation to BESE as to whether a charter renewal application should be approved.

D. A charter school may be renewed at the discretion of BESE if all requirements set forth in law and policy for the renewal of a charter have been met.

E. The process for renewing a school charter shall be the same as for initial charter approval, with a thorough review by BESE of the charter school's operations, student academic performance, and compliance with charter requirements.

F. No charter shall be renewed unless the charter operator seeking renewal can demonstrate, at a minimum, using standardized test scores, improvement in the academic performance of pupils over the term of the charter school's existence.

G. A charter may be renewed for a term consistent with law and policy effective when a renewal decision is made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981 and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1367 (July 2008).

Chapter 17. Revocation

§1701. Reasons for Revocation

A. BESE may revoke a school's charter any time prior to the expiration of a charter operator's five-year term following initial approval or prior to the expiration of its 10-year renewal, if such is granted pursuant to Chapter 15 of this bulletin, upon a determination that the charter school or its officers or employees did any of the following:

1. committed a material violation of any of the conditions, standards, or procedures provided for in the approved charter;

2. failed to meet or pursue within the agreed timelines any of the academic and other educational results specified in the approved charter;

3. failed to meet generally accepted accounting standards of fiscal management;

4. violated any provision of law or BESE policy applicable to a charter school, its officers, or employees;

5. the health, safety, and welfare of students is threatened;

6. failed to meet the minimum standards for continued operation pursuant to R.S. 17:10.5, after four years of operation; or

7. any other reasons for revocation listed as such in a charter school's charter contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981 and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1368 (July 2008).

§1703. Revocation Proceedings

A. Recommendation to Revoke Charter

1. A recommendation to revoke a charter shall be made to BESE by the Department of Education at least one BESE meeting prior to the BESE meeting at which the recommendation may be considered, except as otherwise provided herein when the health, safety, and welfare of students is at issue.

2. Prior to the BESE meeting at which the Department of Education will make a recommendation that BESE commence a revocation proceeding, the Department of Education will inform the charter operator that it is

requesting such and the reasons therefor and may meet with the charter operator, upon request, to discuss the revocation recommendation.

3. Following the Department of Education's recommendation to revoke a charter, BESE shall determine if it will commence a revocation proceeding.

4. BESE may, on its own, commence a charter revocation proceeding.

B. Revocation Hearing

1. The charter operator shall have an opportunity for a hearing prior to the revocation of its charter.

2. All charter school revocation hearings shall be heard by the Legal Due Process Committee of BESE or the Board Administration Relations Committee, as determined by the board. The committee conducting the hearing shall make a recommendation to BESE, which shall vote on the committee's recommendation.

3. The Department of Education, through its charter school office and legal division, shall act as the prosecuting authority and shall present evidence supporting a recommendation for revocation of a school's charter.

C. Hearing Officer

1. BESE shall appoint a hearing officer to preside over the revocation hearing and carry out certain adjudicative functions including, but not limited to, the following:

a. set procedures and deadlines for the exchange of information, the filing of motions and requests for orders, and other discovery, as necessary;

b. rule on all pre-hearing motions and requests for declaratory orders;

c. direct parties to appear and confer for the simplification of issues, the setting of pre-hearing deadlines, or to otherwise address pre-hearing conferences, if deemed necessary by the hearing officer, to effectuate an orderly hearing;

d. issue subpoenas under the authority of BESE;

e. administer oaths and affirmations;

f. regulate the course of the hearing and the conduct of the parties and their counsel;

g. rule on offers of proof and receive relevant evidence;

h. rule on all objections to evidence presented, with the ability to exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence;

i. consider and rule upon procedural requests or similar matters;

j. direct witnesses to testify, limit the number of times any witness may testify, limit repetition or cumulative testimony and set reasonable limits on the amount of time each witness may testify;

k. assist the chair of the committee hearing the revocation and/or president of BESE in preparing findings of fact and conclusions of law consistent with the determinations made by the committee of BESE and/or BESE.

2. It shall not be the function of the hearing officer to make a determination or decision with respect to the revocation of a charter.

D. Revocation Hearing Notice

1. A charter operator shall be provided reasonable notice of the revocation hearing at least 15 calendar days prior to the scheduled revocation hearing.

a. Except as otherwise provided herein, the notice of the revocation hearing shall be provided to the charter operator and shall include:

- i. a statement of the time, place, and nature of the hearing;
- ii. a statement of the legal authority and jurisdiction under which the hearing is to be held;
- iii. a reference to particular sections of statutes, rules, and/or the charter school contract involved; and
- iv. a short and plain statement of the matters asserted.

2. If BESE is unable to provide the exact date and time of the hearing when the initial notice is provided to the charter operator, it may provide a range of dates when the hearing will be held and provide a supplemental notice of hearing with the exact date and time. Such supplemental notice with the exact date and time shall be provided to the charter operator no later than seven calendar days prior to the hearing date.

3. If BESE is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, a more definite and detailed statement shall be furnished to the charter operator.

4. The hearing office shall send notice or conduct a scheduling conference to establish all pre-hearing deadlines.

5. All notices with respect to a revocation hearing shall be made by personal delivery; by registered or certified mail; or by U.S. regular mail, postage prepaid; and by facsimile, if available. Notice shall be determined to be provided on the day on which personal delivery or mailing occurs or the day on which facsimile is transmitted.

E. Issuance of Subpoenas

1. The president of BESE or the hearing officer shall have power to sign and issue subpoenas in the name of BESE requiring attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence.

2. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with BESE a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to Title 13 of the Louisiana Revised Statutes.

3. A subpoena issued pursuant to this Section shall be served by any agent of BESE or the Department of Education; by the sheriff; by any other officer authorized by law to serve process in this state; by certified mail, return receipt requested; or by any person who is not a party and who is at least 18 years of age.

4. Witnesses subpoenaed to testify before BESE only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witness.

F. Presentation and Evaluation of Evidence at Revocation Hearing

1. At the charter revocation hearing, an opportunity shall be afforded all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-

examination as may be required for a full and true disclosure of the facts.

2. BESE shall give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs and shall give effect to the rules of privilege recognized by law.

a. All evidence, including records and documents in the possession of the Department of Education or BESE of which the Department of Education desires to avail itself, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence.

b. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the Department of Education or BESE's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The Department of Education's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

G. Revocation Decision

1. A charter may be revoked upon an affirmative vote of six members of BESE.

2. A decision to revoke by an affirmative vote of six members of BESE members shall be considered a final decision and shall be in writing or stated in the record.

3. The revocation decision shall include findings of fact and conclusions of law.

4. The charter operator shall be notified in writing of the revocation decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1368 (July 2008).

Chapter 19. Amendments to Charters

§1901. Charter Amendments

A. Any modification to the provisions of a school's charter shall constitute an amendment to the charter. An amendment may be material or non-material, as defined in this bulletin.

B. All charter amendment requests or notices, as applicable, must be submitted by the charter operator.

C. No charter amendment shall be the basis of extending the duration of the school's original charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1369 (July 2008).

§1903. Material Amendments

A. A material amendment to a charter is an amendment that makes substantive changes to a charter school's governance, operational, or academic structure. Material amendments include:

1. changes in legal status or management, including the structure of the governing board, or assignment of or changes in education service provider;

2. changes in the school's mission;
3. changes in grade levels served;
4. changes in student enrollment which result in enrollment in excess of 120 percent of the total number of students set forth in the school's charter;
5. changes in school location (change of site and/or adding or deleting sites);
6. changes in the school calendar affecting the number of days of instruction;
7. changes in admission procedures or criteria, if applicable;
8. changes in special education procedures;
9. changes in curriculum or methodology;
10. changes in method(s) used to measure pupil progress;
11. changes in signing authority for the charter school; and
12. changes in any option expressed in the charter contract exhibit with respect to collective bargaining.

B. A material amendment to a charter must be approved by an affirmative vote of at least a majority of the membership of BESE.

C. The charter operator shall submit a request for a material amendment to its charter in compliance with all timelines and pursuant to all guidance, forms, and/or applications developed and set forth by the Department of Education Charter School Office.

D. The Department of Education's Charter School Office shall make recommendations to BESE on each material amendment request it receives from a charter operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1369 (July 2008).

§1905. Non-Material Amendment

A. A non-material amendment to a charter is an amendment that makes non-substantive changes to a school's charter. Non-material amendments include:

1. changes to the mailing address, telephone, and/or facsimile number of the charter school;
2. changes to the designated contact person for the charter operator or changes to the contact person located at the charter school site;
3. amendments to the charter operator's by-laws;
4. change in membership of the charter operator's board of directors that exceeds 60 percent or more of its members within any six month period; and
5. changes in any option expressed in the charter contract exhibits with respect to Teachers' Retirement System of Louisiana, or student discipline.

B. The charter operator shall provide BESE with written notification of a non-material amendment to its charter in compliance with all requirements set forth by the Department of Education Charter School Office.

C. A non-material amendment will be effective 10 days following written notification, unless BESE or the Department of Education Charter School Office on behalf of BESE notifies the charter operator that it objects to the proposed amendment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1370 (July 2008).

§1907. Other Charter Amendments

A. The charter operator shall provide BESE with written notification of all charter amendments not provided in §1703 and §1705 in compliance with all requirements set forth by the Department of Education Charter School Office.

B. The Department of Education Charter School Office shall determine if the reported amendment requires BESE approval of the amendment pursuant to §1703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1370 (July 2008).

Chapter 21. Charter School Governance

§2101. Board of Director Composition

A. The board of directors of each charter operator shall consist of no fewer than seven members. Each charter operator shall be in full compliance with the provisions of this Subsection not later than January 1, 2009.

B. The board of directors of each charter operator should consist of members with a diverse set of professional skills and practical work experience in the areas of education, public/non-profit and/or for-profit administration or operations, community development, finance, and law.

C. The board of directors of each charter operator should be representative of the community in which the charter school is located and no fewer than 60 percent of its members shall reside in the community in which the charter school is located. Community, for the purposes of this paragraph, shall consist of the parish in which the school is located and immediate neighboring parishes and, for Type 2 charter schools, any parish that is included in the charter school's attendance zone.

D. The board of directors of each charter operator shall consist of no more than one person from the same immediate family, as defined by the Louisiana Code of Governmental Ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1370 (July 2008).

§2103. Board Member Responsibilities

A. The board of directors of each charter operator shall be responsible for implementing the public charter school program proposed in its charter application, complying with and carrying out the provisions of the charter school contract and complying with all applicable federal and state laws and policies governing the charter school.

B. The board of directors of each charter operator shall operate in accordance with its duly adopted bylaws, which shall include a conflicts of interest policy that is consistent with applicable law including, but not limited to, the Louisiana Code of Governmental Ethics.

C. The board of directors of each charter operator shall comply with all requirements set forth by the Louisiana Nonprofit Corporations Law and Louisiana Secretary of State and shall remain in good standing during the term of its charter.

D. The board of directors of each charter operator shall comply with all laws applicable to public bodies including, but not limited to, the Louisiana Open Meetings Law, the Louisiana Public Records Law, and the Code of Governmental Ethics.

E. The board of directors of each charter operator is responsible for the sound fiscal management of the charter school.

F. The board of directors of each charter operator shall exercise final authority in matters affecting the charter school including, but not limited to, staffing, financial accountability, and curriculum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1370 (July 2008).

§2105. Board Member Training

A. The board of directors of each charter operator shall develop an annual training schedule with respect to the operation of a non-profit organization and the management of a charter school in compliance with requirements set forth by the Department of Education Charter School Office.

B. The board of director training schedule may vary for each member following the charter school's first year of operation and may be dependent upon the number of years each member has served on the board.

C. Training topics should include, but not be limited to:

1. nonprofit corporation law and operations;
2. charter school law and school law, in general;
3. school finance;
4. special education;
5. School and District Accountability Program;
6. student discipline;
7. public body laws, including open meetings law, public records law, and Code of Governmental Ethics; and
8. charter school reporting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1371 (July 2008).

§2107. Prohibitions

A. No member of BESE shall be a member of the board of directors of any Type 2, Type 4, or Type 5 charter school.

B. No member of any city, parish, or other local public school board shall be a member of the board of directors of any Type 5 charter school within the jurisdictional area of such city, parish, or other local public school board.

C. No member of the board of directors of any Type 5 charter school shall be an elected official as defined by the Louisiana Code of Governmental Ethics. No individual formerly classified as an elected official may serve on the board of directors of any Type 5 charter school for a period of one year following his or her termination from elected service.

D. The board of directors of each charter operator shall receive no compensation other than reimbursement of actual expenses incurred while fulfilling duties as a member of the board.

E. The board of directors of each charter operator shall be prohibited from employing, in any manner, any of its members.

F. A charter school shall not be supported by or affiliated with any religion or religious organization or institution.

G. A charter school shall not result from the conversion of any private school or any home study program, as defined in R.S. 17:236.

H. A charter school shall not charge any student any tuition or an attendance fee of any kind.

I. A charter school shall not discriminate among potential employees, employees, or pupils in violation of any state or federal law.

J. A charter school shall not hire a person who has been convicted of or has pled nolo contendere to a crime listed in R.S. 15:587.1(C) as a teacher, substitute teacher, bus driver, substitute bus driver, janitor, or a school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children unless approved in writing by a district judge of the parish and the district attorney. This statement of approval shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1371 (July 2008).

Chapter 23. Charter School Funding

§2301. State Funding

A. For the purposes of funding, each Type 4 charter school shall be considered an approved public school of the local school board entering into the charter agreement and shall receive a per pupil amount each year from the local school board based on the October 1 membership count of the charter school and any other membership count authorized pursuant to the Minimum Foundation Program formula adopted each year.

B. Type 5 charter schools shall receive a per pupil amount each year pursuant to formulas developed by the RSD, which may include differentiated funding for certain students, including students identified as being eligible for special education services, and based on the October 1 membership count of the charter school and any other membership count authorized pursuant to the Minimum Foundation Program formula adopted each year.

C. Type 2 charter schools shall receive a per pupil amount from the Louisiana Department of Education each year based on the October 1 membership count of the charter school and using state funds specifically provided for this purpose. In order to provide for adjustments in allocations made to Type 2 charter schools as a result of changes in enrollment, BESE may provide annually for a February 15 pupil membership count to reflect any changes in pupil enrollment that may occur after October 1 of each year.

1. Any allocation adjustment made pursuant to this Paragraph shall not be retroactive and shall be applicable for the period from March 1 through the end of the school year. The provisions of this Paragraph relative to an allocation adjustment shall not be applicable to any Type 2 charter school that has had an increase or decrease in student enrollment of 5 percent or less in any school year for which the February 15 membership count occurs.

D. The per pupil amount provided to all charter schools shall be computed at least annually.

E. Initial allocation of the per pupil amount each year shall be based on estimates provided by the Louisiana Department of Education using the most recent local revenue data and projected pupil counts available. Allocations may be adjusted during the year to reflect actual pupil counts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1371 (July 2008).

§2303. Federal Funding

A. Any Type 2 or Type 5 charter school shall be considered the local education agency for purposes of any special education funding or statutory definitions and, as a local education agency, shall receive allocations for all available funding.

B. For each pupil enrolled in a charter school who is entitled to special education services, any state special education funding beyond that provided in the Minimum Foundation Program and any federal funds or special education for that pupil that would have been allocated for that pupil shall be allocated to the charter school which the pupil attends.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1372 (July 2008).

§2305. Other Funding

A. Any approved charter school shall be eligible for any other federal, restricted state, and unrestricted state funding for which the school or its pupils qualify.

B. Each charter school shall receive, at a minimum, its per pupil share for any state or federal grant program such as any funding provided for technology, teacher supplies, kindergarten through third grade reading and mathematics, summer school, and other remediation funding. In addition, each charter school shall receive any other state or federal grant program funding, where such funding is distributed on a per pupil basis and a charter school is eligible to receive the funding under the terms of the grant. The charter operator shall comply with the terms of the grant.

C. A charter school may apply for and receive funding directly from the state or federal government.

D. Any approved charter school may solicit, accept, and administer donations or any other financial assistance in the form of money, grants, property, loans, or personal services for educational purposes from any public or private person, corporation, or agency and must comply with rules and regulations governing grants from the federal government or from any other person or agency, which are not in contravention of the federal or state constitution or any other federal or state law.

E. Every pupil enrolled in a charter school shall be counted in the charter school's total pupil count for purposes of funding, including each pupil who is pursuing a high school diploma or participating in a pre-general education development skills program, as defined by BESE policy.

F. No child enrolled in a pre-kindergarten program offered by a charter school shall be counted for purposes of funding pursuant to §2301, unless such funding is specifically provided for such purpose. However, such school shall be eligible for any other funding that may become available for children enrolled in pre-kindergarten programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1372 (July 2008).

Charter 25. Charter School Fiscal Responsibilities

§2501. Qualified and Competent Business Professional

A. Each Type 2 and Type 5 charter operator shall retain a qualified and competent business professional who shall produce all financial and accounting information and reporting required by its charter contract, state law, and this bulletin, except as otherwise provided herein.

B. The qualified and competent business professional shall meet one of the following minimum qualifications:

1. possess a baccalaureate degree with a minimum of 24 hours of business-related courses, such as accounting, finance, or management;

2. possess a certified public accountant license in Louisiana;

3. possess a master's degree in public or business administration.

C. Any applicant for a qualified and competent business professional position shall have not less than three years of work experience in a field relevant to the duties and responsibilities of a lead school business administrator. Relevant areas shall include accounting, finance, or other areas of fiscal management.

D. Continuing Education. All qualified and competent business professionals must acquire Certified Louisiana School Business Administrator (CLSBA) certification by the Louisiana Association of School Business Officials (LASBO) within seven years of the date of hire as a qualified and competent business professional and maintain certification while employed as a qualified and competent business professional. A Louisiana CPA license may be substituted for the CLSBA certification. The CPA license must remain in active status while employed as a qualified and competent business professional.

E. A qualified and competent business professional employed prior to the effective date of this bulletin shall be exempt from meeting the minimum degree and work experience requirements. The qualified and competent business professional shall be allowed seven years from the date of final adoption into law to complete the CLSBA certification or become a licensed CPA in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1372 (July 2008).

§2503. Budgeting

A. All charter operators shall comply with the provisions of the Louisiana Local Government Budget Act, R.S. 39:1301 through 1315.

B. Charter operators shall budget on a fiscal year basis, July 1 through June 30.

C. Type 4 charter operators shall annually submit a budget to the Superintendent of Education in accordance with the provisions of R.S. 17:88. Each Type 2 and Type 5 charter school shall annually submit its budget directly to the superintendent of education in accordance with deadlines established by the department.

D. Each charter operator shall submit its budget and all related documents on forms required by the department and shall comply with *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*.

1. The revenues/receipts and expenditures/disbursements in the charter operator's budget shall be listed and classified in such manner and substance as prescribed by the department, and shall detail as nearly as possible the items of expected revenue/receipts and expenditures/disbursements, the total of which shall not exceed the expected means of financing composed of the beginning fund balance, cash balances, and revenues/receipts.

2. If, during the course of the fiscal year, it becomes evident that receipts or disbursements will vary substantially from those budgeted, the charter operator shall prepare and adopt, in like form, manner, and substance, an amended budget as prescribed by the department.

E. The charter operator shall maintain records in a manner to reflect compliance with generally accepted accounting principles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1372 (July 2008).

§2505. Financial Reporting

A. Each charter operator shall submit quarterly reports to the department listing year-to-date revenues and expenditures through that quarter and budgeted revenues and expenditures for the fiscal year, using forms provided by the department and on dates specified by the department as set forth below.

Due Date	Financial Report
July 31	Annual Operating Budget Includes actual data for the prior fiscal year ending June 30 along with budgeted data for the current fiscal year starting July 1.
October 31	First Quarter Financial Report Includes budgeted data for the fiscal year along with the YTD actual data through September 30.
January 31	Second quarter Financial Report Includes budgeted data for the fiscal year along with the YTD actual data through September 30.
April 30	Third Quarter Financial Report Includes budgeted data for the fiscal Year along with the YTD actual data through March 31.
July 31	Fourth Quarter Financial Report Includes budgeted data for the fiscal Year along with the YTD actual data through June 30.

B. Each charter school will submit an annual financial report (AFR) to the department no later than September 30 of each year. The AFR shall follow the format and contain information prescribed by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1373 (July 2008).

§2507. Annual Independent Audit

A. Each charter operator shall have an annual independent audit to be conducted by a certified public accountant in accordance with R.S. 24:513 et seq., and 17:3996(F), the cost of which shall be borne by the charter operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1373 (July 2008).

§2509. Assets

A. Any assets acquired by a Type 2 or Type 5 charter operator are the property of the charter school for the duration of the charter school's charter. Any assets acquired by a Type 4 charter school are the property of the local school board.

B. Charter operators shall maintain an inventory of all assets, including records of any assets acquired with any private funds. Inventories of assets must be maintained consistent with the requirements set forth in *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*.

C. If a charter operator's charter is revoked or the school otherwise ceases to operate, all assets purchased with any public funds shall become the property of BESE. All assets purchased with private funds shall remain the property of the charter operator, if the inventory or records of the charter operator demonstrate that the assets were purchased with private funds.

D. If a charter operator fails to open a charter school and serve pupils or if the school closes for any reason, the charter school shall refund all cash on hand which can be attributed to state or local funding to the state or to BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3991, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1373 (July 2008).

Charter 27. Charter School Recruitment and Enrollment

§2701. Students Eligible to Attend

A. Type 2 Charter Schools. Students meeting residency requirements established in a Type 2 charter school's charter are eligible to attend a Type 2 charter school. A Type 2 charter school may establish residency requirements for students living within the state or may establish residency requirements restricted to a particular parish or parishes.

B. Type 4 Charter Schools. Only students who would be eligible to attend a traditional public school operated by the local school board holding the Type 4 charter or students from the same areas as those permitted to attend the preexisting school, if a conversion charter, are eligible to attend a Type 4 charter school, unless an agreement with another city or parish school board is reached to allow students from outside the parish to attend the charter school.

C. Type 5 Charter School Transferred Pursuant to R.S. 17:10.5. Students eligible to attend a Type 5 charter school transferred to the jurisdiction of the Recovery School District pursuant to R.S. 17:10.5 include those students who would have been eligible to enroll in or attend the pre-existing school under the jurisdiction of the city, parish, or other local public school board or other public school entity prior to its transfer to the recovery school district. In addition, if capacity exists, any students who are eligible to participate in a school choice program established by the prior system shall be permitted to enroll in such Type 5 charter schools which have capacity for another student in the appropriate grade.

D. Type 5 Charter School Transferred Pursuant to R.S. 17:10.7. Students eligible to attend a Type 5 charter school transferred to the jurisdiction of the recovery school district

include any student eligible to attend any school in the system from which the school was transferred. Students eligible to attend such Type 5 charter schools may be required to reside in a designated attendance zone, as set forth in a charter school's approved charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, R.S. 17:10.5, R.S. 17:10.7, and R.S. 17:1990.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1373 (July 2008).

§2703. Enrollment Capacity

A. A charter school shall not enroll more than 120 percent of the total number of students that it is authorized to enroll pursuant to its approved charter.

B. In determining the enrollment permitted in each school year, a charter school shall determine the enrollment authorized in its approved charter with respect to the individual school year. Charter schools are not authorized to a cumulative 20 percent increase in each year of its approved charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008).

§2705. Admission Requirements

A. A Type 2 and Type 4 charter school may have admission requirements that are consistent with the school's role, scope, and mission.

B. Admission requirements imposed by a Type 2 or Type 4 charter school must be set forth in the charter school's approved charter and shall be specific and shall include a system for admission decisions which precludes exclusion of pupils based on race, religion, gender, ethnicity, national origin, intelligence level as ascertained by an intelligence quotient examination, or identification as a child with an exceptionality as defined in R.S. 17:1943(4). Such admission requirements may include, however, specific requirements related to a school's mission such as auditions for schools with a performing arts mission or achievement of a certain academic record for schools with a college preparatory mission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008).

§2707. Application Period

A. Prior to each school year, a charter school shall establish a designated student application period.

B. A student application period shall not be less than one month nor more than three months and shall not commence prior to January 1 of the school year immediately preceding the school year for which the applications are being accepted.

C. Type 5 charter schools shall comply with any unified application period set by the recovery school district, as approved by BESE.

D. An application shall be considered timely if it is submitted during the charter school's designated application period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008).

§2709. Enrollment of Students, Lottery, and Waitlist

A. Each student submitting a timely application and meeting all residency requirements and admission requirements, as applicable, shall be considered eligible to enroll in a charter school.

B. A charter school shall enroll all eligible students unless the total number of eligible applicants exceeds the capacity of a program, class, grade level, or school.

C. A charter school shall admit no pupil during the school's designated application period, but shall wait until the period has ended.

D. At the conclusion of a charter school's designated application period, it shall determine if fewer eligible applicants have applied than the maximum number of students that the school can admit.

1. If fewer eligible applicants have applied than the maximum number of students that the school can admit to a program, a grade level, or the school, all eligible students shall be admitted.

2. If the total number of eligible students exceed the capacity of a program, a grade level, or the school, applicants shall be admitted based on an admissions lottery from among the total number of eligible applicants.

a. A charter school shall use a lottery for the selection of students in order to reach its maximum capacity and to determine the order in which students will be placed on a waitlist.

E. Following the admission of applicants after a determination that the number of applicants did not exceed the capacity of a program, a class, or the school, the charter school may continue to accept applications and admit eligible students in the order in which applications are received until maximum capacity is reached.

F. A charter school's lottery and continued admission of applicants, following a determination that a lottery is not required at the conclusion of the student application period, shall be performed in such a fashion that assures compliance with all at-risk student population requirements. Nothing herein shall preclude the implementation of a weighted lottery to ensure all at-risk student population requirements are met.

G. A charter school shall maintain a waitlist of applicants not admitted to the charter school as a result of capacity being reached in a program, a grade, or the school.

1. Applicants shall be placed on the waitlist in the order in which they were selected in the charter school's lottery or in the order in which they applied if the application was submitted following the school's application period.

2. If an opening occurs at a charter school, selection from the waitlist shall begin with the first applicant on the waitlist.

H. A charter school shall maintain its waitlist throughout each school year. Any student admitted to the school must be an applicant on the waitlist, if a waitlist exists for the respective program, grade or school.

I. The charter school shall repeat the student admission process described in this Section each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008).

§2711. Lottery Exemptions

A. Students seeking enrollment to a charter school that was created through the conversion of a pre-existing school shall be exempt from a lottery and shall be automatically admitted following the charter school's application period.

B. In a charter school's second year of operation and thereafter, students previously enrolled in the charter school and their siblings shall be exempt from a lottery, and shall maintain enrollment or be automatically admitted following the charter school's application period.

C. Students seeking enrollment to a Type 5 charter school that is assigned a facility formerly occupied by a pre-existing public school may be exempt from a lottery and may be automatically admitted following the charter school's application period, if authorized in the charter operator's charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1375 (July 2008).

§2713. At-Risk Students

A. Except as otherwise provided by Charter School Law, Type 2 charter schools created as new schools shall maintain an at-risk student population percentage, based on the October 1 pupil membership count, that is equal to the percentage of students eligible for the federal free or reduced lunch program in the district in which the charter school is located or the average of districts from which students served by the charter school reside.

1. The charter school's at-risk population shall consist of 85 percent of students who are eligible for the federal free and reduced lunch program and thus defined as at-risk pursuant to §103.B.1 of this bulletin.

2. The remaining 15 percent of a charter school's at-risk population may consist of at students defined as at-risk in §103.B.1 through §103.B.6 of this bulletin.

B. A charter school's required at-risk percentage, based on the percentages of a city or parish school system, shall remain fixed during the term of its approved charter at the percentage which existed during the school year that the charter proposal was approved, unless otherwise specified in the charter that the charter school will reflect the current year's at-risk percentage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) R.S. 17:3973, R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1375 (July 2008).

Chapter 29. Charter School Staff

§2901. Employment of Staff

A. Each charter operator may employ faculty and staff members as it deems necessary.

B. All potential charter school employees shall be notified of the specific benefits they will be offered, as specified in the charter operator's charter.

C. The charter operator shall have exclusive authority over all employment decisions at the charter school, unless delegated to a for-profit management organization, as authorized in law and which must be specifically provided for in a service provider agreement.

D. The provisions of any collective bargaining agreement entered into by the local school board in whose jurisdiction the charter school is located shall apply to a Type 2 or Type 4 charter operator unless its approved charter

provides otherwise. A charter operator may select to not be subject to such a collective bargaining agreement in its charter.

E. A Type 5 charter operator may bargain and enter into a collectively bargained contract on behalf of all or any group of its employees.

F. The employees in Type 4 charter schools are in all respects employees of the local school board entering into the charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) R.S. 17:3973, R.S. 17:3981, and R.S. 17:3997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1375 (July 2008).

§2903. Certification

A. Each Type 2 and Type 4 charter operator shall meet the following requirements with respect to certification of its instructional staff:

1. A minimum of seventy-five percent of the instructional staff of each Type 2 and Type 4 charter operator shall consist of employees holding valid certificates issued by the department or the French Ministry of Education.

2. The remaining 25 percent of a charter operator's instructional staff shall consist of employees meeting at least one of the following requirements:

a. be authorized under law or BESE regulation to teach temporarily while seeking a regular teaching certificate; or

b. have at least a bachelor's degree or 10 years of experience related to the teaching position for which he or she is being hired, demonstrate exemplary skills in his field of expertise, and be providing instruction under the supervision of a certified teacher.

i. Each charter operator shall have the authority to make a determination with respect to the qualifications of any individual who applies for employment under this subparagraph.

B. Each Type 5 charter operator shall meet the following requirements with respect to certification of its instructional staff.

1. Beginning no later than the second school year of operation, each Type 5 charter operator shall have not less than the same percentage of teachers holding valid certificates issued by the department than was the case prior to the school's transfer to the recovery school district.

2. Beginning no later than the third school year of operation, each Type 5 charter operator shall have a teacher holding a valid certificate issued by the department teaching every core subject.

3. All other instructional staff employed in a Type 5 charter school shall meet the same requirements as provided §2903.A.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1375 (July 2008).

§2905. Criminal History Review

A. Each charter operator shall request in writing that the Louisiana Bureau of Criminal Identification (LBCI) and Information supply information to ascertain whether an applicant for employment as a teacher, substitute teacher, bus driver, substitute bus driver, janitor, or any other school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over

school children, has been convicted of, or pled *nolo contendere* to, any one or more of the crimes enumerated in R.S. 15:5871.1.

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

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

3. A person who has submitted his or her fingerprints to the LBCI may be temporarily hired pending the report from the LBCI as to any convictions of, or pleas of *nolo contendere* to, by the person to a crime listed in R.S. 15:5871.

B. No person who has been convicted of or has pled *nolo contendere* to a crime listed in R.S. 15:587.1. shall be hired by a public elementary or secondary school as a teacher, substitute teacher, bus driver, substitute bus driver, janitor, or as any school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children unless approved in writing by a district judge of the parish and the parish district attorney.

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

2. Not later than 30 days after its being placed on file by the school, the charter operator shall submit a copy of the statement of approval to the Department Charter School Office.

C. The charter operator shall dismiss any teacher or any other school employee having supervisory or disciplinary authority over school children, if such teacher or other employee is convicted of, or pled *nolo contendere* to, any crime listed in R.S. 15:587.1(c) except R.S. 14:74.

D. A charter operator may reemploy a teacher or other school employee who has been convicted of, or pled *nolo contendere* to, a crime listed in R.S. 15:587.1(c), except R.S. 14:74, only upon written approval of the district judge and the district attorney of the parish or upon written documentation from the court in which the conviction occurred stating that the conviction has been reversed, set aside, or vacated.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1375 (July 2008).

§2907. Leave of Absence

A. Any employee of a local public school system shall, upon request, be granted a leave of absence in order to be employed in a charter school. The leave of absence shall not exceed three years.

B. Each employee granted a leave of absence shall retain the right to return to employment with the local public school system in accordance with law.

1. At the end of the second year of a leave of absence as provided in this Section, an employee may make a written request to the local school board to return to the school system to a comparable position from which the leave was granted. Upon such request, the employee shall be permitted to return to a comparable position, even if such return necessitates a reduction in force by the local school system board, in accordance with the provisions of R.S. 17:81.4.

2. At the end of the third year of leave as provided in this Section, an employee shall either make a written request to the local school board to return to the school system in a comparable position, if one is available, or resign from the position from which the leave was granted. Any employee requesting to return to the local public school system in a comparable position shall be permitted to return to a position, even if such return necessitates a reduction in force by the local school board, in accordance with the provisions of R.S. 17:81.4.

C. The local public school system may require that any request to return to the local school system be made at least 90 days before the employee would otherwise have to report for duty.

D. Any teacher returning to a local public school system as provided in this Section shall retain permanent status gained in the local school system prior to the authorized leave, even if the teacher is terminated by the charter school.

E. Upon the return of an employee to the local public school system, such employee shall not lose any right of retirement or salary status or any other benefits to which the employee would have been entitled had he not taken a leave of absence to teach in a charter school.

F. Each local school board shall permit any employee granted leave as provided in this Section to continue to participate in any group insurance program in which he was otherwise entitled to participate subject to the same conditions and costs.

G. For the duration of leave granted as provided in this Section, an employee on leave shall contribute to and be eligible for continued membership in the school employees' and teachers' retirement systems, and service time shall accrue toward retirement benefits. Service time while employed by a charter school shall not accrue toward the acquisition of permanent status.

H. The provisions of this Section shall not apply to employees of a Type 4 charter school, as such employees employed by a Type 4 charter school shall be employees of the local school board entering into the charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1376 (July 2008).

§2909. Employee Benefits

A. All potential charter school employees shall be notified of the specific benefits they will be offered, as specified in the charter operator's charter.

B. Except as provided in this Section with respect to employees on an approved leave of absence from a local school board, charter school employees shall be eligible for

participation in any or all benefits which would otherwise accrue to employees in any other elementary or secondary school including, but not limited to, the school employees' and teachers' retirement systems, subject to the school's approved charter, which must provide for such participation.

C. With regard to participation in the public retirement systems:

1. the compensation that the teacher or school employee would have received if employed by the local public school system shall be used to determine employee and employer contribution levels of the respective retirement systems;

2. any compensation paid to a teacher or school employee which exceeds the salary that would have been received if employed by the local school system shall not be deemed as compensation solely for the purpose of the calculation of future retirement benefits.

D. As employees of the local school board holding the charter, the employees in Type 4 charter schools shall be entitled to the benefits, and be subject to conditions of employment, as prescribed by the local school board within the charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1376 (July 2008).

§2911. Evaluation and Assessment

A. Each charter operator may determine whether the members of the faculty and staff of the school are going to participate in any assessment and evaluation program required by the state, including the teacher assistance and assessment program pursuant to the Children First Act.

B. For those charter operators choosing not to participate in the teacher assistance and assessment program, three years of successful teaching within the charter school shall be deemed to meet the provisions of R.S. 17:3891, which require the successful completion of the teacher assistance and assessment program in order to obtain or retain a regular teacher certificate. However, such regular teacher certificate is only valid for teaching within a charter school, and any teacher with such certificate hired to teach in a public school other than a charter school shall be required to successfully complete the teacher assistance and assessment program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1377 (July 2008).

Chapter 31. Notification Requirements

§3101. Required Notifications

A. The charter operator shall notify BESE and/or the Department of Education Charter School Office of any conditions that may cause it to vary from the terms of its charter, state law, or BESE policy.

B. The charter operator shall notify BESE and/or the Department of Education Charter School Office of any circumstance requiring the closure of the charter school including, but not limited to, a natural disaster, such as a hurricane, tornado, storm, flood or other weather related event; other extraordinary emergency; or destruction of or damage to the school facility.

C. The charter operator shall notify BESE and/or the Department of Education Charter School Office of the arrest of any members of the Charter School's Board of Directors, employees, contractors, subcontractors, or any person directly or indirectly employed by the charter operator for a crime listed in R.S. 15:587.1(C) or any crime related to the misappropriation of funds or theft.

D. The charter operator shall notify BESE and/or the Department of Education Charter School Office of a default on any obligation, which shall include debts for which payments are past due by 60 days or more.

E. The charter operator shall notify BESE and/or the Department of Education Charter School Office of any change in its standing with the Office of the Louisiana Secretary of State.

F. The charter operator shall immediately notify BESE and/or the Department of Education Charter School Office if its enrollment decreases by 10 percent or more compared to the most recent pupil count submitted to the Department of Education and/or BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1377 (July 2008).

Chapter 33. Complaint Procedures

§3301. Charter Operator Complaint Procedure

A. Each charter operator shall maintain a complaint procedure through which parents, guardians, or other individuals or groups can appeal to the nonprofit corporation board of directors to address any issues or problems such individuals seek redress to.

B. Charter operator complaint procedures should, at a minimum, address any forms that must be completed by a complainant, the progression of a complaint, and the timeframes for consideration and action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1377 (July 2008).

Chapter 35. Volunteer Requirements

§3501. Volunteer Programs

A. Any charter school volunteer program that requires parents to commit a certain number of volunteer hours shall be subject to a waiver process.

B. A charter operator shall not condition the enrollment of any student on the commitment of the student's parents to provide any number of volunteer hours, to donate volunteer hours to the charter school, or to pay a fee in lieu of volunteer hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1377 (July 2008).

Weegie Peabody
Executive Director

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RULE

Board of Elementary and Secondary Education

Bulletin 128—Entrepreneurship Content Standards Curriculum Framework (LAC 28:CXLIII.Chapters 1-5)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted *Bulletin 128—Entrepreneurship Content Standards Curriculum Framework*. Bulletin 128 will be printed in codified format as Part CXLIII of the Louisiana Administrative Code. This action has been taken to up-date Career and Technical course offerings. In updating these courses offerings our Career and Technical program of studies will be more aligned with national standards.

Louisiana has a rich history of business ownership and commerce. From its very beginning, trade and exchange of goods and services made the state prosperous. In an effort to continue this heritage, the entrepreneurship curriculum was born. Louisiana loses its best and brightest young people to other states as they look for jobs and careers unavailable to them in Louisiana. Entrepreneurship is one of the keys to prosperity for those young adults, and it is the purpose of this curriculum to provide them with the knowledge necessary to pursue business ownership.

A variety of business courses have been taught in Louisiana public high schools that touched on entrepreneurship, but no standardized entrepreneurship curriculum existed. The mission of this effort was to funnel into one comprehensive curriculum the management, marketing, and financial theory and practices necessary for entrepreneurial success. Throughout the development process, significant efforts were made to maintain the rigor essential for articulation of this course into credit hours at either a two- or four-year post secondary institution.

Title 28 EDUCATION

Part CXLIII. Bulletin 128—Entrepreneurship Content Standards Curriculum Framework

Chapter 1. General Provisions

§101. Introduction

A. The entrepreneurship curriculum:

1. attracts high school students to investigate entrepreneurship as a viable career option and addresses the dilemma of losing our high school and college graduates to other states for jobs;

2. offers a standards-based curriculum. Entrepreneurship is aligned with the Louisiana grade level expectations and the Consortium for Entrepreneurship Education's National Content Standards for Entrepreneurship Education;

3. serves as a recruitment and retention tool for Louisiana's two- and four-year colleges and universities through articulation agreements;

4. provides structured practical experiences. Entrepreneurship students participate in a vendor fair within a school-based environment helping to prepare them for the economic realities in the marketplace.

B. The goal of entrepreneurship is to encourage our students to stay in Louisiana after high school or college and begin their careers by building their own businesses, thus improving the economy of the state. In order to realize this

goal, we must begin to make students aware of entrepreneurship and its possibilities, and provide the tools necessary for all our students to achieve success.

C. Following are some particulars that should be noted in the entrepreneurship curriculum.

1. All lessons shall be taught in their entirety and in the order they are presented in the curriculum. The lessons are listed in a logical order designed for information flow from one lesson to the next.

2. One outcome of the entrepreneurship curriculum will be the development of a completed business plan for the student's chosen product or service.

3. The first three lesson plans (Unit 1, Lessons A, B, and C) are informational and must be covered by the teacher and explained to the student at the beginning of the course. These lessons cover course requirements in regard to the portfolio construction, outline of the business plan, and the student market (held at year's end).

4. Additional teaching lessons have been added to assist technical education teachers in the instruction of entrepreneurship relative to their respective fields. These additional lessons can be used in conjunction with the curriculum or as a stand alone unit in an existing course.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1378 (July 2008).

Chapter 3. Strands, Standards, Benchmarks, and Objective

§301. Strand One: Traits and Characteristics

A. Focus. Entrepreneurs typically exhibit certain traits that set them apart from others. This strand focuses on those personal characteristics that are important—both now as students and as working adults in a knowledge-based economy.

B. Standard 1. Students will identify personal characteristics associated with entrepreneurs.

Benchmark 1-A. Identify Personality Traits of Successful Entrepreneurs	
1-A-1	Demonstrate ethical work habits
1-A-2	Demonstrate creativity
1-A-3	Exhibit enthusiasm for goal attainment

Benchmark 1-B. Identify and Use Team-Building Strategies	
1-B-1	Share authority appropriately
1-B-2	Be sensitive to feedback and use it to understand yourself
1-B-3	Cultivate mentoring relationships with individuals in their entrepreneurial areas

Benchmark 1-C. Demonstrate the Importance of Entrepreneurship in the Economy	
1-C-1	Define entrepreneurs
1-C-2	Explain what entrepreneurs do
1-C-3	Describe opportunities that led to the development of successful entrepreneurial endeavors

Benchmark 1-D. Identify Long-Term Goal and Short-Term Objective for Self-Improvement	
1-D-1	Recognize and apply criteria for self-development
1-D-2	Explain the meaning of self-esteem
1-D-3	Explain the impact of conflict between real-life experiences and a person's self image

Benchmark 1-D. Identify Long-Term Goal and Short-Term Objective for Self-Improvement	
1-D-4	Confront the reality of mistakes or failures and at the same time maintain self-esteem
1-D-5	Visualize improvements in their personality that will allow them to reach their full potential
1-D-6	Develop plans for achieving self-improvement goals and objectives

Benchmark 1-E. Recognize Ideas and Methods Needed for Professional Development	
1-E-1	Explore career opportunities in business and entrepreneurship based on current/future economy
1-E-2	Identify and utilize sources for career information
1-E-3	Utilize resources that can contribute to professional development (e.g., trade journals, professional trade associations, seminars, trade shows, mentors, etc.)

C. Standard 2. Students will examine thought processes and behaviors associated with entrepreneurship.

Benchmark 2-A. Use the Decision-Making Process to Develop a Career Plan	
2-A-1	Explain the decision making process

Benchmark 2-B. Recognize Effective Time-Management Strategies	
2-B-1	Discuss the benefits of time management strategies

Benchmark 2-C. Identify Business Etiquette	
2-C-1	Discuss the importance of etiquette
2-C-2	Distinguish between appropriate and inappropriate etiquette

Benchmark 2-D. Assess the Opportunities for a New Business	
2-D-1	Demonstrate an understanding of entrepreneurial discovery
2-D-2	Describe idea generation
2-D-3	Generate venture ideas
2-D-4	Determine feasibility of ideas

Benchmark 2-E. Examine Financing Opportunities	
2-E-1	Determine and assess the opportunities for venture creation
2-E-2	Define start
2-E-3	Compare the relationship of financing to other entrepreneur functions
2-E-4	Discuss the importance of building financial relationships
2-E-5	Compute the cost of credit
2-E-6	Compute the cost of extending credit

Benchmark 2-F. Develop Exit Strategies	
2-F-1	Explain the need for continuation planning
2-F-2	Describe methods of venture harvesting

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1378 (July 2008).

§303. Strand Two: Essential Skills

A. Focus. Essential skill sets are necessary for start-up and management of a successful business. This strand focuses on the student's ability to understand and effectively analyze various business concepts. In addition, it reinforces the importance of developing communication and interpersonal skills.

B. Standard 3. Students will understand and analyze effective business decision-making concepts.

Benchmark 3-A. Examine Entrepreneurial Functions and Their Economic Impact	
3-A-1	Research the role of business in society
3-A-2	Classify the types of business activities

Benchmark 3-B. Evaluate Management Concepts	
3-B-1	Describe crucial elements of a quality culture/continuous quality improvement
3-B-2	Describe the role of management in the achievement of quality
3-B-3	Identify and compare the types of business ownership
3-B-4	Explain opportunities for creating added value
3-B-5	Determine issues and trends in business
3-B-6	Describe the need for and impact of ethical business practices

C. Standard 4. Students will understand and demonstrate basic communication and interpersonal skills.

Benchmark 4-A. Apply the Components of Effective Written and Oral Communication	
4-A-1	Apply effective persuasive techniques
4-A-2	Deliver oral presentations
4-A-3	Demonstrate procedures for following informational messages/ instructions
4-A-4	Demonstrates an understanding of ethics in communication

Benchmark 4-B. Demonstrate the Elements Essential to Interpersonal Communication	
4-B-1	Explain stress management
4-B-2	Demonstrates procedures for conducting meetings
4-B-3	Demonstrate problem solving and conflict resolution skills
4-B-4	Demonstrates ways to show empathy
4-B-5	Utilize negotiation skills
4-B-6	Demonstrate appropriate assertiveness
4-B-7	Demonstrate an understanding of customer relations

D. Standard 5. Students will comprehend basic technology concepts.

Benchmark 5-A. Compare/Contrast Ways Entrepreneurs Use Technology	
5-A-1	Discuss the Internet as a business opportunity
5-A-2	Explain the nature of e-commerce
5-A-3	Discuss electronic training

E. Standard 6. Students will examine and apply basic financial concepts.

Benchmark 6-A. Examine Economic Indicators	
6-A-1	Explain the concept of economic relations
6-A-2	Explain the principle of supply and demand and opportunity cost
6-A-3	Analyze forms of economic utility

Benchmark 6-B. Analyze The Concepts of Labor and Productivity	
6-B-1	Explain the concept of organized labor and business
6-B-2	Explain economic indicators
6-B-3	Examine cost/profit relation

F. Standard 7. Students will use basic personal money management skills, procedures, and strategies.

Benchmark 7-A. Develop a Money Management System	
7-A-1	Determine ways to establish/enhance credit worthiness
7-A-2	Explain forms of financial exchange

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1379 (July 2008).

§305. Strand Three: Business Functions

A. Focus. Business functions tie entrepreneurial endeavors together. This strand focuses on several different but equally important areas of business, including financial management, human resource management, and the marketing of goods and services.

B. Standard 8: Students will identify and analyze concepts and practices needed to make sound financial decisions.

Benchmark 8-A. Compare the Relationship of Financial Activity to Long-Term Business Success	
8-A-1	Identify the various financing activities
8-A-2	Understand the need for developing financing relationships
8-A-3	Identify and compare types of financing

C. Standard 9. Students will develop and use financial records.

Benchmark 9A. Identify the Processes Involved in an Accounting System	
9-A-1	Identify problems that may arise from poor record keeping
9-A-2	Record journal entries
9-A-3	Prepare an aging table
9-A-4	Complete a bank reconciliation
9-A-5	Identify payroll taxes to be deducted
9-A-6	Complete a payroll register
9-A-7	Create an income statement
9-A-8	Create a cash flow statement
9-A-9	Create a balance sheet

D. Standard 10. Students will understand the function of human resource management.

Benchmark 10-A. Examine the Process of Staffing an Organization	
10-A-1	Identify and understand the laws and regulations which affect the process of staffing organizations
10-A-2	Understand organizational structure
10-A-3	Understand the staffing process by preparing job descriptions
10-A-4	Understand the staffing process by developing recruiting ads
10-A-5	Identify staffing needs
10-A-6	Understand the screening process of applicants
10-A-7	Understand employee compensation

E. Standard 11. Students will understand and apply the concepts, processes, and systems needed to develop and market goods or services.

Benchmark 11-A. Generate, Assess, and Select Product/Service Ideas	
11-A-1	Perform a basic SWOT (strengths, weaknesses, opportunities, threats) analysis
11-A-2	Identify the target market
11-A-3	Identify appropriate research methods
11-A-4	Research and analyze the needs, wants, and expectations of that target market
11-A-5	Research product's ability to meet those needs, wants, and expectations
11-A-6	Identify and perform a basic SWOT analysis of competitors
11-A-7	Determine our competitive advantage and how we better satisfy the needs of customers
11-A-8	Identify strategies for addressing weaknesses and threats revealed through the SWOT analysis
11-A-9	Create a product/service mix
11-A-10	Choose product name for product created

Benchmark 11-B. Develop Strategies for Marketing Goods or Services	
11-B-1	Build brand/image for product created
11-B-2	Create a customer survey to evaluate customer experience
11-B-3	Explain the concept of marketing strategies
11-B-4	Set a marketing budget
11-B-5	Develop marketing plan
11-B-6	Monitor and evaluate performance of marketing plan
11-B-7	Describe the elements of the promotional mix
11-B-8	Write a news release
11-B-9	Select sales promotion options
11-B-10	Develop online promotions (www)
11-B-11	Evaluate effectiveness of advertising
11-B-12	Calculate advertising media costs
11-B-13	Select advertising media
11-B-14	Prepare a promotional budget
11-B-15	Develop promotional plan for a business
11-B-16	Obtain publicity
11-B-17	Write sales letters
11-B-18	Explain factors affecting pricing decisions
11-B-19	Describe the role of business ethics in pricing
11-B-20	Establish pricing objective
11-B-21	Select pricing strategies
11-B-22	Set prices
11-B-23	Calculate breakeven point
11-B-24	Adjust prices to maximize profitability
11-B-25	Establish relationship with client/customer
11-B-26	Determine customer/client needs
11-B-27	Understand steps in selling process
11-B-28	Train staff to support sales efforts
11-B-29	Identify factors to consider when selecting a business site
11-B-30	List sources of information for site selection
11-B-31	Create a floor plan for a selected business

F. Standard 12. Students will demonstrate and evaluate the skills required for the daily operation of a business.

Benchmark 12-A. Develop an Inventory Model	
12-A-1	Identify factors that affect inventory cost
12-A-2	Identify types of inventory systems
12-A-3	Determine how inventory will be managed for a selected business

Benchmark 12-B. Evaluate Operational Policies and Procedures	
12-B-1	Demonstrate procedures for interpreting business policies
12-B-2	Identify policies and procedures needed in a business

G. Standard 13. Students will analyze the information necessary for risk management.

Benchmark 13-A. Determine Ways That Small Businesses Protect Themselves against Loss	
13-A-1	Describe the types of business risk
13-A-2	Determine ways that small businesses protect themselves against loss
13-A-3	Develop security and safety policies/procedures
13-A-4	Understand the types of business insurance
13-A-5	Develop strategies for legal/government compliance

Benchmark 13-B. Explore Options Available to Protect Intellectual Property Rights	
13-B-1	Identify sources of legal advice and address ways to protect intellectual property rights

H. Standard 14. Students will understand how to strategically manage a business.

Benchmark 14-A. Develop and Implement a Business Plan	
14-A-1	Distinguish between a vision statement and a mission statement
14-A-2	Write a vision statement and a mission statement
14-A-3	Write clear goals and objectives
14-A-4	Conduct a SWOT analysis
14-A-5	Develop action plans
14-A-6	Understand the functions of a business plan
14-A-7	Understand how to re-evaluate a business plan
14-A-8	Develop an exit or harvest strategy for a business

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1380 (July 2008).

Chapter 5. Curriculum Correlations

§501. Correlation of Grade Level Expectations with Entrepreneurship Curriculum

Lesson	Grade 9	Grade 10	Grades 11, 12	Completed
Unit 1 Lesson A Setting Up Your Portfolio	35	38	33	
Unit 1 Lesson B Functions of a Business Plan	35	38	33	
Unit 1 Lesson C Timeline for the Student Market	4, 11, 12, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 43	4, 5, 11, 12, 15, 16, 17, 18, 20, 34, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 46	1, 4, 10, 13, 14, 16, 17, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33	
Unit 1 Lesson 1 Entrepreneurial Processes	1, 4, 5, 11, 12, 14, 16, 18, 19, 21, 22, 23, 24, 25, 26	4, 5, 11, 12, 15, 16, 17, 20, 24, 25, 26, 27, 28, 29, 36, 47	1, 3, 10, 13, 17, 18, 21, 22, 23, 24	
Unit 1 Lesson 2 Our Entrepreneurial	4, 6, 10, 11, 14, 25, 26	4, 5, 11, 25, 26, 27, 28, 29, 39	10, 13, 14, 23, 34, 35, 36, 41	

Lesson	Grade 9	Grade 10	Grades 11, 12	Completed
Heritage	35, 36, 37, 38, 39, 42	40, 42, 46		
Unit 2 Lesson 3 Self Esteem	11, 12, 15, 22, 23, 24, 25, 26	4, 6, 9, 11, 19, 23, 24, 25, 36, 27, 28, 29, 33, 46	4, 15, 17, 21, 22, 23, 24	
Unit 2 Lesson 4 Making Decisions	4, 12, 14, 29, 35	4, 11, 15, 38, 41, 46	17, 21, 24, 33	
Unit 2 Lesson 5 Time Management	1, 12, 14, 25, 27, 30, 35	12, 15, 27, 29, 38, 40, 44	10, 13, 41	
Unit 2 Lesson 6 Business Etiquette	5, 12, 27, 29, 30, 34	31, 32, 33, 34, 35, 36, 37, 38	25, 26, 27, 28, 29, 30, 31, 32, 33, 41	
Unit 3 Lesson 7 The Global Business	4, 5, 11, 14, 15, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37, 41, 43	1, 2, 4, 5, 6, 11, 15, 16, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34	1, 2, 3, 10, 13, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 29, 34, 35, 36, 37, 38	
Unit 3 Lesson 8 Venture Creation	1, 11, 12, 14, 15, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40	1, 11, 12, 15, 16, 31, 32, 33, 34, 36, 38, 39, 40, 42, 46	1, 3, 7, 10, 13, 14, 17, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37, 40, 41	
Unit 3 Lesson 9 Business Ideas	1, 4, 6, 11, 12, 14, 15, 21, 22, 23, 24, 25, 26, 29, 37, 38, 39, 41, 42, 43	1, 9, 11, 12, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 35, 37, 39, 40, 41, 42, 44, 46	1, 7, 10, 13, 15, 16, 17, 18, 21, 22, 23, 24, 27, 30, 32, 33, 36, 39, 40, 41	
Unit 4 Lesson 10 Why Do We Need a Plan?	11, 12, 14, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 42, 43	1, 4, 10, 12, 17, 25, 26, 27, 28, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 40, 41, 42, 46	10, 15, 16, 19, 21, 22, 23, 24, 25, 26, 29, 31, 34, 37, 38, 40, 41	
Unit 4 Lesson 11 Credit and Your Business	27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42	30, 32, 33, 34, 36, 37, 38	10, 13, 17, 25, 26, 27, 29, 30, 31, 32, 33, 35, 36, 37	
Unit 5 Lesson 12 Start-up Costs	11, 14, 29, 35, 36, 37, 38, 42, 43	5, 11, 30, 31, 32, 38, 39, 40, 42, 46	3, 10, 13, 23, 26, 28, 29, 31, 33, 34, 36, 41	
Unit 5 Lesson 13 Building	1, 6, 11, 12, 14	1, 4, 5, 11, 12, 16, 25	1, 3, 10, 13, 20, 21, 22, 23, 24	

Lesson	Grade 9	Grade 10	Grades 11, 12	Completed
Financial Relationships	15, 18, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 37, 38, 39, 41, 42, 43,	26, 27, 28, 29,30, 31, 32, 33, 34, 35, 36, 38, 39,40, 41, 42, 43, 44, 46	25, 26, 27, 28, 30, 31, 33, 34, 35, 37, 38, 39, 40, 41	
Unit 5 Lesson 14 Organized Labor	18, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 37, 38, 39, 41, 42, 43,	1, 4, 5, 11, 12, 16, 25, 26, 27, 28, 29,30, 31, 32, 33, 34, 35, 36, 38, 39,40, 41, 42, 43, 44, 46	1, 3, 10, 13, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 33, 34, 35, 37, 38, 39, 40, 41	
Unit 5 Lesson 15 Pricing	1, 4, 5, 11, 12, 14, 21, 22, 23, 24, 25, 26, 35, 36, 38, 39, 40, 41, 43	1, 4, 11, 12, 15, 24, 25, 26, 27, 28, 29, 38, 39, 40, 41, 42, 43, 44, 45, 46	1,3, 4, 10, 13, 20, 21, 22, 23, 24, 33, 36, 37, 38, 40, 41	
Unit 6 Lesson 16 Site Selection and Layout	1, 5, 12, 14, 35, 36, 37, 38, 39, 40, 41, 42, 43	1, 5, 11, 12, 38, 39, 40, 41, 42, 43, 44, 45, 46	1, 3, 10, 13, 20, 33, 34, 35, 36, 37, 38, 39, 40, 41	
Unit 6 Lesson 17 Inventory Management	1, 4, 12, 14, 22, 23, 24, 25, 26, 35, 37, 39, 41, 42, 43	1, 4, 5, 11, 12, 15, 24, 25, 26, 27, 28, 29, 38,39, 40, 41, 42, 44, 45, 46	1, 3, 10, 13, 17, 21, 22, 23, 24, 33, 34, 35, 36, 37, 38, 39, 40, 41	
Unit 6 Lesson 18 Operating Procedures	1, 15, 21, 22, 23, 24, 25, 26	1, 15, 16, 24, 25, 26, 27, 28, 29	1, 10, 21, 22, 23, 24, 33, 39, 40	
Unit 6 Lesson 19 Risky Business	1, 4, 5, 11, 12, 14, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30	1, 11, 15, 24, 25, 26, 27, 28, 29, 38	1, 21, 22, 23, 24, 33, 41	
Unit 6 Lesson 20 Security and Safety in Business	1, 4, 5, 11, 12, 14, 15, 19, 21, 22, 23, 24, 25, 26, 30, 33, 35, 37, 41, 42	1, 4, 11, 15, 16, 21, 25, 26, 27, 28, 29, 42, 44, 46	1, 3, 4, 10, 13, 19, 21, 22, 23, 24, 33,34, 35, 36, 37, 39, 40, 41	
Unit 6 Lesson 21 Business Insurance	1, 4, 5, 11, 12, 14, 15, 21, 23, 24, 25, 26, 27, 29, 37, 38, 39, 41, 42, 43	1, 4, 5, 11, 12, 15, 16, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 38, 39, 40, 41, 44, 46	1, 3, 4, 10, 13, 20, 21, 28, 29, 30, 30, 31, 32, 33, 34, 35, 38, 39, 40, 41	

Lesson	Grade 9	Grade 10	Grades 11, 12	Completed
Unit 6 Lesson 22 Governmental Compliance	1, 4, 5, 11, 12, 14, 21, 22, 23, 24, 25, 26, 36, 37, 38, 39, 42, 43	1, 4, 5, 11, 12, 15, 25, 26, 27, 28, 29, 40,	1, 3, 10, 13, 21, 22, 23, 24, 33, 35, 36, 37, 40	
Unit 6 Lesson 23 Protecting Intellectual Rights	1, 4, 5, 11, 12, 14, 21, 22, 23, 24, 25, 26, 36, 37, 38, 39, 42, 43	1, 4, 5, 11, 12, 15, 25, 26, 27, 28, 29, 40	1, 3, 10, 13, 21, 22, 23, 24, 33, 35, 36, 37, 40	
Unit 6 Lesson 24 Personal Mission	1, 11, 12, 14, 15, 21, 22, 23, 24, 25, 26,29, 35, 36, 37, 37, 41	1, 4, 5, 11, 12, 15, 16, 24, 25, 26, 27, 28, 29, 38, 40,41, 44	1, 3, 4, 10, 13, 20, 21, 22, 23, 24, 33, 34, 35, 39	
Unit 6 Lesson 25 SWOT Analysis	1, 4, 11, 12, 14, 28, 29, 30, 33, 35,35, 36, 41, 43	1, 4, 5, 11, 12, 15, 30, 31, 32, 33, 38, 46	1, 3, 10, 13, 19, 20, 25, 26, 27, 28, 33, 35, 36, 38, 41	
Unit 6 Lesson 26 Exit Strategies	1, 4, 5, 11, 12, 14, 15, 19, 21, 22, 23, 24, 25, 26, 30, 33, 35, 37, 41, 42	1, 4, 11, 15, 16, 21, 25, 26, 27, 28, 29, 30, 38, 45, 46	1, 3, 4, 10, 13, 19, 21, 22, 23, 24, 33,34, 35, 36, 37, 39, 40, 41	
Unit 7 Lesson 27 Productivity and Your Business	1, 5, 6, 11, 12, 14, 15, 22, 23, 24, 25, 26, 35, 41	1, 6, 11, 15, 16, 21, 25, 26, 27, 28, 29, 32, 33, 38, 44	1, 3, 10, 13, 21, 22, 23, 24, 25, 32, 33, 39.	
Unit 7 Lesson 28 Cost Profit Relation	1, 11, 12, 14, 35	1, 4, 5,11, 12, 15, 38	1, 3, 10, 13, 35	
Unit 7 Lesson 29 Credit Worthiness	1, 11, 12, 14, 35	1, 4, 5,11, 12, 15, 38	1, 3, 10, 13, 35	
Unit 8 Lesson 30 Financial Documents	1, 4, 5, 11, 12, 14, 35	1, 4, 11, 12, 15, 38	1, 3, 4, 13, 33,41	
Unit 8 Lesson 31 Break Even Analysis	1, 4, 5, 11, 12, 14, 35	1, 4, 11, 12, 15, 38	1, 3, 4, 13, 33,41	
Unit 8 Lesson 32 Acme Office Furniture	1, 4, 5, 11, 12, 14, 35, 43	1, 4, 11, 12, 15, 38, 42, 44, 46	1, 3, 4, 13, 20, 33, 37, 41	
Unit 8 Lesson 33 Job Description	1, 4, 5, 11, 14, 15, 22, 23, 24, 25, 26, 35, 36, 40, 41	1, 4, 11, 12, 15, 16, 24, 25, 25, 27, 28, 29, 38, 42	1, 3, 4, 13, 19, 21, 22, 23, 24, 33 35, 37, 39	

Lesson	Grade 9	Grade 10	Grades 11, 12	Completed
Unit 8 Lesson 34 The Staffing Process	1, 11, 14, 21, 22, 23, 24, 25, 26, 35	1, 4, 11, 15, 24, 25, 26, 27, 28, 29, 38,44	1, 3, 13, 21, 22, 23, 24, 33,39	
Unit 8 Lesson 35 Employee Compensation	1, 4, 5, 11, 12, 14, 15, 19, 21, 22, 23, 24, 25, 26, 30, 33, 35, 37, 41, 42	1, 4, 11, 15, 16, 21, 25, 26, 27, 28, 29, 42, 44, 46	1, 3, 4, 10, 13, 19, 21, 22, 23, 24, 33,34, 35, 36, 37, 39, 40, 41	
Unit 8 Lesson 36 Employee Assistance Programs	1, 4, 5, 11, 12, 14, 15, 19, 21, 22, 23, 24, 25, 26, 30, 33, 35, 37, 41, 42	1, 4, 11, 15, 16, 21, 25, 26, 27, 28, 29, 42, 44, 46	1, 3, 4, 10, 13, 19, 21, 22, 23, 24, 33,34, 35, 36, 37, 39, 40, 41	
Unit 8 Lesson 37 Training and Developing Employees	1, 4, 5, 11, 12, 14, 15, 19, 21, 22, 23, 24, 25, 26, 30, 33, 35, 37, 41, 42	1, 4, 11, 15, 16, 21, 25, 26, 27, 28, 29, 42, 44, 46	1, 3, 4, 10, 13, 19, 21, 22, 23, 24, 33,34, 35, 36, 37, 39, 40, 41	
Unit 8 Lesson 38 Building Morale	1, 11, 12, 14, 21, 22, 23, 24, 25, 26, 35, 41	1, 4, 5, 11, 12, 24, 25, 26, 27, 28, 29, 38, 44	1, 4, 13, 20, 21, 22, 23, 24, 33, 39	
Unit 9 Lesson 39 The Marketing Plan	1, 5, 6, 11, 12, 14, 15, 22, 23, 24, 25, 26, 35, 41	1, 6, 11, 15, 16, 21, 25, 26, 27, 28, 29, 32, 33, 38, 44	1, 3, 10, 13, 21, 22, 23, 24, 25, 32, 33, 39.	
Unit 9 Lesson 40 Marketing– Informational Management	1, 5, 6, 11, 12, 14, 15, 22, 23, 24, 25, 26, 35, 41	1, 6, 11, 15, 16, 21, 25, 26, 27, 28, 29, 32, 33, 38, 44	1, 3, 10, 13, 21, 22, 23, 24, 25, 32, 33, 39.	
Unit 9 Lesson 41 Promotional Strategies	1, 5, 11, 12, 14, 15, 16, 19, 21, 22, 23, 24, 25,25, 35, 36, 41, 42	1, 4, 11, 12, 15, 16, 17,24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 38, 44	1, 3, 4, 10, 13, 17, 21, 22, 23, 24,25, 26, 27, 29, 33, 39	
Unit 9 Lesson 42 Advertising Promotions	1, 5, 11, 12, 14, 15, 16, 19, 21, 22, 23, 24, 25,25, 35, 36, 41, 42	1, 4, 11, 12, 15, 16, 17,24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 38, 44	1, 3, 4, 10, 13, 17, 21, 22, 23, 24,25, 26, 27, 29, 33, 39	

Lesson	Grade 9	Grade 10	Grades 11, 12	Completed
Unit 9 Lesson 43 How to Conduct a Meeting	1, 12, 14, 27, 28, 29, 30, 31, 32, 33	1, 6, 30, 31, 32, 33, 34, 35, 36, 37, 39	1, 25, 26, 27, 28, 29, 30, 31, 32	
Unit 9 Lesson 44 Accounting Records	1, 4, 5, 11, 12, 14, 15, 19, 21, 22, 23, 24, 25, 26, 30, 33, 35, 37, 41, 42	1, 4, 11, 15, 16, 21, 25, 26, 27, 28, 29, 42, 44, 46	1, 3, 4, 10, 13, 19, 21, 22, 23, 24, 33,34, 35, 36, 37, 39, 40, 41	
Unit 10 Lesson 45 Effective Communication	21, 22, 23, 24, 25, 26	24, 25, 26, 27, 28, 29		
Unit 10 Lesson 46 Dealing with Stress	1, 4, 5, 11, 12, 14, 15, 19, 21, 22, 23, 24, 25, 26, 30, 33, 35, 37, 41, 42	1, 4, 11, 15, 16, 21, 25, 26, 27, 28, 29, 42, 44, 46	1, 3, 4, 10, 13, 19, 21, 22, 23, 24, 33,34, 35, 36, 37, 39, 40, 41	
Unit 10 Lesson 47 Problem Solving and Conflict Resolution	12, 35	12, 15, 38	13, 14,33	
Unit 10 Lesson 48 At What Price?	11, 12, 15, 22, 23, 24, 25, 26,	4, 6, 9, 11, 19, 23, 24, 25, 36, 27, 28, 29, 33, 46	4, 15, 17, 21, 22, 23, 24,	
Unit 11 Lesson 49 Interpreting Business Policies	15, 21, 22, 23, 24, 25, 26, 35	16, 25, 26, 27, 28, 29, 38	21, 22, 23, 24,33, 39	
Unit 11 Lesson 50 Business Ethics	15, 21, 22, 23, 24, 25, 26,28, 29, 31, 32, 33, 35	16, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 38	21, 22, 23, 24, 25, 26, 27, 28, 29, 33	
Unit 11 Lesson 51 Philanthropy: Giving Back to the Community	15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 33, 36, 37, 39	16, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34, 40, 43, 44, 45	14, 15, 16, 17, 19, 21, 22, 23, 24, 25, 26, 28, 29, 35, 37, 39, 41	
Unit 11 Lesson 52 E-Commerce	1, 4, 5, 11, 12, 14, 15, 19, 21, 22, 23, 24, 25, 26, 30, 33, 35, 37, 41, 42	1, 4, 11, 15, 16, 21, 25, 26, 27, 28, 29, 42, 44, 46	1, 3, 4, 10, 13, 19, 21, 22, 23, 24, 33,34, 35, 36, 37, 39, 40, 41	

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1381 (July 2008).

**§503. Math, Science, and Social Studies Equivalencies
Correlation with Curriculum**

LESSON	Math			Social Services						
	GR 9	GR 10	GR 11/12	GR 9	GR 10	GR 11/12	GR 9	GR 10	GR 11/12	Completed
Unit 1 Lesson A Setting Up Your Portfolio				----	----	----				
Unit 1 Lesson B Functions of a Business Plan				----	----	----				
Unit 1 Lesson C Timeline for the Student Market				----	----	----				
Unit 1 Lesson 1 Entrepreneurial Processes				----	----	----				
Unit 1 Lesson 2 Our Entrepreneurial Heritage				----	----	----				
Unit 2 Lesson 3 Self Esteem				----	----	----				
Unit 2 Lesson 4 Making Decisions				----	----	----				
Unit 2 Lesson 5 Time Management				----	----	----				
Unit 2 Lesson 6 Business Etiquette				----	----	----				
Unit 3 Lesson 7 The Global Business				----	----	----	C-42, C-47	C-42, C-47	C-42, C-47	
Unit 3 Lesson 8 Venture Creation				----	----	----				
Unit 3 Lesson 9 Business Ideas				----	----	----				
Unit 4 Lesson 10 Why Do We Need a Plan?				----	----	----				
Unit 4 Lesson 11 Credit and Your Business				----	----	----				
Unit 5 Lesson 12 Start-Up Costs	28, 30		1	----	----	----	E-4	E-4	E-4	
Unit 5 Lesson 13 Building Financial Relationships		4, 17, 24		----	----	----	E-22 E-23 E-24	E-22 E-23 E-24	E-22 E-23 E-24	
Unit 5 Lesson 14 Organized Labor				----	----	----	E-12 E-19	E-12 E-19	E-12 E-19	
Unit 5 Lesson 15 Pricing				----	----	----	E-22 E-23 E-27 E-28	E-22 E-23 E-27 E-28	E-22 E-23 E-27 E-28	
Unit 6 Lesson 16 Site Selection and Layout				----	----	----	E-1	E-1	E-1	
Unit 6 Lesson 17 Inventory Management				----	----	----				
Unit 6 Lesson 18 Operating Procedures				----	----	----	E-15	E-15	E-15	
Unit 6 Lesson 19 Risky Business				----	----	----	E-1	E-1	E-1	
Unit 6 Lesson 20 Security and Safety in Business				----	----	----				
Unit 6 Lesson 21 Business Insurance				----	----	----	E-1	E-1	E-1	
Unit 6 Lesson 22 Governmental Compliance				----	----	----	E-1			
Unit 6 Lesson 23 Protecting Intellectual Rights				----	----	----				
Unit 6 Lesson 24 Personal Mission				----	----	----				
Unit 6 Lesson 25 SWOT Analysis				----	----	----	E-6	E-6	E-6	
Unit 6 Lesson 26 Exit Strategies				----	----	----				

LESSON	Math			Social Services						
	GR 9	GR 10	GR 11/12	GR 9	GR 10	GR 11/12	GR 9	GR 10	GR 11/12	Completed
Unit 7 Lesson 27 Productivity and Your Business				----	----	----	E-7 E-9 E-48	E-7 E-9 E-48	E-7 E-9 E-48	
Unit 7 Lesson 28 Cost Profit Relation				----	----	----				
Unit 7 Lesson 29 Credit Worthiness				----	----	----				
Unit 8 Lesson 30 Financial Documents				----	----	----				
Unit 8 Lesson 31 Break Even Analysis				----	----	----				
Unit 8 Lesson 32 Acme Office Furniture				----	----	----				
Unit 8 Lesson 33 Job Description				----	----	----	E-12	E-12	E-12	
Unit 8 Lesson 34 The Staffing Process				----	----	----	E-10 E-11	E-10 E-11	E-10 E-11	
Unit 8 Lesson 35 Employee Compensation				----	----	----	E-57	E-57	E-57	
Unit 8 Lesson 36 Employee Assistance Programs				----	----	----				
Unit 8 Lesson 37 Training and Developing Employees				----	----	----				
Unit 8 Lesson 38 Building Morale				----	----	----				
Unit 9 Lesson 39 The Marketing Plan				----	----	----	E-8	E-8	E-8	
Unit 9 Lesson 40 Marketing-Informational Management				----	----	----	E-8	E-8	E-8	
Unit 9 Lesson 41 Promotional Strategies				----	----	----				
Unit 9 Lesson 42 Advertising Promotions				----	----	----				
Unit 9 Lesson 43 How to Conduct a Meeting				----	----	----				
Unit 9 Lesson 44 Accounting Records				----	----	----				
Unit 10 Lesson 45 Effective Communication				----	----	----				
Unit 10 Lesson 46 Dealing with Stress				----	----	----				
Unit 10 Lesson 47 Problem Solving and Conflict Resolution				----	----	----				
Unit 10 Lesson 48 At What Price?				----	----	----				
Unit 11 Lesson 49 Interpreting Business Policies				----	----	----				
Unit 11 Lesson 50 Business Ethics				----	----	----				
Unit 11 Lesson 51 Philanthropy: Giving Back to the Community				----	----	----				
Unit 11 Lesson 52 E-Commerce				----	----	----	C-19	C-19	C-19	

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1384 (July 2008).

Weegie Peabody
Executive Director

0807#015

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—General Career and Technical Education (LAC 28: CXV.2377)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*:§2377.General Career and Technical Education. This action has been taken to update career and technical course offerings. In updating these course offerings our career and technical program of studies will be more aligned with national standards.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

§2377. General Career and Technical Education

A. General Career and Technical Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
*** [See Prior Text in CTE Internship I-Logic for Programming]		
STAR I	11-12	1
STAR II	12	1
Entrepreneurship	11-12	1
Engineering Design I, II	11-12	1

B. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 32:546 (April 2006), LR 32:1415 (August 2006) LR 33:278 (February 2007), LR 33:2050 (October 2007), LR 34:1386 (July 2008).

Weegie Peabody
Executive Director

0807#014

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Algebra I (LAC 28:CXXXI.648)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*:§648.Algebra I. This revision allows the area of Algebra I to be added to a standard Louisiana teaching certificate. The option will be included in the Add-On Endorsement Policy of Bulletin 746. This change comes from the demands of NCLB, increased academic standards for students, and the addition of more mathematics requirements for high school graduation.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel
Chapter 6. Endorsements to Existing Certificates
Subchapter C. All Other Teaching Endorsement Areas
§648. Algebra I

A. Eligibility Requirements

1. Valid Type B or Level 2 Louisiana teaching certificate (requires 3 years of teaching experience).
2. Complete the following professional development programs:
 - a. Algebra I Awareness workshop;
 - b. Topics for Algebra Leaders and Instructors (TALI) workshop (face-to-face or online); and
 - c. Algebra I online modules (the entire series) or an approved college-level mathematics course(s) addressing the same content covered in the Algebra I online modules.
3. Pass the Praxis Middle School Mathematics exam (0069).
4. Pass the Praxis Principles of Learning and Teaching (PLT) 7-12 exam (0524) or a college-level course addressing the same content covered on the Praxis exam.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1820 (January 2008), amended LR 34:1386 (July 2008).

Weegie Peabody
Executive Director

0807#019

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Practitioner Teacher Program Alternative Path to Certification (LAC 28:CXXXI.233)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*:§233, The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements). This revision in policy will allow the expansion of the entry points into the Practitioner Teacher Program from one to two. This revision will allow university and private providers the option of admitting candidates into a fall preparation program as well as the spring preparation program. Candidates admitted into the fall session would be employed by Louisiana school districts during the spring and successive fall semester. Currently the Practitioner Teacher Program has only one point of entry into the program, that being the spring semester. This will allow more candidates to enter the alternate preparation program.

Title 28 EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 2. Louisiana Teacher Programs Subchapter A. Traditional Teacher Preparation Programs

§233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements)

A. ...

B. Admission to the Program. Program providers work with district personnel to identify Practitioner Teacher Program candidates who will be employed by districts during the fall and spring semesters for candidates admitted in a summer preparation session and during the spring semester and successive fall semester for candidates admitted in a fall preparation session. For admission, candidates must:

1. - 6 ...

C. Teaching Preparation (summer preparation session or fall preparation session)

1. All teachers will participate in field-based experiences in school settings while completing the summer/fall courses (or equivalent contact hours).

C.2. - D. ...

1. Practitioner teachers assume full-time teaching positions in districts. During the school year, candidates participate in two seminars (during the fall and during the spring or the spring and fall, depending on entry point) that address immediate needs of the Practitioner Teacher Program teachers, and receive one-on-one supervision through an internship provided by the program providers.

D.2. - J. ...

K. Professional License. A practitioner teacher will be issued a practitioner license in a specific level and area upon entrance to the program completion of the summer of fall teacher preparation session. The practitioner teacher is

restricted to the specific level and area as designated on the practitioner license. He/she will be issued a Level 1 professional license upon successful completion of all program requirements. After three years of teaching in the area of certification and successful completion of the Louisiana Teacher Assistance and Assessment Program, he/she will be eligible for a Level 2 license.

L. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1790 (October 2006), amended LR 34:1387 (July 2008).

Weegie Peabody
Executive Director

0807#013

RULE

Board of Elementary and Secondary Education

Bulletin 904—Guidelines for Submission of a Charter School Proposal (LAC 28:XXIII)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has repealed *Bulletin 904—Guidelines for Submission of a Charter School Proposal*. Bulletin 904 is repealed in its entirety and all regulatory policy regarding charter schools will be contained in *Bulletin 126—Charter Schools* (LAC 28:CXXXIX), to be adopted in the next several months. The repeal of Bulletin 904 will have no effect on charter schools, the Board of Elementary and Secondary Education, or the Department of Education

Title 28 EDUCATION

Part XXIII. Bulletin 904—Guidelines for Submission of a Charter School Proposal

Repealed.

Weegie Peabody
Executive Director

0807#020

RULE

Board of Elementary and Secondary Education

Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook—Supplies vs. Equipment (LAC 28:XLI.1105 and 1107)

Editor's Note: Sections 1105 and 1107 are being repromulgated to clarify that text in §1105.B.-B.4 has moved to §1107. This Rule was originally published in the April 2008 issue of the *Louisiana Register* on page 610.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*: §1107. Definition—Supplies vs. Equipment. This action establishes a higher capitalization threshold for local school districts.

The higher capitalization threshold will aid the districts in management of their assets that must be inventoried while minimally impacting the dollar value of those assets tracked. The capitalization threshold will be increased from \$1,000 per item to \$5,000 per item. The new threshold is consistent with GFOA recommendations for capitalization threshold as well as federal requirements in EDGAR.

**Title 28
EDUCATION**

**Part XLI. Bulletin 1929—Louisiana Accounting and
Uniform Governmental Handbook**

Chapter 11. Assets, Liability, and Equity

§1105. Fund Equity Codes

- A. - A.9. ...
- B. - B.4. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:483 (March 2000), amended LR 27:1684 (October 2001), repromulgated LR 34:1388 (July 2008).

§1107. Definition—Supplies vs. Equipment

A. An LEA can take two basic approaches to distinguish between supplies and equipment in the decision making situations: adopt a predetermined list of items, classifying each entry as either a supply or an item of equipment, or adopt a set of criteria to be used in making its own classification of supply and equipment items.

1. List of Items—At one time, the Federal Accounting Handbook contained lists of both supplies and equipment. Such lists can never be comprehensive or exhaustive, and quickly become outdated.

2. Set of Criteria—An item must be considered a supply if it does not meet all the stated equipment criteria listed below.

- a. It can be expected to serve its principal purpose for at least one year.
- b. It is nonexpendable; that is, if damaged or worn out, it can be repaired without being replaced.
- c. It does not lose its identity through fabrication or incorporation into a different or more complex unit.
- d. It is equal to or greater than \$5,000 per unit cost in value.

NOTE: The unit cost of \$5,000 does not apply to any program funded with 8g monies.

3. Food and computer software must always be considered supplies.

4. School districts maintain rigorous accountability for their property whether it is capitalized or not. For accountability and internal control purposes, many items of property that do not meet the districts' capitalization threshold must be inventoried. Thus, the Department of Education recommends maintaining inventory and tracking items that do not meet the equipment criteria if needed for insurance purposes and/or the item has "street value." For instance, districts might inventory DVDs and computers for internal control purposes but not capitalize them due to their low cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:610 (April 2008), repromulgated LR 34:1388 (July 2008).

Weegie Peabody
Executive Director

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RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs
(LAC 28:IV.301, 507, 703 and 705)

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). (SG0893R)

**Title 28
EDUCATION**

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

Chapter 3. Definitions

§301. Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. 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.

Academic Year (College)—the two- and four-year college and university *academic year* begins with the fall term of the award year, includes the winter term, if applicable, and concludes with the completion of the spring term of the award year. Intersessions ending during the *academic year* are included in the academic year. The two- and four-year college and university academic year does not include summer sessions or intersessions that do not end during the academic year.

* * *

Application to Return from an Out-of-State College—a form that must be submitted by students who first enroll full time in an accredited out-of-state college or university and who then return to an eligible Louisiana college or university and want to apply for TOPS eligibility.

* * *

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, 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), LR 27:1842, 1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002),

LR 28:2330, 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), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008).

Chapter 5. Applications, Federal Grant Aid and ACT Test

§507. Final Deadline for Submitting Documentation of Eligibility

A. - B.2. ...

C. Returning Students

1 - 2. ...

3.a. Returning students, who enroll in an eligible college or university in academic year (college) 2005-2006 or academic year (college) 2006-2007, must submit documentation that establishes TOPS eligibility no later than the April 15 immediately following the July 1 immediately following the academic year (college) the student enrolls as a full-time student in an eligible college or university.

b. Returning students, who enroll in an eligible college or university in the fall semester of 2007 or later, must submit an application to return from an out-of-state college no later than July 1 immediately following the academic year (college) the student enrolls as a full-time student in an eligible college or university and must submit any supporting documentation required by the application no later than January 15 following the July 1 deadline.

c. Examples

i. A returning student who enrolled in an eligible college or university in the fall semester of 2005 must submit the application to return from an out-of-state college no later than July 1, 2006, and any required supporting documentation such as college transcripts no later than April 15, 2007.

ii. A returning student who enrolled in an eligible college or university in the spring semester of 2007 must submit the application to return from an out-of-state college no later than July 1, 2007, and any required supporting documentation such as college transcripts no later than April 15, 2008.

iii. A returning student who enrolled in an eligible college or university in the fall semester of 2007 must submit the application to return from an out-of-state college no later than July 1, 2008, and any required supporting documentation such as college transcripts no later than January 15, 2009.

iv. A returning student who enrolled in an eligible college or university in the spring semester of 2008 must submit the application to return from an out-of-state college no later than July 1, 2008, and any required supporting documentation such as college transcripts no later than January 15, 2009.

v. A returning student who enrolls in an eligible college or university in the fall semester of 2009 must submit the application to return from an out-of-state college no later than July 1, 2010, and any required supporting documentation such as college transcripts no later than January 15, 2011.

4.a. Beginning with the 2007-2008 academic year (college), all documentation and certifications necessary to

establish a returning student's initial eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later than January 15 immediately following the deadline for receipt of the student's FAFSA or on-line application.

b. Examples

i. If a returning student enrolls full time in an eligible Louisiana college or university for the fall semester of 2007, his deadline to file the FAFSA or on-line application is July 1, 2008. If his initial FAFSA or on-line application is received no later than July 1, 2008, and if all the necessary supporting documentation relevant to establishing eligibility is in LASFAC's possession by January 15, 2009, the student will receive his TOPS award (reduced by the number of semesters/terms he enrolled out-of-state) retroactively beginning the fall semester of 2007.

ii. If a returning student enrolls full time in an eligible Louisiana college or university for the spring semester of 2008, his deadline to file the FAFSA or on-line application is July 1, 2008. If his initial FAFSA or on-line application is received no later than July 1, 2008, and if all the necessary supporting documentation relevant to establishing eligibility is in LASFAC's possession by January 15, 2009, the student will receive his TOPS award (reduced by the number of semesters/terms he enrolled out-of-state) retroactively beginning the spring semester of 2008.

iii. If a returning student enrolls full time in an eligible Louisiana college or university for the spring semester of 2008, his deadline to file the FAFSA or on-line application is July 1, 2008. If his initial FAFSA or on-line application is received after July 1, 2008, but no more than 120 days later, and if all the necessary supporting documentation relevant to establishing eligibility is in LASFAC's possession by January 15, 2009, the student will receive his TOPS award (reduced by the number of semesters/terms he enrolled out-of-state and further reduced by one additional semester if 1 to 60 days late or by two additional semesters if 61 to 120 days late) retroactively beginning the spring semester of 2008.

D.1. - 3. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 28:447 (March 2002), LR 30:1161 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 32:2238 (December 2006), LR 33:2357 (November 2007), LR 34:1389 (July 2008).

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

§703. Establishing Eligibility

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

c. he enrolled in an eligible college or university no later than the next semester or term, excluding summer

sessions and intersessions, immediately following the last semester he was enrolled in the out-of state college or university.

H.2. - J.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008).

§705. Maintaining Eligibility

A. - A.5. ...

6. minimum academic progress:

a. in an academic undergraduate program at an eligible college or university, by the end of each academic year (college), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or quarter in the academic year (college), including any hours earned during an intersession ending during the academic year. These hours shall include remedial course work required by the institution, but shall not include hours earned during qualified summer sessions, summer sessions or intersessions that do not end during the academic year or by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

A.6.b. - E.3. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996 (September 2000), LR 26:2001 (September 2000), repromulgated LR 27:1853 (November 2001), amended LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1163 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:437 (March 2007), LR 34:1390 (July 2008).

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RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

2007 Incorporation by Reference for Air Quality
(LAC 33:III.507, 2160, 3003,
5116, 5122, 5311, and 5901)(AQ293ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.507, 2160, 3003, 5116, 5122, 5311, and 5901 (Log #AQ293ft).

This Rule is identical to federal regulations found in 40 CFR Parts 51, Appendix M, 60, 61, 63, 68, and 70.6(a) (July 1, 2007); 72 FR 2930-2961 (1/23/07), 38864-38917 (7/16/07), 73180-73211 (12/26/07), 73611-73625 (12/28/07), and 74088-74116 (12/28/07); and 73 FR 226-265 (1/2/08), 1738-1768 (1/9/08), 1916-1953 (1/10/08), 3568-3614 (1/18/08), 15923-15930 (3/26/08), and 17252-17257 (4/1/08), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

The Rule incorporates by reference (IBR) into the Air regulations, LAC 33:Part III, the following federal regulations in the July 1, 2007, edition of the *Code of Federal Regulations* (CFR): 40 CFR Part 51, Appendix M, Capture Efficiency Test Procedures; 40 CFR Part 60, Standards of Performance for New Stationary Sources, including two new subparts; 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAP); 40 CFR Part 63, NESHAP for Source Categories; 40 CFR Part 68, Chemical Accident Prevention and Minimization of Consequences; and 40 CFR 70.6(a), Part 70 Operating Permits Program. Also incorporated are subsequent revisions to 40 CFR Part 63 promulgated in the *Federal Register*. Any exception to the IBR is explicitly listed in the regulations. In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be adopted into the LAC. This rulemaking is necessary to maintain delegation authority granted to Louisiana by the Environmental Protection Agency. The basis and rationale for this rule are to mirror the federal regulations as they apply to Louisiana's affected sources. 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.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

Chapter 5. Permit Procedures

§507. Part 70 Operating Permits Program

A. - B.1. ...

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2007. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:1619 (August 2007), LR 33:2083 (October 2007), LR 33:2630 (December 2007), LR 34:1391 (July 2008).

Chapter 21. Control of Emission of Organic Compounds

Subchapter N. Method 43—Capture Efficiency Test Procedures

NOTE: This Subchapter was moved and renumbered from Chapter 61 (December 1996).

§2160. Procedures

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR Part 51, Appendix M, July 1, 2007, are hereby incorporated by reference.

B. - C.2.b.iv. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224

(August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 34:1391 (July 2008).

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60

A. Except for 40 CFR Part 60, Subpart AAA, and as modified in this Section, Standards of Performance for New Stationary Sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, July 1, 2007, are hereby incorporated by reference as they apply to the state of Louisiana.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007), LR 34:1391 (July 2008).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants, published in the *Code of Federal Regulations* at 40 CFR Part 61, July 1, 2007, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR Part 61	Subpart/Appendix Heading
* * *	
[See Prior Text in Subpart A – Appendix C]	

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended

by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 33:2094 (October 2007), LR 34:1391 (July 2008).

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2007, are hereby incorporated by reference as they apply to major sources in the state of Louisiana. Also incorporated by reference are revisions to 40 CFR Part 63, Subpart ZZZZ as promulgated on January 18, 2008, in the *Federal Register*, 73 FR 3568-3614, applicable to major sources.

B. - C.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2095 (October 2007), LR 33:2677 (December 2007), LR 34:1392 (July 2008).

Chapter 53. Area Sources of Toxic Air Pollutants
Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2007, are hereby incorporated by reference as they apply to area sources in the state of Louisiana. Also incorporated by reference are the revisions to 40 CFR Part 63, Subpart M as promulgated on April 1, 2008, in the *Federal Register*, 73 FR 17252-17257; Subpart WWWWW as promulgated on December 28, 2007, in the *Federal Register*, 72 FR 73611-73625; Subpart YYYYYY as promulgated on December 28,

2007, in the *Federal Register*, 72 FR 74088-74116; Subpart ZZZZZZ as promulgated on January 2, 2008, in the *Federal Register*, 73 FR 226-265; Subparts BBBBBB-CCCCC as promulgated on January 10, 2008, in the *Federal Register*, 73 FR 1916-1953; Subparts DDDDDD-GGGGGG as promulgated on January 23, 2007, in the *Federal Register*, 72 FR 2930-2961; Subpart HHHHHH as promulgated on January 9, 2008, in the *Federal Register*, 73 FR 1738-1768; Subparts LLLLLL-QQQQQQ as promulgated on July 16, 2007, in the *Federal Register*, 72 FR 38864-38917; Subparts RRRRRR-TTTTTT as promulgated on December 26, 2007, in the *Federal Register*, 72 FR 73180-73211; and amendments to Subparts LLLLLL-QQQQQQ as promulgated on March 26, 2008, in the *Federal Register*, 73 FR 15923-15930, applicable to area sources.

40 CFR Part 63	Subpart/Appendix Heading - Repealed
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B. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, www.gpoaccess.gov/cfr/index.html, from the Department of Environmental Quality, Office of Environmental Assessment, or from a public library.

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2096 (October 2007), LR 34:1392 (July 2008).

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A. General Provisions

§5901. Incorporation by Reference of Federal Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68, July 1, 2007.

B. - C.6. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the

Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:1621 (August 2007), LR 34:1392 (July 2008).

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0807#027

RULE

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

**Expedited Penalty Agreement
(LAC 33:I.801 and 807; VII.115 and 315; and XI.703)(MM004)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Environmental Quality regulations, LAC 33:I.801 and 807; VII.115 and 315; and XI.703 (Log #MM004).

This Rule makes additions to the list of violations that may qualify for expedited penalties in LAC 33:I.807, clarifies existing violations, and adjusts penalty amounts to be consistent across media for similar violations. Other environmental regulations are amended in relation to these changes. The structure of the expedited penalties table is changed to divide it into separate tables by media and type to facilitate printing. The additions to the qualifying violations will abate delays that have occurred in correcting violations of the Environmental Quality Act concerning the unauthorized transporting, disposal, and/or burning of solid wastes, violations of the UST delivery prohibition rule required by the federal Underground Storage Tank Compliance Act of 2005, and other various violations of the environmental quality regulations. Delays in enforcement reduce the effectiveness of the enforcement action, unnecessarily utilize resources, and slow down the enforcement process. The Expedited Penalty Agreement program provides an alternative penalty assessment mechanism that the department may utilize, at its discretion, to expedite penalty agreements in appropriate cases, reducing staff time and increasing efficiency in addressing such violations. The Expedited Penalty Agreement program is a flexible program that will be continually expanded to accommodate minor to moderate violations of the regulations. This Rule promulgates the provisions in Emergency Rule MM004E4, which was effective on July 13, 2008, and published in this issue of the *Louisiana Register*. The basis and rationale for this Rule are to abate the delay in correcting minor and moderate violations of the Environmental Quality Act to achieve expeditious protection of the public health and the environment. 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.

**Title 33
ENVIRONMENTAL QUALITY**

Part I. Office of the Secretary

**Subpart 1. Departmental Administrative Procedures
Chapter 8. Expedited Penalty Agreement
§801. Definitions**

LAR050000—an LPDES multi-sector storm water general permit.

LAR100000—an LPDES storm water general permit associated with construction activity greater than 5 acres.

LPDES General Permit—for the purposes of this Chapter, any Louisiana Pollutant Discharge Elimination System Permit in the LAG530000, LAG540000, or LAG750000 series.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:2242 (December 2006), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1393 (July 2008).

§807. Types of Violations and Expedited Penalty Amounts

A. The types of violations listed in the following table may qualify for coverage under this Chapter; however, any violation listed below, which is identified in an expedited penalty agreement, must also meet the conditions set forth in LAC 33:I.805.E.

Expedited Penalties			
All Media			
Violation	Citation	Amount	Frequency
*** [See Prior Text]			

Expedited Penalties			
Air Quality			
Violation	Citation	Amount	Frequency
Failure to timely submit any applicable Specific Condition or General Condition report as specified in a minor source permit.	LAC 33:III.501.C.4	\$250	Per occurrence
Failure to timely submit any applicable Specific Condition or General Condition report (other than those specified elsewhere in this Section) as specified in a Part 70 (Title V) air permit.	LAC 33:III.501.C.4	\$350	Per occurrence
40 CFR Part 70 General Permit conditions (Part K, L, M, or R): Failure to timely submit any applicable annual, semiannual, or quarterly report.	LAC 33:III.501.C.4	\$500	Per occurrence

Expedited Penalties			
Air Quality			
Violation	Citation	Amount	Frequency
Failure to submit an updated Emission Point List, Emissions Inventory Questionnaire (EIQ), emissions calculations, and certification statement as described in LAC 33:III.517.B.1 within seven calendar days after effecting any modification to a facility authorized to operate under a standard oil and gas permit.	LAC 33:III.501.C.4	\$750	Per occurrence/ emission point
Failure to submit the Title V permit renewal application at least six months prior to the date of expiration, applicable only when the renewal application is submitted prior to permit expiration and a renewal permit is issued on or before the expiration date.	LAC 33:III.507.E.4	\$1,000	Per occurrence
Failure to provide notice of change of ownership within 45 days after the change.	LAC 33:III.517.G	\$200	Per occurrence
Failure to submit an Annual Criteria Pollutant Emissions Inventory in a timely and complete manner when applicable.	LAC 33:III.919	\$500	Per occurrence
Control of Fugitive Emissions, sandblasting facilities: Failure to take all reasonable precautions to prevent particulate matter from becoming airborne.	LAC 33:III.1305.A	\$250	Per occurrence
Failure to maintain records for glycol dehydrators subject to LAC 33:III.2116.	LAC 33:III.2116.F	\$250	Per occurrence
Failure to submit an Annual Toxic Emissions Data Inventory in a timely and complete manner when applicable.	LAC 33:III.5107	\$500	Per occurrence
Failure to submit an initial perchloroethylene inventory report.	LAC 33:III.5307.A	\$250	Per occurrence
Failure to submit a perchloroethylene usage report by July 1 for the preceding calendar year.	LAC 33:III.5307.B	\$250	Per occurrence

Expedited Penalties			
Air Quality—Stage II Vapor Recovery			
Violation	Citation	Amount	Frequency
Note: LAC 33:III.2132 is only applicable to subject gasoline dispensing facilities in the parishes of Ascension, East Baton Rouge, West Baton Rouge, Iberville, Livingston, and Pointe Coupee.			
Failure to use and/or diligently maintain, in proper working order, all air pollution control equipment installed at the site.	LAC 33:III.905	\$300	Per occurrence
Failure to submit an application to the administrative authority prior to installation of the Stage II vapor recovery system.	LAC 33:III.2132.B.6	\$500	Per occurrence
Failure to have at least one person trained as required by the regulations.	LAC 33:III.2132.C	\$300	Per occurrence
Failure to test the vapor recovery system prior to start-up of the facility and annually thereafter.	LAC 33:III.2132.D	\$750	Per occurrence
Failure to post operating instructions on each pump.	LAC 33:III.2132.E	\$100	Per occurrence
Failure to maintain equipment and tag defective equipment "out of order."	LAC 33:III.2132.F.1 and 3-4	\$500	Per inspection
Failure to perform daily inspections and accurately record results.	LAC 33:III.2132.F.2	\$300	Per inspection
Failure to maintain records on-site for at least two years and present them to an authorized representative upon request.	LAC 33:III.2132.G.1-7	\$200	Per compliance inspection

Expedited Penalties			
Hazardous Waste—Used Oil			
Violation	Citation	Amount	Frequency
* * *			
[See Prior Text]			

Expedited Penalties			
Solid Waste			
Violation	Citation	Amount	Frequency
Unauthorized on-site disposal of regulated solid waste generated at the site by the owner, lessee, or other person having an actual right, title, or interest in the property.	LAC 33:VII.315.C	\$250	Per occurrence

Expedited Penalties			
Solid Waste			
Violation	Citation	Amount	Frequency
Unauthorized disposal of solid waste by the generator at an off-site location not permitted to receive such waste.	LAC 33:VII.315.C	\$250	Per occurrence
Operation of an unauthorized disposal site where solid waste is disposed.	LAC 33:VII.315.C	\$1,000	Per occurrence
An owner, lessee, or other person having an actual right, title, or interest in the property of an unauthorized disposal site in which solid waste is disposed.	LAC 33:VII.315.C	\$1,000	Per occurrence
Failure to report any discharge, deposit, injection, spill, dumping, leaking, or placing of solid waste into or on the water, air, or land.	LAC 33:VII.315.F	\$500	Per occurrence
Open burning of solid waste as prohibited by regulation.	LAC 33:VII.315.M	\$250	Per occurrence
Offering residential solid waste to an unauthorized transporter and/or a facility not permitted to receive such waste.	LAC 33:VII.315.O	\$250	Per occurrence
Offering commercial solid waste and/or construction and demolition debris to an unauthorized transporter and/or a facility not permitted to receive such waste.	LAC 33:VII.315.O	\$500	Per occurrence
Offering industrial solid waste to an unauthorized transporter and/or a facility not permitted to receive such waste.	LAC 33:VII.315.O	\$750	Per occurrence
Failure to notify the department of generating, transporting, processing, or disposing of solid waste.	LAC 33:VII.401.A	\$300	Per occurrence
Transportation of solid waste to a processing or disposal facility not permitted to receive such waste.	LAC 33:VII.505.D	\$1,000	Per occurrence

Expedited Penalties			
Solid Waste—Waste Tires			
Violation	Citation	Amount	Frequency
Storage of more than 20 whole tires without authorization from the administrative authority.	LAC 33:VII.10509.B	\$200	Per occurrence
Transporting more than 20 tires without first obtaining a transporter authorization certificate.	LAC 33:VII.10509.C	\$300	Per occurrence
Storing tires for greater than 365 days.	LAC 33:VII.10509.E	\$200	Per occurrence
Failure to maintain all required records for three years on-site or at an alternative site approved in writing by the administrative authority.	LAC 33:VII.10509.G; 10519.O and P	\$200	Per occurrence
Failure to obtain a waste tire generator identification number within 30 days of commencing business operations.	LAC 33:VII.10519.A	\$300	Per occurrence
Failure to accept one waste tire for every new tire sold unless the purchaser chooses to keep the waste tire.	LAC 33:VII.10519.B	\$100	Per occurrence
Failure to collect appropriate waste tire fee for each tire sold.	LAC 33:VII.10519.C; 10521.B; 10535.B	\$200	Per occurrence
Failure to remit waste tire fees to the state on a monthly basis as specified.	LAC 33:VII.10519.D; 10521.C	\$200	Per occurrence
Failure to post required notifications to the public.	LAC 33:VII.10519.E; 10521.D	\$100	Per occurrence
Failure to list the waste tire fee on a separate line on the invoice so that no tax will be charged on the fee.	LAC 33:VII.10519.F; 10521.E	\$100	Per occurrence
Failure to keep waste tires or waste tire material covered as specified.	LAC 33:VII.10519.H; 10521.H	\$200	Per occurrence
Storing waste tires for more than 120 days without complying with the exceptions for the extended storage time.	LAC 33:VII.10519.I	\$200	Per occurrence
Failure to use an authorized transporter for removal of tires from a place of business.	LAC 33:VII.10519.K	\$500	Per occurrence

Expedited Penalties			
Solid Waste—Waste Tires			
Violation	Citation	Amount	Frequency
Failure to segregate waste tires from new or used tires offered for sale.	LAC 33:VII.10519.M	\$200	Per occurrence
Failure of a motor vehicle dealer to notify administrative authority within 30 days of commencing business operations.	LAC 33:VII.10521.A	\$300	Per occurrence
Failure to submit application and fees for transporter authorization.	LAC 33:VII.10523.A	\$300	Per occurrence
Failure to use a manifest when transporting greater than 20 waste tires.	LAC 33:VII.10523.C	\$200	Per occurrence
Failure of transporter to transport all waste tires to an authorized collection center or a permitted processing facility.	LAC 33:VII.10523.D	\$1,000	Per occurrence
Failure of out-of-state or out-of-country transporter to comply with state waste tire regulations.	LAC 33:VII.10523.E	\$200	Per occurrence
Failure to affix to driver's door and passenger's door the authorization certificate number, 3 inches in height.	LAC 33:VII.10523.F	\$100	Per occurrence
Failure to provide notification in writing within 10 days when any information on the authorization certificate form changes, or if the business closes and ceases transporting waste tires.	LAC 33:VII.10523.G	\$100	Per occurrence
Acceptance by a processor of more than five unmanifested tires per day per customer.	LAC 33:VII.10525.A.2	\$300	Per occurrence
Failure of a processor to maintain a log for all unmanifested loads.	LAC 33:VII.10525.A.2	\$200	Per occurrence
Failure to meet any of the facility standards listed in LAC 33:VII.10525.D.	LAC 33:VII.10525.D	\$300	Per occurrence
Failure by a collector or collection center to follow the requirements for receipt of tires.	LAC 33:VII.10527.A	\$200	Per occurrence

Expedited Penalties			
Solid Waste—Waste Tires			
Violation	Citation	Amount	Frequency
Failure of collection center operator to meet the standards in LAC 33:VII.10525.D.1-10 and 12-24.	LAC 33:VII.10527.B	\$300	Per occurrence
A collector or collection center exceeding the storage limit of waste tires or waste tire material.	LAC 33:VII.10527.C; 10531.C	\$300	Per occurrence
Failure of recycler to provide notification of its existence and obtain an identification number.	LAC 33:VII.10531.A	\$300	Per occurrence
Failure of a waste tire or waste tire material recycler to meet the requirements of LAC 33:VII.10525.D.	LAC 33:VII.10531.B	\$300	Per occurrence
Failure to provide a manifest for all waste tire shipments containing more than 20 tires.	LAC 33:VII.10533.A	\$200	Per occurrence
Failure to follow the requirements for manifest discrepancies.	LAC 33:VII.10533.C	\$300	Per occurrence
Failure to maintain completed manifests for three years and have them available for inspection.	LAC 33:VII.10533.D	\$200	Per occurrence

Expedited Penalties			
Water Quality			
Violation	Citation	Amount	Frequency
Failure to develop a Spill Prevention and Control (SPC) plan for any applicable facility.	LAC 33:IX.905	\$500	Per occurrence
Failure to implement any component of an SPC plan.	LAC 33:IX.905	\$100	Per occurrence
Unauthorized discharge of oily fluids.	LAC 33:IX.1701.B	\$1,000	Per occurrence
Unauthorized discharge of oil field wastes, including produced water.	LAC 33:IX.1901.A	\$1,000	Per occurrence
Failure to submit a Notice of Intent for coverage under the LAR050000 or LAR100000 LPDES Storm Water General Permit.	LAC 33:IX.2511.C.1	\$1,000	Per occurrence

Expedited Penalties			
Water Quality			
Violation	Citation	Amount	Frequency
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule A permit.	LAC 33:IX.2701.A	\$200 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule A permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule B permit.	LAC 33:IX.2701.A	\$300 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule B permit.	LAC 33:IX.2701.A	\$500 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG540000 permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG540000 permit.	LAC 33:IX.2701.A	\$600 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG750000 permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG750000 permit.	LAC 33:IX.2701.A	\$600 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with monitoring requirements of LPDES Storm Water General Permits LAR050000 and LAR100000.	LAC 33:IX.2701.A	\$300	Per occurrence

Expedited Penalties			
Water Quality			
Violation	Citation	Amount	Frequency
Failure to submit certain reports as required by any LPDES permit not previously defined as an LPDES General Permit in LAC 33:L801, including noncompliance reports, storm water reports, pretreatment reports, biomonitoring reports, overflow reports, construction schedule progress reports, environmental audit reports as required by a municipal pollution prevention plan, and toxicity reduction evaluation reports.	LAC 33:IX.2701.A	\$300	Per required submittal
Failure to prepare and/or implement any portion or portions of a Storm Water Pollution Prevention Plan (SWPPP), a Pollution Prevention Plan (PPP), or a Best Management Practices (BMP) Plan as required by any LPDES permit not previously defined as an LPDES General Permit in LAC 33:L801.	LAC 33:IX.2701.A	\$500	Per occurrence

Expedited Penalties			
Underground Storage Tanks			
Violation	Citation	Amount	Frequency
Failure to register an existing or new UST containing a regulated substance.	LAC 33:XL301.A-B	\$300	Per inspection
Failure to certify and provide required information on the department's approved registration form.	LAC 33:XL301.B.1-2	\$200	Per inspection
Failure to provide notification within 30 days after selling a UST system or acquiring a UST system; failure to keep a current copy of the registration form on-site or at the nearest staffed facility.	LAC 33:XL301.C.1-3	\$300	Per inspection

Expedited Penalties			
Underground Storage Tanks			
Violation	Citation	Amount	Frequency
Allowing a regulated substance to be placed into a new UST system that has not been registered.	LAC 33:XI.301.C.4	\$300	Per inspection
Failure to provide corrosion protection to tanks that routinely contain regulated substances using one of the specified methods.	LAC 33:XI.303.B.1	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to provide corrosion protection to piping that routinely contains regulated substances using one of the specified methods.	LAC 33:XI.303.B.2	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to provide corrosion protection to flex hoses and/or sub-pumps that routinely contain regulated substances using one of the specified methods.	LAC 33:XI.303.B.2	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to provide spill and/or overfill prevention equipment as specified.	LAC 33:XI.303.B.3	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to ensure that the individual exercising supervisory control over installation-critical junctures is certified in accordance with LAC 33:XI.Chapter 13.	LAC 33:XI.303.B.4.b.ii	\$1,000	Per occurrence
Failure to upgrade an existing UST system to new system standards as specified.	LAC 33:XI.303.C	\$1,300 and completion of a department-sponsored compliance class	Per inspection
Failure to pay fees by the required date.	LAC 33:XI.307.D	\$200	Per inspection
Failure to report any spill and/or overfill.	LAC 33:XI.501.C	\$500	Per inspection
Failure to investigate and/or clean up any spill and/or overfill.	LAC 33:XI.501.C	\$1,500	Per inspection

Expedited Penalties			
Underground Storage Tanks			
Violation	Citation	Amount	Frequency
Failure to continuously operate and maintain corrosion protection to the metal components of portions of the tank and piping that routinely contain regulated substances and are in contact with the ground or water.	LAC 33:XI.503.A.1	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to have a UST system equipped with a cathodic protection system inspected for proper operation as specified.	LAC 33:XI.503.A.2	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to inspect a UST system with an impressed current cathodic protection system every 60 days to ensure that the equipment is running properly.	LAC 33:XI.503.A.3	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to comply with recordkeeping requirements.	LAC 33:XI.503.B	\$200 and completion of a department-sponsored compliance class	Per inspection
Failure to meet requirements for repairs to UST systems.	LAC 33:XI.507	\$300	Per inspection
Failure to ensure that the individual exercising supervisory control over repair-critical junctures is certified.	LAC 33:XI.507.A.2	\$1,000	Per occurrence
Failure to maintain required information and/or keep records at the UST site and make them immediately available or keep them at an alternative site and provide them after a request.	LAC 33:XI.509.B and C	\$200 and completion of a department-sponsored compliance class	Per inspection
Failure to meet the performance requirements when performing release detection required in LAC 33:XI.703.	LAC 33:XI.701; 703.A.2.b and c	\$750 and completion of a department-sponsored compliance class	Per inspection

Expedited Penalties			
Underground Storage Tanks			
Violation	Citation	Amount	Frequency
Failure to use a method or combination of methods of release detection described in LAC 33:XI.701 for all new or existing tank systems.	LAC 33:XI.703.A.1	\$1,500 and completion of a department-sponsored compliance class	Per inspection
Failure to monitor tanks for releases as specified.	LAC 33:XI.703.B.1	\$350 and completion of a department-sponsored compliance class	Per inspection
Failure to monitor underground piping for releases as specified.	LAC 33:XI.703.B.2	\$750 and completion of a department-sponsored compliance class	Per inspection
Failure to maintain release detection records.	LAC 33:XI.705	\$200 and completion of a department-sponsored compliance class	Per inspection
Failure to report any suspected release within 24 hours after becoming aware of the occurrence or when a leak detection method indicates that a release may have occurred.	LAC 33:XI.703.A.3 or 707	\$500 and completion of a department-sponsored compliance class	Per occurrence
Failure to investigate and confirm any suspected release of a regulated substance that requires reporting under LAC 33:XI.707 within seven days.	LAC 33:XI.711	\$1,500	Per occurrence
Failure to maintain corrosion protection and/or release detection on a UST system that is temporarily closed and contains more than 2.5 cm (1 inch) of residue, or 0.3 percent by weight of the total capacity of the UST system.	LAC 33:XI.903.A	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to comply with permanent closure and/or changes in service procedures.	LAC 33:XI.905	\$500	Per inspection
Failure to use a certified worker for tank closure.	LAC 33:XI.905.A.2	\$1,000	Per inspection

Expedited Penalties			
Underground Storage Tanks			
Violation	Citation	Amount	Frequency
Failure to assess the site at closure or change-in-service where contamination is most likely to be present.	LAC 33:XI.907.A	\$500	Per occurrence
Failure to submit the assessment in duplicate within 60 days following permanent closure or change-in-service.	LAC 33:XI.907.A	\$500	Per occurrence
Failure to begin corrective action of contaminated soils, contaminated groundwater, or free product discovered through methods in LAC 33:XI.907.A, in accordance with LAC 33:XI.715.	LAC 33:XI.907.B	\$1,500	Per occurrence

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:2243 (December 2006), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1393 (July 2008).

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 1. General Provisions and Definitions

§115. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

Transport—to move solid waste off-site to a non-processing transfer station or a collection, processing, or disposal facility.

Transporter—any person who moves solid waste off-site to a non-processing transfer station or a collection, processing, or disposal facility, excluding individuals who transport their own residential waste to a collection facility, non-processing transfer station, or permitted processing facility and/or solid waste landfill.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514, 2609 (November 2000), amended by the Office of Environmental Assessment, LR 31:1576 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007), LR 34:1023 (June 2008), LR 34:1399 (July 2008).

Chapter 3. Scope and Mandatory Provisions of the Program

§315. Mandatory Provisions

A. - N.2. ...

O. Generators shall not offer solid waste to transporters, processing facilities, or disposal facilities that have not received authorization and/or the required permits necessary to receive and/or manage the generator's solid waste.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1315 (October 1993), repromulgated LR 19:1421 (November 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), LR 30:1675 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005), LR 33:1030 (June 2007), LR 34:1400 (July 2008).

Part XI. Underground Storage Tanks

Chapter 7. Methods of Release Detection and Release Reporting, Investigation, Confirmation, and Response

§703. Requirements for Use of Release Detection Methods

A. Requirements for All UST Systems

1. Owners and operators of all new and existing UST systems must use a method or combination of the methods of release detection described in LAC 33:XI.701.

2. The method of release detection used must also meet the following requirements.

a. The release detection method used must be capable of detecting a release from any portion of the tank and the connected underground piping that routinely contains product.

b. The release detection system must be installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition.

c. The release detection system must meet the performance requirements in LAC 33:XI.701.A or B, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, methods used after the date shown in the following table corresponding with the specified method, except for methods permanently installed before that date and in compliance with LAC 33:XI.701, must be capable of detecting the leak rate or quantity specified for that method in LAC 33:XI.701.A.2, 3, and 4 or B.1 and 2 (as shown in the table below) with a probability of detection (Pd) of at least 0.95 and a probability of false alarm (Pfa) of no greater than 0.05.

Method	Section	Date after Which Pd/Pfa Must Be Demonstrated
Manual Tank Gauging	LAC 33:XI.701.A.2	December 22, 1990
Tank Tightness Testing	LAC 33:XI.701.A.3	December 22, 1990
Automatic Tank Gauging	LAC 33:XI.701.A.4	December 22, 1990
Automatic Line Leak Detectors	LAC 33:XI.701.B.1	September 22, 1991
Line Tightness Testing	LAC 33:XI.701.B.2	December 22, 1990

3. When a release detection method operated in accordance with the performance standards in LAC 33:XI.701.A and B indicates that a release may have occurred, owners and operators must notify the Office of Environmental Compliance in accordance with LAC 33:XI.707-713.

4. Owners and operators of all UST systems must comply with the release detection requirements of LAC 33:XI.701-705 by December 22 of the year listed in the following table.

Schedule for Phase-In of Release Detection					
Year System Was Installed	Year When Release Detection Is Required (By December 22 of the year indicated)				
	1989	1990	1991	1992	1993
Before 1965 or date unknown	RD	P			
1965-69		P/RD			
1970-74		P	RD		
1975-79		P		RD	
1980-88		P			RD
New Tanks	Immediately upon installation.				
P = Must begin release detection for all pressurized piping in accordance with LAC 33:XI.703.B.2.a.					
RD = Must begin release detection for tanks and suction piping in accordance with LAC 33:XI.703.B.1, 2.b, and C.					

5. Any existing UST system that cannot apply a method of release detection that complies with the requirements of LAC 33:XI.701-705 must complete the closure procedures in LAC 33:XI.Chapter 9 by the date on which release detection is required for that UST system under Paragraph A.4 of this Section.

B. - C.2.e.iii. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), amended by the Office of Environmental Assessment, LR 31:1073 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2172 (October 2007), LR 34:1400 (July 2008).

Herman Robinson, CPM
Executive Counsel

0807#026

RULE

Department of Health and Hospitals Board of Certified Social Work Examiners

Social Work (LAC 46:XXV.Chapters 3-9)

The Louisiana State Board of Social Work Examiners has amended *Rules, Standards and Procedures* adopted in January 2008, which implement the Louisiana Social Work Practice Act, R.S. 37:2701-2721. These amendments will apply to all credentialed social workers and amend §303.Practice, §305.Qualifications for Registration, Certification, Licensure, §309.Application Procedure, §501.The GSW Who Pursues the LCSW Credential, or Who Provides Clinical Services Which Constitute Psychotherapy Must Be Supervised, §503.GSWs Seeking the LCSW Credential, §707.Disposition of an Investigation, §709.Administrative Complaint Procedure, §711.Notice of Administrative Complaint and Hearing Schedule, §713.Response to Complaint, Notice of Representation, §715.Pleadings; Motions and Service, §717.Pre-Hearing Motions, §719.Motions for Continuance of Hearing, §721.Disposition of Pre-Hearing Motions, §723.Rules of Evidence; Official Notice; Oaths and Affirmations; Subpoenas; Depositions and Discovery; Confidential Privileged Information; and Executive Session, §725.Designation of Hearing Panel, Disqualification and Replacement, §727.Board's Independent Legal Counsel, §729.Pre-Hearing Conference, §731.Consolidation of Cases, §733.Conduct of Hearing; Record, §735.Evidence; Burden of Proof, §737.Decisions; Notice, §739.Rehearings, §741.Miscellaneous Rules, §743.Compliance Hearing, §745.Declaratory Ruling, and §905.Investigation Procedures.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXV. Certified Social Workers

Chapter 3. General Provisions

§303. Practice

A. - B. ...

C. Registered Social Workers shall not:

1. contract directly with individuals, couples, families, agencies or institutions for clinical services, consultation, supervision or educational services;
2. bill for services rendered;
3. receive direct payment for services;
4. claim to be licensed or in private practice.

D. Graduate Social Workers and Provisional Graduate Social Workers shall not:

1. contract directly with individuals, couples, families, non-governmental agencies or institutions for clinical services, consultation, supervision or educational services;
2. bill for services rendered except to a governmental agency through contract services;
3. receive direct payment for services unless through contract with a governmental agency;
4. claim to be licensed or in private practice.

E. Graduate Social Workers and Provisional Graduate Social Workers may:

1. practice clinical social work within an agency under the supervision of a licensed clinical social worker and shall

meet the supervision requirements of Chapter 5, Minimum Supervision Requirements, §505.

F. Applicants for registration, certification, or licensure who indicate on their application that they have been employed for more than 120 days as a social worker in the state of Louisiana are subject to the provisions of R.S. 37:2720.

G. An applicant who meets all the requirements of R.S. 37:2706, 2707, or 2708 and who has worked more than 120 days as a social worker in the state of Louisiana and who has not otherwise violated any part of R.S. 37:2701-2723 or its rules, shall be offered the following in the form of a consent order and agreement in order to process the application:

1. completion of five pre-approved continuing education hours in ethics to be completed within 90 days of issuance of the registration, certification or license, in addition to the 20 clock hours of continuing education required for the annual renewal of the registration, certification or license; and

2. passing score on an open book examination on the Louisiana Social Work Practice Act and the *Rules, Standards and Procedures*, which include the standards of practice for social workers within 90 days of the date the consent order and agreement is signed;

3. the consent order and agreement shall not be considered disciplinary action and shall not be reported to the professional organizations or published in the board's newsletter.

H. In accordance with R.S. 37:2709, which states in part that the license, certificate, provisional certificate, or registration shall be kept conspicuously posted in the office or place of business at all times, it is permissible to post the original certificate of license, certification, provisional certification, or registration or a copy of the original certificate of license, certification, provisional certification or registration, or the current identification card received from the board upon renewal of the license, certification, provisional certification or registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:301 (February 2000), amended LR 29:2382 (November 2003), LR 34:1401 (July 2008).

§305. Qualifications for Registration, Certification, Licensure

A. - C.4. ...

D. Licensed Clinical Social Worker (LCSW)

1. The applicant must be of good moral character.
2. The applicant shall have his/her university submit official transcript indicating the receipt of a master's degree of social work from a graduate social work program, accredited by the Council on Social Work Education.

3. The applicant shall submit documentation verifying at least 5760 hours of post graduate social work practice on a form provided by the board.

4. The applicant shall submit documentation verifying at least 3840 hours of supervised post graduate social work experience in accordance with the board's supervision rules and on the form provided by the board.

5. Supervised experience shall be under the supervision of a board-approved clinical supervisor.

6. The applicant shall obtain a passing score on an examination approved by the board.

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:301 (February 2000), amended LR 29:2383 (November 2003), LR 34:1401 (July 2008).

§309. Application Procedure

A. - F. ...

G. Applicants for the LCSW license must submit an employment verification form for each place of employment in Louisiana after receipt of the MSW degree.

H. Applicants for the LCSW license must submit proof of 5760 hours of postgraduate social work practice. Three thousand, eight hundred and forty of the 5760 hours of accumulated social work experience shall be in a setting practicing social work under the supervision of a board-approved clinical supervisor and submitted on the forms provided by the board.

I. Non-resident applicants may submit proof of 3840 hours or equivalent months of accumulated supervised experience completed out-of-state on the forms provided by the board and given by a social worker licensed at a level equivalent to the LCSW license.

J. Non-resident applicants may submit verification of 5760 hours or equivalent months of out-of-state accumulated social work employment to qualify for the LCSW license.

K. The application for licensure, certification, provisional certification and registration shall include the applicant's Social Security number in accordance with R.S. 37:23. Submission is not optional.

L. - P.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:302 (February 2000), amended LR 29:2383 (November 2003), LR 34:1402 (July 2008).

Chapter 5. Minimum Supervision Requirements

§501. The GSW Who Pursues the LCSW Credential, or Who Provides Services Which Constitute Psychotherapy Must be Supervised

A. A GSW must be a salaried employee of an agency, organization, or facility that delivers social work services or a contractual employee of a governmental agency. The individual is considered an employee if:

1. s/he provides direct or indirect social work services;
2. s/he receives remuneration from an employer for these services;
3. the non-governmental employer withholds federal income taxes and FICA from the salary.

B. A GSW will be considered as providing social work services on behalf of a federal, state, or local governmental agency on a contractual basis if:

1. there is written documentation of the contractual relationship between the GSW and the governmental agency;
2. s/he receives remuneration from the governmental agency for providing direct or indirect social work services on behalf of the governmental agency;

3. the governmental agency provides the GSW with either a Form 1099 or evidence of withholding of federal income taxes and FICA.

C. Volunteer work is not counted toward meeting the employment criteria.

D. GSWs shall not:

1. contract directly with non-governmental agencies nor with clients for clinical services, consultation, supervision, or educational services except as a salaried employee;

2. bill directly for services rendered except to a governmental agency through a contract; or

3. claim to be licensed or in private practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000), amended LR 34:1402 (July 2008).

§503. GSWs Seeking the LCSW Credential

A. Supervision for the LCSW license can begin after the MSW obtains Graduate Social Work certification.

B. Supervision for the LCSW license is conducted by a Board Approved Clinical Supervisor (BACS). GSWs may obtain a list of BACS from the board's website or office.

C. Effective August 15, 2007, GSWs seeking the LCSW credential must complete a minimum of 5760 hours of postgraduate social work practice and at least 3840 hours of that postgraduate social work practice must be under the supervision of a Board Approved Clinical Supervisor (BACS).

D. GSW postgraduate social work practice and postgraduate BACS supervised social work practice for GSW seeking the LCSW credential, which practice occurred prior to August 15, 2007, will be calculated by the board based on the prior requirements of at least 36 accumulated months of full-time postgraduate social work practice and 24 accumulated months of BACS supervised practice. In order to qualify for the appropriate credits, the postgraduate practice and the postgraduate supervised practice shall be in conformity with board rules governing such practice at that time. Copies of those prior rules and forms relating to postgraduate practice and supervised postgraduate practice can be obtained from the board office or the board's web site.

E. Notwithstanding Subsection C of this rule, GSWs seeking the LCSW credential who have completed the 36-month postgraduate practice requirement and the 24-month postgraduate BACS supervised practice requirement prior to August 15, 2007 and who provide documentation thereof in conformity with applicable board rules and forms will be eligible for the LCSW examination and license.

F. GSWs whose postgraduate social work practice or BACS supervised postgraduate social work practice occurs both before August 15, 2007 and after August 15, 2007 will be credited by the board based on the application of Subsection D of this rule (monthly calculation) for the postgraduate practice occurring prior to August 15, 2007 and based on Subsection C of this rule (hourly calculation) for postgraduate practice occurring after August 15, 2007. In order for GSWs to determine whether they have obtained the total number of postgraduate credits necessary to qualify for

LCSW examination and license, GSWs will employ the conversion formula provided in Subsection G of this rule prior to the submission of their completed supervision documentation forms to the board.

G.1. To calculate total postgraduate social work practice, a ratio is formed with the numerator (number above the line) equal to the number of months of postgraduate social work practice completed prior to August 15, 2007 and with the denominator or divisor (number below the line) equal to 36. The resulting percentage is then multiplied times 5760 in order to convert the monthly credits into hourly credits. That hourly credit is then subtracted from 5760 to determine the number of hours of postgraduate practice after August 15, 2007 which are necessary to complete the requirement.

2. To calculate total postgraduate social work BACS supervised practice, a ratio is formed with the numerator equal to the number of months of postgraduate social work BACS supervised practice completed prior to August 15, 2007 and with the denominator equal to 24. The resulting percentage is then multiplied times 3840 in order to convert the monthly credits into hourly credits. That hourly credit is then subtracted from 3840 to determine the number of hours of postgraduate BACS supervised practice after August 15, 2007 which are necessary to complete the requirement.

3. Example of calculations. GSW prior to August 15, 2007 completed 24 months of postgraduate practice 13 of which qualified as BACS supervised. Two ratios of 24/36 and 13/24 are formed. The resulting percentages, (66.67 percent of the postgraduate practice requirement and 54.17 percent of the supervision requirement) are then multiplied times the total hourly requirement in each category. In the example, the GSW converts by multiplying 66.67 percent times 5760 to obtain 3840 hours of postgraduate practice credit for social work performed prior to August 15, 2007. The GSW determines that 1920 hours of postgraduate social work practice after August 15, 2007 are required by subtracting 3840 by 5760. Likewise the GSW converts by multiplying 54.17 percent times 3840 to obtain the 2080 hours of postgraduate BACS supervised practice credit performed prior to August 15, 2007. The GSW determines that 1760 hours of postgraduate social work practice after August 15, 2007 are required by subtracting 2080 from 3840.

H. The requirement for supervision is at least 2 hours of face-to-face supervision with a BACS during every 80 hours increment of postgraduate social work practice. This hourly supervision requirement applies to each consecutive increment of 80 hours of social work practice. Postgraduate social work practice which exceeds 80 consecutive hours of practice without at least one hour of face-to-face BACS supervision will not be credited to the 3840 hours of supervised practice.

I. Face-to-face supervision for licensure must total at least 96 hours.

J. A minimum of 1 session per month is required. Supervision segments of no fewer than 30 minutes and no longer than 2 hours per session will be counted toward meeting the supervision requirement.

K. One-half (48 hours maximum) of the supervision requirement may be met through group supervision, occurring in increments of no more than two hours per

group. No more than five supervisees may be involved in supervision groups.

L. School social workers shall count hours of postgraduate social work practice and supervision that occurs when they are employed in a social work position.

M. The supervisee and supervisor shall keep accurate records of both the dates of supervision sessions and the time spent in supervision. This information shall be submitted to the board office on the supervision form entitled *Record of Supervision*.

N. The supervisor has a professional responsibility to honor his/her commitment to supervise responsibly, which includes submitting forms on a timely basis. Should the supervisor fail to submit forms appropriately, legibly, and on a timely basis, the board reserves the right to withdraw the BACS designation from the supervisor.

O. A supervisory record shall include:

1. supervision agreement and plan for supervision;
2. learning assessment of supervisee;
3. record of all supervisory sessions, and any canceled or missed appointments;
4. overview of cases discussed, as well as significant decisions made;
5. any ethical concerns;
6. significant problems arising in supervision, and how they were resolved;
7. memos and correspondence;
8. for all above data, dates completed and person completing the item.

P. To register her/his intent to initiate supervision, the GSW must submit the completed registration of supervision, with the registration fee of \$35.

Q. The individual completing supervision shall:

1. Use the following forms to submit their supervision to the board office:
 - a. Supervision Agreement/Plan of Supervision;
 - b. Employment Verification;
 - c. Record of Supervision;
 - d. Evaluation of Supervision;
 - e. Professional Experience Verification Record;
2. Submit legible forms. Preferably, material on forms should be typed, but if not typed, the forms must be printed neatly and legibly. Forms which are not legible will be returned.
3. Submit original, unaltered supervision forms to the board office. Copies, faxes, or forms with any alterations (such as white-out or mark-outs) will not be accepted.

R. The original Supervision Agreement/Plan of Supervision must be submitted to the board office within 60 days of the first supervision session. A Supervision Agreement/Plan of Supervision shall be submitted on each supervision experience.

S. The Supervision Agreement/Plan of Supervision will be reviewed and revisions may be required. Revisions shall be submitted to the board office within 30 days of receipt by the supervisee/supervisor.

T. When supervision is provided to a GSW by a LCSW-BACS supervisor, not an agency employee, social work ethics require that the LCSW-BACS take responsibility for securing agency agreement to the plan of supervision, whether the fee for supervision is paid by the agency or the supervisee.

1. The LCSW-BACS is responsible for clarifying with the agency administration, the supervisory role responsibilities and the content of supervision.

2. Under such a plan the supervisee's written evaluation is made available to the agency if the agency is paying for the supervision. If the supervisee is paying the fee, the evaluation is the supervisee's property.

U. The supervisee shall submit an Employment Verification Form from each place of social work employment after she/he receives the MSW degree. The form shall be completed by the employer, not the supervisor (unless the employer and the supervisor are one and the same).

V. An Evaluation of Supervision Form shall be submitted to the board office at the end of the supervisory period. Sometimes it is necessary for a supervisor to discontinue supervising a GSW for licensure. When this occurs, no matter what length of time the supervisor actually supervised the supervisee, the supervisor must submit an Evaluation of Supervision Form.

W. The Professional Experience Verification Record shall be submitted to the board office from each place of employment to verify dates employed and the hours of social work practice completed during the time employed. The Professional Experience Verification Record shall be completed by the employer(s).

X. If the GSW receives supervision outside of the state of Louisiana, that supervision will be accepted if:

1. the supervisor has completed the authorized forms of the Louisiana State Board of Social Work Examiners; and

2. the supervisor was licensed at the time of supervision in the other state and submits the license verification of out-of-state supervisor form (available from board office); or

3. the supervisor was certified by the Academy of Certified Social Workers (ACSW) at the time of supervision, which the supervisor must verify.

Y. The board's publication, *Supervision for Professional Development and Public Protection: A Guide*, provides more information relative to supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000), amended LR 29:2387 (November 2003), LR 34:1402 (July 2008).

Chapter 7. Impaired Professional Program Authority

§707. Disposition of Investigation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:309 (February 2000), repealed LR 34:1404 (July 2008).

§709. Administrative Complaint Procedure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:310 (February 2000), repealed LR 34:1404 (July 2008).

§711. Notice of Administrative Complaint and Hearing Scheduling

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:310 (February 2000), repealed LR 34:1404 (July 2008).

§713. Response to Complaint, Notice of Representation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:311 (February 2000), repealed LR 34:1404 (July 2008).

§715. Pleadings; Motions and Service

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:311 (February 2000), repealed LR 34:1404 (July 2008).

§717. Pre-Hearing Motions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:311 (February 2000), repealed LR 34:1404 (July 2008).

§719. Motions for Continuance of Hearing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:311 (February 2000), repealed LR 34:1404 (July 2008).

§721. Disposition of Pre-Hearing Motions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:311 (February 2000), repealed LR 34:1404 (July 2008).

§723. Rules of Evidence; Official Notice; Oaths and Affirmations; Subpoenas; Depositions and Discovery; Confidential Privileged Information; and Executive Session

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:312 (February 2000), repealed LR 34:1404 (July 2008).

§725. Designation of Hearing Panel, Disqualification and Replacement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:312 (February 2000), repealed LR 34:1404 (July 2008).

§727. Board's Independent Legal Counsel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:313 (February 2000), repealed LR 34:1404 (July 2008).

§729. Pre-Hearing Conference

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:313 (February 2000), repealed LR 34:1405 (July 2008).

§731. Consolidation of Cases

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:313 (February 2000), repealed LR 34:1405 (July 2008).

§733. Conduct of Hearing Record

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:313 (February 2000), repealed LR 34:1405 (July 2008).

§735. Evidence; Burden of Proof

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:314 (February 2000), repealed LR 34:1405 (July 2008).

§737. Decisions; Notice

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:314 (February 2000), repealed LR 34:1405 (July 2008).

§739. Rehearings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:314 (February 2000), repealed LR 34:1405 (July 2008).

§741. Miscellaneous Rules

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:315 (February 2000), repealed LR 34:1405 (July 2008).

§743. Compliance Hearing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:315 (February 2000), repealed LR 34:1405 (July 2008).

§745. Declaratory Ruling

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:316 (February 2000), repealed LR 34:1405 (July 2008).

Chapter 9. Procedural Rules

§905. Investigation Procedures

A. - D. ...

E. The investigation and recommended action or report should be completed within 60 days following the date the investigator receives the board's written referral for investigation. If the board's administrator and/or CIO shows good cause, the board may extend the time for investigation for a reasonable time not to exceed an additional 60-day period.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2391 (November 2003), amended LR 34:1405 (July 2008).

Emily J. Efferson
Administrator

0807#044

RULE

**Department of Health and Hospitals
Board of Examiners of Psychologists**

Criminal History Records Information and
Continuing Education
(LAC 46:LXIII.103, 201, 403, 813, and Chapter 12)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists has amended LAC 46:LXIII.103, 201, 403, and 813 and adopted LAC 46:LXIII.1201, 1203, 1205, 1207, 1209, 1211, 1213, and 1215.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Chapter 1. Definitions

§103. Definition of Applicant for Licensure

A. An applicant is a person who submits to the board the required application fee and the complete prescribed application which includes evidence that the person:

1. is at least 21 years of age; and
2. is of good moral character; and
3. is a citizen of the United States or has declared an intention to become a citizen. A statement by the person, under oath, to apply for citizenship upon becoming eligible to make such application shall be sufficient proof of compliance with this requirement; and

4. holds a doctoral degree with a major in psychology from a university offering a full-time graduate course of study in psychology that is approved by the board with such requirements as designated in the board's rules and regulations; and

5. has a minimum of two years of experience practicing psychology under the supervision of a psychologist, one year of which may be a predoctoral internship as defined in the rules and regulations of the board and required as part of the doctoral degree in psychology as defined by the board and all other experience being postdoctoral; and

6. is not in violation of any of the provisions of R.S. 37:2351-2367 and the rules and regulations adopted thereunder; and

7. submits such number of full sets of fingerprints and fees and costs as may be incurred by the board in requesting or obtaining criminal history record information as authorized by R.S. 37:2372.1, and in the form and manner prescribed by the boards rules and regulations. The results of the criminal history record information search to be obtained, reviewed and considered acceptable by the board prior to admission to candidacy status.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:248 (August 1979), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 34:1405 (July 2008).

Chapter 2. Reciprocity

§201. Licensure of Psychologists through Reciprocity

A. - B. ...

C. Applicants for reciprocal licensing must submit such number of full sets of fingerprints, or other identifiable information, and fees and costs as may be incurred by the board in requesting or obtaining criminal history record information as authorized by R.S. 37:2372.1, and in the form and manner prescribed by the boards rules and regulations. The results of the criminal history record information search to be obtained, reviewed and considered acceptable by the board prior to admission to candidacy status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 23:861 (July 1997), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 27:723 (May 2001), LR 29:2075 (October 2003), LR 34:1406 (July 2008).

Chapter 4. Certificate of Prescriptive Authority

§403. Application for Certificate of Prescriptive Authority

A. - A.4.g. ...

5. As a condition for eligibility for the issuance a Certificate of Prescriptive Authority the applicant must submit such number of full sets of fingerprints, or other identifiable information, and fees and costs as may be incurred by the board in requesting or obtaining criminal history record information as authorized by R.S. 37:2372.1 and in the form and manner prescribed by the boards rules and regulations.

B. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:70 (January 2005), amended LR 32:1228 (July 2006), LR 33:458 (March 2007), LR 34:1406 (July 2008).

Chapter 8. Continuing Education

§813. Noncompliance

A. - B. ...

C. If the licensee fails to meet continuing education requirements by the appropriate date, the license shall be regarded as lapsed at the close of business July 31 of the year for which the licensee is seeking renewal.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:47 (January 1993), amended LR 32:1229 (July 2006), LR 34:1406 (July 2008).

Chapter 12. Criminal History Records Information

§1201. Scope of Chapter

A. The rules of this Chapter govern the collection and use of criminal history records information in connection with applications for an initial license, renewal, or reinstatement of a license of a psychologist in conformity with R.S. 37:2372.1

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 34:1406 (July 2008).

§1203. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Applicant—an individual who has made application to the board for the issuance or reinstatement of any license, permit, certificate, or registration which the board is authorized by law to issue.

Board—the Louisiana State Board of Examiners of Psychologists.

Bureau—the Louisiana Bureau of Criminal Identification and Information of the Office of State Police within the Department of Public Safety and Corrections.

Criminal History Record Information—information collected by the bureau or the Federal Bureau of Investigation of the United States Department of Justice or an individual consisting of detentions, indictments, bills of information, or any formal criminal charges and any disposition arising therefrom, including sentencing, criminal correctional supervision and release. Criminal history record information does not include information collected for intelligence or investigatory purposes nor does it include any identification information which does not indicate involvement of the individual in the criminal justice system.

FBI—the Federal Bureau of Investigation of the United States Department of Justice.

Licensure or License—any license, permit, certification, or registration which the board is authorized by law to issue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 34:1406 (July 2008).

§1205. Criminal History Record Information Requirement

A. As a condition for eligibility for the issuance of an initial license or the reinstatement of any license, an applicant must submit such number of full sets of fingerprints, other identifiable information, and fees and costs as may be incurred by the board in requesting or obtaining criminal history record information, in the form and manner prescribed in §1209.

B. The board will use the fingerprints to request and obtain criminal history record information relative to the applicant as provided in R.S. 37:2372.1.

C. The application of an applicant who fails to comply with the requirements set forth in §1205.A shall be deemed incomplete and shall not be considered by the board unless and until such requirements have been satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 34:1406 (July 2008).

§1207. Effect of Application

A. The submission of an application for licensure to the board shall constitute and operate as an acknowledgement and authorization by the applicant to any state or federal agency, including, but not limited to, the bureau and the FBI, to disclose and release to the board any and all state, national, or foreign criminal history record information; the submission of an application for licensure to the board shall equally constitute and operate as a consent by the applicant for disclosure and release of such information and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. The submission of an application for licensure to the board shall constitute and operate as an acknowledgement and authorization by the applicant for the board's utilization of criminal history record information to determine his or her suitability and eligibility for licensure, and whether just cause exists for the board to refuse to issue, suspend, revoke, or impose probationary or other terms, conditions, or restrictions on any license held or applied for by an applicant in the state of Louisiana for violation of any of the causes specified by R.S. 37:2359 or 37:2360, and the board's rules respecting any such health care provider as set forth in LAC 46:LXIII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353, 37:2356 and 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 34:1407 (July 2008).

§1209. Procedural Requirements

A. In conformity with the substantive requirements of §1205, an application for licensure, whether initial, by credential, or reinstatement to the board, shall be accompanied by each of the following:

1. two or such other number of fully completed fingerprint record cards, containing all identifiable information requested, as well as certified sets of fingerprints which have been affixed by a sheriff, police officer, or other law enforcement personnel;

2. a check in the amount of no less than \$50 in satisfaction of the fees and costs incurred by the board to process fingerprint cards and to request and to receive criminal history record information from the bureau and the FBI.

B. Fingerprint cards and instructions pertaining thereto will be supplied by the board upon application.

C. An applicant shall be responsible for any increase in the amounts specified in §1209.A.2, which may be assessed by any state or federal agency, including, but not limited to, the bureau and the FBI, or for the fees and costs which may be incurred by the board in requesting and obtaining criminal history record information. An applicant shall also be responsible for payment of any processing fees and costs

resulting from a fingerprint card being rejected by any state or federal agency, including, but not limited to, the bureau and the FBI.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 34:1407 (July 2008).

§1211. Falsification of Criminal Record Information

A. An applicant who denies the existence or extent of criminal history record information on an application, which is discovered by information, records, or documentation provided by the bureau, FBI, or any other state, national, or foreign jurisdiction shall, in addition to the potential disqualification of licensure for any of the causes specified in §1207.B, be deemed to have provided false, misleading, or deceptive information, or false sworn information on an application for licensure, and to have engaged in unprofessional conduct, providing additional cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by an applicant in the state of Louisiana culpable of such violation, pursuant to R.S. 37:2359 and 37:2360.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 34:1407 (July 2008).

§1213. Confidentiality of Criminal History Record Information

A. Criminal history record information obtained by the board pursuant to R.S. 37:2372.1 and the rules of this Chapter, which is not already a matter of public record or to which the privilege of confidentiality has not otherwise been waived or abandoned, shall be deemed nonpublic and confidential information, restricted to and utilized exclusively by the board, its officers, members, investigators, employees, agents, and attorneys in evaluating the applicant's eligibility or disqualification for licensure. Criminal history record information shall not, except with the written consent of the applicant or by the order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency, provided, however, that any such information or documents which are admitted into evidence and made part of the administrative record in any adjudicatory proceeding before the board shall become public records upon the filing of a petition for judicial review of the board's final decision therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychology, LR 34:1407 (July 2008).

§1215. Exceptions to Criminal History Information Requirement

A. The criminal history record information requirements prescribed by this Chapter shall not be applicable to a psychologist applicant who seeks:

1. a temporary registration issued in accordance with LAC 46:LXIII.

B. The criminal history record information requirements prescribed by §§1201-1213 may be waived in such instances as the board, in its discretion, may deem necessary or appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychology, LR 34:1407 (July 2008).

Jaime T. Monic
Executive Director

0807#070

RULE

Department of Health and Hospitals Board of Pharmacy

Pharmacies
(LAC 46:LIII.1107 and 1727)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended an existing Section of its rules and promulgated a new Section: §1107 to require all pharmacies to operate a minimum of 10 hours per week, and a new Section, §1727 to allow the donation of previously dispensed but unused prescription medications to certain pharmacies located in penal institutions.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 11. Pharmacies

Subchapter A. General Requirements

§1107. Pharmacy Operation

A. A pharmacist shall be on duty at all times during regular open hours of the pharmacy.

B. A pharmacy shall be open for business a minimum of 10 hours per week, with said business hours posted at the building entrance in full public view from outside the premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997), amended LR 29:2088 (October 2003), effective January 1, 2004, LR 34:1408 (July 2008).

Chapter 17. Institutional Pharmacy

Subchapter D. Drug Donations to Pharmacies in Penal Institutions

§1727. Medication Transfers

A. In facilities licensed by the Department of Health and Hospitals where United States Pharmacopeia (USP) storage requirements can be assured, prescription drugs, except controlled dangerous substances, dispensed in unit dose or in individually sealed doses may be transferred to a permitted institutional pharmacy located within a penal institution operated under the authority of the Department of Public Safety and Corrections for re-labeling and dispensing to that penal institution's patients, free of charge, pursuant to a valid prescription order.

1. The pharmacist-in-charge of the institutional pharmacy located within a penal institution shall be responsible for determination of suitability of the product for reuse.

a. No product where integrity cannot be assured shall be accepted for re-dispensing by the pharmacist.

b. A re-dispensed prescription medication shall be assigned the expiration date stated on the package.

c. No product shall be re-dispensed more than one time.

2. Pursuant to a voluntary agreement between the facility licensed by the Department of Health and Hospitals and an institutional pharmacy located within a penal institution operated under the authority of the Department of Public Safety and Corrections, prescription drugs, except controlled substances, may be transferred from the facility to the pharmacy provided the following procedures are satisfied.

a. The physical transfer shall be accomplished by an individual authorized to do so by the institutional pharmacy located within a penal institution.

b. The patient from whom the prescription medication was obtained shall document their consent for the donation; the consent shall be maintained on file in the facility.

c. The patient's name, prescription number, and any other identifying marks, shall be obliterated from the packaging prior to removal from the facility.

d. The drug name, strength, and expiration date shall remain on the medication package or label.

e. An inventory list of the drugs shall accompany the drugs being transferred. The list shall contain, at a minimum, the medication name, strength, quantity, and expiration date.

f. Expired drugs shall not be transferred. In the event expired drugs are received by an institutional pharmacy located within a penal institution, the pharmacist-in-charge shall destroy them as required by law.

B. Under no circumstances may these transferred medications be re-distributed to another location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:1408 (July 2008).

Malcolm J Broussard
Executive Director

0807#037

RULE

Department of Health and Hospitals Board of Pharmacy

Pharmacy Interns
(LAC 46:LIII.521 and 705)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended two Sections of its rules: §521 to allow certain pharmacy interns to administer medications, and §705 to reallocate the hours of practical experience required of pharmacy interns to qualify for pharmacist licensure.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LIII. Pharmacists

Chapter 5. Pharmacists

Subchapter B. Professional Practice Procedures

§521. Prescription Orders to Administer Medications

A. - F.9. ...

G. A pharmacist certified to administer medications may train a pharmacy intern to administer medication, provided the pharmacy intern meets the same educational requirements and minimum standards identified in Paragraph D.2 and Subsection E of this Section. The intern shall be under the direct and immediate supervision of the certified pharmacist at all times during such training activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2085 (October 2003), effective January 1, 2004, LR 34:1409 (July 2008).

Chapter 7. Pharmacy Interns

§705. Practical Experience

A. - B.2. ...

C. Practical Experience Hours. To qualify for pharmacist licensure, an intern shall supply evidence of the acquisition of at least 1,500 hours of practical experience.

1. The board shall award 1,000 hours credit to an intern for his successful completion of a professional experience curriculum at a board-approved college of pharmacy. The dean of the board-approved college of pharmacy shall certify the completion of this requirement in the manner prescribed by the board office.

2. The intern shall earn at least 500 hours of practical experience in a permitted pharmacy site under the supervision of a pharmacist with no less than two years of experience as a licensed pharmacist. Further, neither the pharmacist's license nor the pharmacy's permit may be on probation with the board at the time the practical experience is earned.

3. Practical experience hours that are submitted to the board for credit consideration shall be listed on an affidavit form supplied by the board office, and signed by the pharmacist and pharmacy intern.

a. A pharmacy intern may receive credit for a maximum of 50 hours per week.

b. A separate affidavit shall be required from each permitted pharmacy site.

c. No credit shall be awarded for hours earned within the professional experience curriculum of a board-approved college of pharmacy, nor for hours earned outside the professional experience curriculum but at the same time and location as hours earned for that professional experience curriculum.

4. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2285 (October 2000), amended LR 29:2086 (October 2003), effective January 1,

2004, LR 32:636 (April 2006), LR 32:2256 (December 2006), LR 33:1130 (June 2007), LR 34:1409 (July 2008).

Malcolm J Broussard
Executive Director

0807#038

RULE

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

Medicaid Eligibility—Spousal Impoverishment Provisions
and Nursing Facility Private-Pay Rate
(LAC 50:III.16101 and 16103)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:III.16101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., of the January 15, 2008 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 9. Long-Term Care Eligibility

Chapter 161. General Provisions

§16101. Spousal Impoverishment

A. Spousal impoverishment provisions assure that the needs of an institutionalized individual's legal spouse and/or dependents that reside in the community continue to be met.

B. Spousal impoverishment resource provisions allow certain long term care applicants/recipients residing in a medical institution for a continuous period of institutionalization or home and community-based services waiver applicants/recipients to allocate resources to a legal spouse (referred to as the community spouse) who lives in a non-institutionalized living arrangement for the community spouse's own use and maintenance.

1. Exception. The spousal impoverishment provisions do not apply to individuals residing in a group home.

C. The income first rule shall apply to spousal impoverishment. Under these provisions, all of the income of the institutionalized spouse that can be made available to the community spouse will be made available to bring the spouse up to the minimum monthly needs allowance.

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 34:1409 (July 2008).

§16103. Nursing Facility Private-Pay Cost

A. The department uses a statewide average, monthly private-pay nursing facility cost amount to calculate the periods of ineligibility for long-term care services when uncompensated transfers of assets occur. The average, monthly private-pay nursing facility cost amount shall be determined by the bureau.

1. The amount will be reviewed annually to ensure that it remains aligned with private-pay costs.

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 34:1409 (July 2008).

Alan Levine
Secretary

0807#079

RULE

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

Medicaid Eligibility—SSI-Related Resources (LAC 50:III.10717)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:III.10717 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 5. Financial Eligibility

Chapter 107. Resources

§10717. Types of SSI-Related Resources

A. The following SSI-related resources are considered in determining eligibility for Medicaid coverage.

1. Annuities

a. Any annuity purchases must adhere to the following requirements or the annuity will be considered an available countable resource.

i. The annuity must contain a statement that names the state of Louisiana as the remainder beneficiary in the first position for the total amount of Medicaid assistance paid on behalf of the annuitant unless there is a community spouse and/or a minor or disabled child.

ii. If there is a community spouse and/or a minor or disabled child, the state may be named in the next position after those individuals. If the state has been named after a community spouse and/or minor or disabled child and any of those individuals or their representatives dispose of any of the remainder of the annuity for less than fair market value, the state may then be named in the first position.

iii. If the state is not named as a remainder beneficiary in the correct position, the purchase of the annuity will be considered a transfer for less than fair market value. The full purchase value of the annuity will be considered the amount transferred.

b. In addition to purchases of annuities, certain related transactions which occur to annuities are subject to these provisions. If any action taken by the individual changes the course of payment to be made by the annuity, then the treatment of the income or principal of the annuity

is subject to these provisions. This includes additions of principal, elective withdrawals, requests to change the distribution of the annuity, elections to annuitize the contract and similar actions taken by the individual.

i. Routine changes and automatic events that do not require any action or decision after the effective date of the enactment are not considered transactions that would subject the annuity to treatment under these provisions.

c. Refusal to disclose sufficient information related to any annuity will result in denial or termination of Medicaid based on the applicant's failure to cooperate. When an unreported annuity is discovered after eligibility has been established and after payment for long-term care services has been made, appropriate steps to terminate payment for services will be taken, including appropriate notice to the individual of the adverse action.

d. Annuities purchased by or on behalf of an annuitant who has applied for medical assistance will not be treated as a transfer of assets if the annuity meets any of the following conditions:

i. the annuity is considered to be:

(a) an individual retirement annuity; or

(b) a deemed individual retirement account

(IRA) under a qualified employer plan; or

ii. the annuity is purchased with proceeds from one of the following:

(a) a traditional IRA;

(b) certain accounts or trusts which are treated

as IRAs;

(c) a simplified retirement account; or

(d) a simplified employee pension; or

iii. the annuity:

(a) is irrevocable and non-assignable;

(b) is actuarially sound; and

(c) provides payments in approximately equal amounts with no deferred or balloon payments.

e. Applicants or their authorized representatives shall be responsible for providing documentation from the financial institution verifying qualifying IRS annuities. Absent such documentation, the purchase of the annuity will be considered a transfer for less than fair market value which is subject to penalty. The full purchase value of the annuity will be considered the amount transferred.

f. If an annuity or the income stream from an annuity is transferred, except to or for the spouse's sole benefit, to their child or a trust, the transfer may be subject to penalty.

2. Continuing Care Retirement Community Entrance Fees

a. Continuing care retirement communities (CCRC's) are entities which provide a range of living arrangements from independent living through skilled nursing care. An entrance contract for admission to a continuing care retirement center or life care community must take into account the required allocation of resources or income to the community spouse before determining the amount of resources that a resident must spend on his or her own care.

b. A CCRC entrance fee shall be treated as a resource for the purposes of determining Medicaid eligibility under the following conditions if the entrance fee:

i. can be used to pay for care under the terms of the entrance contract should other resources of the individual be insufficient;

NOTE: It is not necessary for CCRC's or life care communities to provide a full, lump-sum refund of the entrance fee to the resident. If portions of the fee can be refunded or applied to pay for care as required, this condition would be met.

ii. or a remaining portion is refundable when the individual dies or terminates the contract and leaves the CCRC or life care community; and

NOTE: It is not necessary for the resident to actually receive a refund of the entrance fee for deposit. This condition is met as long as the resident could receive a refund were the contract to be terminated, or if the resident dies.

iii. does not confer an ownership interest in the community.

3. Life Estates

a. The purchase of a life estate in another individual's home is considered a countable resource and subject to examination under transfer of asset provisions unless the purchaser resides in the home for a period of at least one year after the date of purchase.

b. The life estate value will be determined using the life estate tables published by the Social Security Administration for the SSI program.

c. For transfer of assets determinations, the amount of the transfer is the entire amount used to purchase the life estate.

i. The amount shall not be reduced or prorated to reflect an individual's residency for a period of time less than one year.

d. If payment for a life estate exceeds the fair market value (FMV) of the life estate, the difference between the amount paid and the FMV will be treated as a transfer of assets.

e. If an individual makes a gift or transfer of a life estate, the value of the life estate will be treated as a transfer of assets.

f. These provisions apply only to the purchase of life estates. They do not apply in situations where an individual transfers real property but retains the life estate and the value of the remainder interest (not the life estate) is used to determine whether a transfer has occurred and to calculate the period of ineligibility.

g. For the purposes of determining eligibility for Medicaid coverage, the terms "life estate" and "usufruct" have the same meaning.

4. Loans, Mortgages, Promissory Notes and Other Property Agreements

a. Countable assets include funds used to purchase a promissory note, or funds used to make a loan or mortgage. These resources are subject to transfer of assets provisions unless the repayment terms are actuarially sound.

b. Loans, mortgages, promissory notes, property agreements or property assignments are countable resources regardless of any non-assignability, non-negotiability or non-transferability provisions contained therein.

c. Instruments containing any of the following provisions are a countable resource and shall be evaluated as a transfer of assets:

i. repayment terms that exceed the holder's life expectancy;

ii. provisions for interest only payments or principal payments that are not to be made in equal amounts during the term of the loan;

iii. deferral or balloon payments; or

iv. cancellation or forgiveness clauses that cancel the balance upon some occurrence such as death of the lender.

d. If there is evidence that there is not a good faith agreement to repay the entire principal of a note, loan or mortgage, the instrument shall not be considered bona fide and shall be evaluated as a transfer of resources.

5. Substantial Home Equity

a. Substantial home equity above the state's established limit is a countable resource which causes ineligibility for long-term care services. If an individual's equity interest in their home exceeds \$500,000, that individual is not eligible for Medicaid payment of nursing facility services or other long-term care services.

b. Home equity limitations do not apply if the individual's spouse, the individual's child under the age of 21, or the individual's blind or disabled child is residing in the home.

i. A child is considered disabled if he or she meets the definition of disability as defined by Section 1614(a)(3) of the Social Security Act.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1410 (July 2008).

Alan Levine
Secretary

0807#078

RULE

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

Medicaid Eligibility—Transfers of Assets (LAC 50:III.10905)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:III.Chapter 109 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 5. Financial Eligibility

Chapter 109. Transfers of Assets

§10905. Transfers

A. The Deficit Reduction Act of 2005 established new provisions governing the treatment of transfers of assets for individuals and their spouses who apply for or receive long-term care services.

B. The look-back period is lengthened to five years for potential transfers of assets.

C. For transfers for less than fair market value, the period of ineligibility for long-term care vendor payment is the latter of the first day of the month after which the asset was transferred or the date on which the individual is eligible for long term care Medicaid assistance (but for the penalty being applied).

1. The penalty is a period of ineligibility for receiving long-term care vendor payments as a result of a transfer of income or assets or both.

2. Periods of ineligibility cannot occur during any other period of ineligibility; they must be consecutive and not concurrent.

D. For transfers for less than fair market value, the penalty period for home and community-based services (HCBS) waiver recipients begins with the later of the month during which assets have been transferred or the date the individual is ineligible for Medicaid long-term care assistance and is receiving long-term care services (nursing facility and ICF/MR or HCBS services) that would be covered by Medicaid, except for imposition of the penalty.

E. Partial Month Transfers. The department shall impose penalties for transfers in a month that are less than the state's average monthly cost to a private patient of nursing facility services in the state.

F. Combining Multiple Transfers Made in More Than One Month. These provisions refer to more than one transfer during the look-back period where each transfer results in less than a full month of eligibility.

1. The department shall combine multiple transfers for less than fair market value in more than one month and impose a single period of ineligibility or apply multiple penalty periods.

a. If the department imposes a single period of ineligibility, all transfers will be added together and a single continuous period of eligibility will be imposed. Otherwise, a separate period of ineligibility shall be calculated for each month and the resulting periods of eligibility shall be imposed separately.

G. Undue Hardship. The department shall provide for an undue hardship waiver when application of the transfer of assets provision would deprive the individual of medical care such that the individual's health, life or other necessities of life would be endangered.

1. An undue hardship exception is when a penalty will not be imposed against the applicant/enrollee, either in whole or in part, after findings that an undue hardship exists.

a. Undue hardship provisions shall permit the facility in which the individual is residing to file an undue hardship waiver application on his behalf with the consent of the individual or the personal representative of the individual.

b. Bed hold payments shall not be made while an application for an undue hardship waiver is pending.

c. The community spouse is not protected by the hardship exception. The exception is for the applicant/enrollee not to be deprived.

2. Undue hardship does not exist:

a. when the application of the transfer of assets provisions merely causes the individual inconvenience or

when such application might restrict his or her lifestyle but would not put him/her at risk of serious deprivation; and

b. when property is transferred to one or more of the following:

- i. blood relatives to a third degree cousin;
- ii. mother-in-law;
- iii. father-in-law;
- iv. brother-in-law; or
- v. sister-in-law;

c. if the individual who transferred the assets or income, or on whose behalf the assets or income were transferred, has not exhausted all lawful means to recover the assets or income or the value of the transferred assets or income; or

d. if the applicant/enrollee's health or age indicated a need for long term care services was predictable at the time of the transfer.

3. The applicant/recipient shall be advised in writing of the decision made on the undue hardship exception request.

4. Determining Undue Hardship. Once a period of ineligibility has been established because of a transfer of assets or income for less than fair market value, or the equity value in the home, an applicant/enrollee may apply for an undue hardship exception.

a. An undue hardship exception request must be made within seven days from the date of notification of the penalty. Documentation supporting the request for the exception of undue hardship must be provided. The department may extend the request periods if it determines that extenuating circumstances require additional time.

b. When undue hardship requests are made for the first time, individuals challenging the penalty must raise all claims and submit all evidence permitting consideration of undue hardship. The individual has to have taken action in law and equity to get the asset back before the department can consider undue hardship.

c. Once the department determines that it has received complete documentation, it shall inform the individual within 10 business days of the undue hardship decision.

d. If no request for undue hardship is received within seven days after notification of a transfer penalty, or if the request is denied, the department shall issue an eligibility determination specifying the applicable penalty period.

i. If the individual is a recipient, the notice shall include the termination date of Medicaid eligibility for long-term care services.

ii. The notice shall also include the right to request a fair hearing and continuing benefits.

5. If an undue hardship exception is denied, the applicant has the right to appeal the denial decision.

6. An undue hardship exception may be requested at any time during the penalty period if new circumstances leading to undue hardship arise during the duration of the penalty period. If granted, the undue hardship request shall be prospective from the date of the request.

7. The department shall have no obligation to pay for long-term care services during the penalty period unless it grants an undue hardship exception or the applicant/enrollee prevails in a fair hearing.

8. The individual must provide to the department sufficient documentation to support, by a preponderance of the evidence, the claim that application of the penalty will result in an undue hardship to the applicant/enrollee (not the community spouse).

9. If undue hardship is determined to exist, the transferred assets or equity value in the home shall not be considered in the eligibility process.

10. If a request for an undue hardship exception is denied, the applicant/enrollee may request a fair hearing.

11. Terminating the Undue Hardship Exception. The department shall terminate the undue hardship exception, if not earlier, at the time an individual, the spouse of the individual, or anyone with authority on behalf of the individual, makes any uncompensated transfer of income or assets after the undue hardship exception is granted.

a. The department shall deny any further requests for an undue hardship exception due to either the disqualification based on the transfer upon which the initial undue hardship determination was based or a disqualification based on the transfer, which required termination of the undue hardship exception.

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 34:1411 (July 2008).

Alan Levine
Secretary

0807#080

RULE

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

Medication Attendants Certified (LAC 48:I.10080-10091)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 48:I.10080-10091 as authorized by R.S. 37:1026.1-37:1026.9. 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 100. Nurse Aide Training and Competency

Evaluation Program

Subchapter G. Medication Attendant Certified

§10080. Definitions

Abuse—

1. the willful infliction of injury;
2. unreasonable confinement;
3. intimidation; or
4. punishment with resulting physical harm, pain, or mental anguish.

Department—the Louisiana Department of Health and Hospitals (DHH).

LBP—the Louisiana Board of Pharmacy.

LSBN—the Louisiana State Board of Nursing.

LSBPNE—the Louisiana State Board of Practical Nurse Examiners.

Licensed Nurse—a licensed registered nurse or a licensed practical nurse.

Licensed Practical Nurse—a person licensed by the LSBPNE to practice practical nursing in Louisiana.

Medication Attendant Certified (MAC)—a person certified by DHH to administer medications to nursing facility residents, hereafter referred to as a medication attendant certified.

Nurse Aide—an individual who has completed a nurse aide training and competency evaluation program (NATCEP) approved by the state as meeting the requirements of 42 Code of Federal Regulations (CFR), §§483.151-483.154, or has been determined competent as provided in 42 CFR, §483.150(a) and (b), and is listed as certified and in good standing on Louisiana's nurse aide registry.

Nursing Home—an institution licensed pursuant to R.S. 40:2009.1-2009.10.

Pilot—a program administered by the Department of Health and Hospitals to authorize the certification of medication attendants on a trial basis to perform certain functions in nursing homes licensed and in good standing with DHH and who agree to comply with established criteria to measure the outcome of the program.

Registered Nurse (RN)—a person licensed by the LSBN to practice professional nursing in Louisiana.

Registered Pharmacist—an individual currently licensed by the Louisiana Board of Pharmacy to practice pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1413 (July 2008).

§10081. General Provisions

A. The Department of Health and Hospitals (DHH) implements a three-year pilot project which establishes provisions for the use of medication attendants certified in licensed nursing facilities. The department shall also develop and maintain a registry of individuals who have, at a minimum, successfully completed a state-approved medication attendant certified training course and competency evaluation, and criminal background check.

B. The medication attendant certified registry will contain the following items:

1. a list of individuals who have successfully completed a medication attendant certified 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 certification number;
- 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
 - j. information relative to training and registry status which will be available through procedures established by the department.

C. Employers must use the registry to determine if a prospective hire is a medication attendant certified 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.

D. A certificate holder must notify the department within 30 days after changing his or her address or name.

E. A medication attendant certified or his or her employer, if aware, must immediately notify the department of any arrest in any state.

F. A person who holds a valid license, registration or certificate as a medication attendant issued by another state may also be certified in Louisiana if the transferring state's training program is at least 100 hours or more and the applicant passes the state competency examination.

1. The applicant must submit a request for reciprocity to the registry.

2. The application must include a current copy of the rules of the other state governing its licensing and regulation of medication aides, a copy of the legal authority (law, act, code, or other) for the state's licensing program, and a certified copy of the license or certificate for which the reciprocal certificate is requested.

3. The department may contact the issuing agency to verify the applicant's status with the agency.

G. When issued, an initial certificate is valid for 12 months from the date of issue. The registry will renew the certificate if:

1. a certificate holder has completed four hours of continuing education focusing on medication administration prior to expiration of the certificate; and

2. a certificate holder has worked at least 400 hours per year in a licensed nursing facility.

H. The department shall deny renewal of the certificate of a medication attendant certified who is in violation of this Chapter at the time of the application renewal.

I. A person whose certificate has expired may not engage in activities that require a certificate until the certificate has been renewed.

J. A medication attendant certified must function under the direct supervision of a licensed nurse on duty at the nursing facility. A certificate holder must:

1. function in accordance with applicable laws and rules relating to administration of medication and operation of a nursing facility; and

2. comply with the department's rules applicable to personnel used in a nursing facility.

K. Persons employed as medication attendants certified in a nursing facility must comply with the requirements relating to nurse aides as set forth in the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, the department's rule governing the Standards for Payment for

Nursing Homes and Minimum Licensure Standards for Nursing Homes or subsequent amendments. Requirements are met if the individual is:

1. a student enrolled in an accredited school of practical nursing or program for the education of vocational nurses who is administering medications as part of the student's clinical experience; or

2. a trainee in a medication assistant training program approved by the department under this Chapter who is administering medications as part of the trainee's clinical experience.

L. While on duty, a MAC's sole function shall be to administer medications to residents. Persons employed as medication attendants in a nursing facility may not be assigned additional responsibilities. If medication administration has been completed, they may assist in other areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1413 (July 2008).

§10082. General Requirements

A. Prior to application for a certificate under this Chapter, all persons must:

1. be proficient in reading, writing, speaking, and understanding the English language at a minimum eighth grade level as evidenced by the following COMPASS scores:

- a. reading, 64;
- b. writing, 25; and
- c. pre-algebra, 31;

2. be a citizen of the United States;

3. be at least 18 years of age;

4. complete a required health and physical examination;

5. be a graduate of high school or have a general equivalency diploma;

6. be currently employed in a facility as a certified nurse aide on the first official day of an applicant's medication attendant training program or be a graduate of a nursing program; and

7. successfully pass a statewide criminal history background check and verification of the results sent to the training entity.

B. A medication attendant certified may not administer medication to a resident in a nursing facility unless he/she:

1. holds a current certificate issued by the department under this Chapter and acts under the supervision of a person who holds a current license under state law which authorizes the licensee to administer medication; or

2. is currently enrolled in a state approved training course and is acting under the direct supervision of faculty.

C. All medication attendant training and competency evaluation programs must be approved by the department.

D. Training and competency evaluation programs may be provided by the Louisiana Community and Technical College System (LCTCS) during the three year pilot project.

E. Each training and competency evaluation program must:

1. maintain qualified, approved registered nurses and licensed practical nurses for classroom and clinical instruction;

2. protect the integrity of the competency evaluations by keeping them secure;
3. utilize a pass rate of at least 80 percent for each individual student; and
4. assure the curriculum meets state requirements.

F. Clinical instruction must be conducted in an approved nursing facility with a ratio of no more than 5:1 under the direct supervision of the instructor.

G. Training programs that do not meet the minimum standards and cannot provide an acceptable plan for correcting deficiencies will be eliminated from participation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1414 (July 2008).

§10083. Trainee Responsibilities

A. Each medication attendant trainee should be clearly identified as a trainee during all clinical portions of the training. Identification should be recognizable to residents, family members, visitors and staff.

B. Trainees must take the competency evaluation (through skills demonstration and written examination) within 30 days after completion of the training program. Trainees will be given a maximum of two opportunities within 90 days following completion of the training program to successfully complete the competency evaluation program.

C. If a trainee fails to successfully complete the competency evaluation program, he or she must re-enroll in a training program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1415 (July 2008).

§10084. Training Curriculum

A. The goal of the medication attendant training and competency evaluation program is the provision of safe, effective and timely administration of medication to residents by medication attendants who are able to:

1. communicate and interact competently on a one-to-one basis with residents as part of the team implementing resident care;
2. demonstrate sensitivity to the resident's emotional, social and mental health needs through skillful, directed interactions;
3. exhibit behavior to support and promote the rights of residents; and
4. demonstrate proficiency in the skills related to medication administration.

B. Each medication attendant training program shall provide all trainees with a nursing facility orientation that is not included in the required minimum 100 hours of core curriculum. The orientation program shall include, but is not limited to:

1. an explanation of the facility's organizational structure;
2. the facility's policies and procedures;
3. discussion of the facility's philosophy of care;
4. a description of the resident population; and
5. employee rules.

C. Core Curriculum. The curriculum content for the training program must include material which provides a basic level of knowledge and demonstrable skills for each individual completing the program. The content should include the needs of populations which may be served by an individual nursing facility.

1. The core curriculum must be a minimum of 100 hours in length with a minimum of 40 clinical hours.

2. Each unit objective must be behaviorally-stated for each topic of instruction. Each objective must state performance criteria which are measurable and will serve as the basis for the competency evaluation.

D. Minimum Curriculum. The training program must be developed and conducted to ensure that each medication attendant, at a minimum, is able to demonstrate competency in the following areas including, but not limited to:

1. the basic principles of medication administration and the responsibilities of the medication attendant including:

- a. the role and functions of a MAC;
 - b. the professional relationship between the MAC and the residents and their families; and
 - c. prohibited functions or duties;
2. definition of nurse delegation;
3. definition of the basic terms used in medication administration, including identification of the abbreviations used in medication orders and on the medication administration records;

4. review of the various forms of medications;
5. methods of medication administration including:
 - a. proper positioning of resident for various medication administrations; and
 - b. the value of good body alignment prior to and after medication administration;
6. requirements for proper storage and security of medications;

7. proper methods for disposal of drugs;
8. infection control;
9. basic anatomy and physiology;
10. the functions of the gastrointestinal, musculoskeletal, integumentary, nervous, sensory, renal and urinary, reproductive, cardiovascular, respiratory, and endocrine systems;

- a. description of the common disorders associated with these systems; and
- b. the effect of aging on these systems;

11. definition of pharmacology including:
 - a. medication classifications,
 - b. a description of a controlled drug and how administration of these drugs differ;
 - c. the cycle of a drug in the body; and
 - d. side effects of medications;

12. the safe administration of all forms of oral medication including:
 - a. a description of the difference among all forms of oral medication; and
 - b. special precautions observed when administering timed-release capsules, enteric-coated tablets and oral suspensions;

13. appropriate procedures to follow when the resident is NPO, dysphagic, refuses the medication, vomits the medication, or has allergies;

14. application of topical medications and the standard precautions utilized in administering a topical medication;

15. the safe instillation of ophthalmic drops and ointments;

16. the safe administration of nose drops;

17. proper technique for administration of inhalant medications including:

a. a description of when the MAC may administer an inhalant;

18. the safe administration of a rectal suppository;

19. the safe administration of a vaginal medication;

20. developing proficiency in measuring liquid medications in a medicine cup or syringe;

21. measuring apical pulse and/or blood pressure (B/P) prior to medication administration;

22. the importance of the "chain of command;"

23. developing effective communication and interpersonal skills;

24. maintaining communication with the licensed nurse including:

a. a description of the situations that must be reported to the nurse;

25. the purpose of the clinical record and the importance of timely, clear and complete documentation in the medication administration record;

26. methods for avoiding medication errors:

a. reporting and documentation requirements when medication errors occur;

27. a resident's rights related to medication administration;

28. a discussion of the "rights" of medication administration;

29. the application and certification; and

30. violations of the laws and rules that may result in disciplinary action and/or loss of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1415 (July 2008).

§10085. Competency Evaluation

A. A competency evaluation must be developed and conducted to ensure that each trainee, at a minimum, is able to demonstrate competencies taught in each part of the training curriculum.

B. Written examinations will be provided by the training entity or organizations approved by the department. The examination will reflect the content and emphasis of the training curriculum and will be developed in accordance with accepted educational principles.

C. The entity responsible for the training and competency evaluation must report to the registry the names of all individuals who have satisfactorily completed the curriculum after the training is completed. Within 15 days after a medication attendant certified has successfully completed the training and competency evaluation, the training entity shall notify the registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1416 (July 2008).

§10086. Authorized Duties

A. The medication attendant certified may perform certain duties and functions under the direct supervision of a licensed nurse. These authorized duties will apply to medication attendant trainees under the supervision of the clinical instructor. The ratio of medication attendants certified to licensed nurses shall not exceed two medication attendants to one licensed nurse at any given time.

B. Medication attendants certified may:

1. observe and report to the licensed nurse a resident's adverse reaction to a medication;

2. administer medications which require vital signs only with direct authorization from the licensed nurse prior to administration;

3. take and record vital signs prior to the administration of medication that could affect or change the vital signs;

4. in an emergency only, administer oxygen at 2 liters per minute per nasal cannula and immediately after the emergency, verbally notify the licensed nurse on duty and appropriately document the action and notification;

5. administer regularly prescribed medication only after personally preparing (setting up) the medications to be administered;

6. deliver and administer certain prescribed medications ordered by an authorized prescriber by the following methods:

a. orally;

b. topically (to intact skin only);

c. drops and sprays for the eye, ear or nose;

d. vaginally;

e. rectally;

f. transdermally;

g. by metered dose oral inhalation; or

h. sublingually;

7. record medications administered in the resident's chart and/or medication administration record;

8. chart medication effects and side effects;

9. administer medications which require vital signs, only with direct authorization from the licensed nurse prior to administration:

a. the results of the vital signs must be documented in the clinical record;

10. administer pro re nata (prn), as needed medications only with direct authorization of the licensed nurse;

11. measure prescribed liquid medication only if verified by the licensed nurse prior to administration; and

12. crush prescribed medications only if ordered by the physician and verified by the licensed nurse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1416 (July 2008).

§10087. Prohibited Duties

A. Medication attendants certified shall not:

1. administer any controlled dangerous substances (schedules II through V) as set forth by the Drug Enforcement Agency or the Louisiana Board of Pharmacy;

2. administer any medications by the following parenteral routes:

- a. intramuscular;
 - b. intravenous;
 - c. subcutaneous; or
 - d. intradermal;
3. administer any medication used for intermittent positive breathing (IPPB) treatments;
 4. administer an initial dose of a medication that has not been previously administered to a resident as determined by the clinical record;
 5. calculate medication doses for administration;
 6. administer medications or feedings by way of a tube inserted in a cavity of the body;
 7. receive or assume responsibility for writing any verbal or telephone order from an authorized prescriber;
 8. order new medications or medications whose directions have changed from the pharmacy;
 9. apply topical medications that involve the treatment of skin that is broken;
 10. steal, divert or otherwise misuse medication;
 11. violate any provision of this Chapter;
 12. procure or attempt to procure a certificate by fraudulent means;
 13. neglect to administer prescribed medications in a responsible and timely manner;
 14. perform a task involving the administration of a medication which requires:
 - a. an assessment of the patient's physical status;
 - b. an assessment of the need for the medication;
 - c. a calculation of the dose of the medication; or
 - d. the conversion of the dose;
 15. perform a task involving the administration of a medication if the patient is unstable or has changing nursing needs, unless the supervising nurse is able to monitor the patient and the effect of the medication on the patient; or
 16. administer medications if he/she is unable to do so with reasonable skill and safety to the resident if the resident is impaired by reason of excessive use of mood altering drugs, narcotics, chemicals or any other type of material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1416 (July 2008).

§10088. Provider Participation and Responsibilities

A. A nursing facility must apply to the department to utilize medication attendants certified. Upon receipt of a facility's application, the department will review the facility's compliance history.

B. If a facility is non-compliant with program regulations, the department shall take into consideration the findings that resulted in the facility's noncompliance before making a determination whether or not to allow the facility to utilize medication attendants certified. Emphasis shall be placed on deficiencies cited in the area of medication administration such as significant medication errors, medication error rates and repeat deficiencies.

C. The department may deny a facility's request to use medication attendants if it is determined that, based upon the compliance history, the safety and well-being of residents would be jeopardized. If the facility is denied participation, the facility may ask for a reconsideration and review of the circumstances which contributed to the denial.

D. The following information must be provided prior to acceptance in the pilot project:

1. the number of beds for the entire nursing facility and beds per unit;
2. the type of nursing facility;
3. the staffing levels per shift;
4. the turnover rate of staff;
5. a plan for orientation and utilization of medication attendants certified, including orientation of all staff to the role of medication attendants;
6. the number and type of medication errors in the year prior to the utilization of medication attendants certified;
7. a survey of patient satisfaction, including the patient's perception of receiving medications, prior to the utilization of medication attendants certified; and
8. a statement that the nursing home will utilize the medication attendants certified in accordance with the accepted rules and regulations and will provide evaluation information as indicated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1417 (July 2008).

§10089. Allegations of Medication Attendant Certified Wrong-Doing

A. The department, through its Bureau of Appeals, has provided for a process of the review and investigation of all allegations of resident abuse, neglect or misappropriation of residents' property or funds by medication attendants certified.

B. In the event of an allegation of wrong-doing, medication attendants certified shall be bound by the department's established:

1. reporting requirements;
2. informal dispute resolution policies;
3. preliminary conference requirements; and
4. appeal and administrative hearing provisions:
 - a. the formal hearing shall be conducted according to formal hearing procedures set forth in the Administrative Procedure Act.

C. Through the formal hearing process, determinations will be made on both the certificate for medication attendant and the certificate for nurse aide practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1417 (July 2008).

§10090. Suspension, Revocation or Non-Renewal

A. The department may revoke, suspend or refuse to renew a certificate or reprimand a certificate holder for a violation of this Chapter.

B. The following are grounds for disciplinary actions:

1. stealing, diverting or otherwise misusing medication;
2. procuring or attempting to procure a certificate by fraudulent means; or
3. violating any provision of this Chapter.

C. Prior to institution of formal proceedings to revoke or suspend a permit, the department shall give written notice to the certificate holder of the facts or conduct alleged to

warrant revocation, suspension or rescission. The certificate holder shall be given an opportunity to show compliance with all requirements of this Chapter.

D. If denial, revocation or suspension of a certificate is proposed, the department shall give written notice that the certificate holder must submit a written request for a formal hearing within 30 days of receipt of the notice. If not, the right to a hearing shall be waived and the certificate shall be denied, revoked or suspended.

E. If the department suspends a MAC's certificate, the suspension shall remain in effect until the department:

1. determines that the reason for suspension no longer exists;
2. revokes the certificate; or
3. determines not to renew the certificate.

F. The department shall investigate prior to making a final determination on a suspended certificate. During the time of suspension, the suspended certificate holder must return his certificate to the department.

1. If a suspension overlaps a certificate renewal date, the suspended certificate holder shall be subject to the renewal procedures stated in §8603.G. However, the department shall not renew the certificate until it determines that the reason for suspension no longer exists.

G. If the department revokes or does not renew a certificate, a person may reapply for a certificate by complying with the provisions of this Chapter at the time of reapplication. The department may refuse to issue a certificate if the reason for revocation or non-renewal continues to exist.

1. If a certificate is revoked or not renewed, the certificate holder must immediately return the certificate to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1417 (July 2008).

§10091. Evaluation of Pilot Program

A. In order to evaluate the effectiveness of the medication attendant certified program and its impact on the quality of patient care in nursing homes, it is required that the education programs and nursing facilities that choose to participate in the pilot program must participate in the evaluation of all components of the program. They must utilize the appropriate evaluation forms designated by the department and within the required time frames. The completed forms must be submitted to the department.

B. The areas of evaluation and data to be collected are as follows:

1. education program;
2. level of student achievement;
3. student satisfaction surveys;
4. faculty satisfaction; and
5. nursing facility satisfaction surveys.

C. Medication Errors. Nursing facilities shall be required to maintain documentation of medication errors on an ongoing basis and shall submit this information to the department on a monthly basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1418 (July 2008).

Alan Levine
Secretary

0807#074

RULE

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

Pain Management Clinics—Licensing Standards (LAC 48:I.7801)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended LAC 48:I.7801 as authorized by R.S. 36:254 and R.S. 40:2198.11-13. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 78. Pain Management Clinics

Subchapter A. General Provisions

§7801. Definitions

* * *

Pain Specialist—a physician, licensed in Louisiana, with a certification in the subspecialty of pain management by a member board of the American Boards of Medical Specialties.

1. For urgent care facilities in operation on or before June 15, 2005, the definition of pain specialist is a physician who is licensed in the state of Louisiana, board-certified in his or her area of residency training and certified within one year from the adoption of this Rule in the subspecialty of pain management by any board or academy providing such designation such as the American Boards of Medical Specialties, American Board of Pain Management, American Academy of Pain Management or the American Board of Interventional Pain Physicians. Any conflict, inconsistency or ambiguity with any other regulations contained in this chapter shall be controlled by §7801.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:80 (January 2008), amended LR 34:1418 (July 2008).

Alan Levine
Secretary

0807#075

RULE

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

Pregnant Women Extended Services
Dental Services
(LAC 50:XV.16105)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended LAC 50:XV.16105 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 13. Pregnant Women Extended Services

Chapter 161. Dental Services

§16105. Covered Services

A. - A.16. ...

17. prefabricated stainless steel crown, primary or permanent tooth;

18. - 19 ...

20. periodontal scaling and root planing—four or more contiguous teeth or banded teeth spaces per quadrant;

A.21. - B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), amended LR 34:442 (March 2008), LR 34:1419 (July 2008).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Center for Medicaid Services (CMS) if it is determined that submission to CMS for review and approval is required.

Alan Levine
Secretary

0807#076

RULE

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

School Based Health Centers
(LAC 50:XV.Chapter 91)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:XV.Chapter 91 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 91. School Based Health Centers

Subchapter A. General Provisions

§9101. Purpose

A. The Adolescent School Health Initiative Act of 1991 authorized the development of an adolescent school based health initiative to facilitate and encourage the provision of comprehensive health centers in public middle and secondary schools.

B. School based health centers (SBHCs) provide convenient access to preventive and primary health care services for students who might otherwise have limited or no access to health care, and meet the physical and emotional health needs of adolescents at their school sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 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 34:1419 (July 2008).

Subchapter B. Provider Participation

§9111. Provider Qualifications

A. The SBHC classification must be verified by the Office of Public Health, Adolescent School Health Program when applying for a Medicaid provider number.

1. Documentation of this verification must be provided upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 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 34:1419 (July 2008).

§9113. Standards of Participation

A. School based health centers must comply with the applicable licensure, certification and program participation standards for all services rendered. The SBHC shall:

1. maintain an acceptable fiscal record keeping system that readily distinguishes one type of service from another type of service that may be rendered;

2. retain all records necessary to fully disclose the extent of services provided to recipients for five years from the date of service and furnish such records, and any payments claimed for providing such services, to the Medicaid Program upon request; and

3. abide by and adhere to all federal and state regulations and policy manuals.

B. The SBHC shall provide comprehensive primary medical, social and mental health services, as well as health education, promotion and prevention services to meet the psychosocial and physical health needs of students enrolled in the SBHC in the context of their family, culture and environment.

C. School based health centers shall acquire written parental consent in order to enroll a student as a patient.

D. The SBHC and all partners involved in service delivery must adhere to Health Insurance Portability and Accountability Act (HIPAA) privacy policies and procedures.

E. The SBHC must be enrolled as a KIDMED screening provider in addition to enrollment for providing any other services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 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 34:1419 (July 2008).

Subchapter C. Services

§9121. Scope of Services

A. The Medicaid Program provides reimbursement for the following medically necessary health care services provided by school based health centers:

1. preventive health care services; and
2. evaluation, diagnosis and treatment of mental and behavioral health conditions.
3. - 6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 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 34:1420 (July 2008).

Subchapter D. Staffing Requirements

§9131. Minimum Staffing Requirements

A. School based health centers shall have one or more primary care providers on staff, including a:

- a. physician;
- b. physician assistant; or
- c. nurse practitioner.

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 34:1420 (July 2008).

§9133. Staffing Qualifications for Mental Health Services

A. Mental health services rendered in Medicaid-enrolled SBHCs shall be provided by the following licensed, professional staff:

1. psychiatrists;
2. psychologists;
3. clinical nurse specialists;
4. nurse practitioners;
5. licensed clinical social workers; or
6. licensed professional counselors.

B. Professionals providing mental health services must:

1. be licensed and provide services under the provisions and scope of their Louisiana Practice Act;
2. be enrolled in Louisiana Medicaid and linked to the SBHC where services are rendered; and
3. adhere to any additional training or educational requirements in the mental health area as set forth in Medicaid SBHC policy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1420 (July 2008).

Subchapter E. Reimbursement

§9141. Reimbursement Methodology

A. Medicaid reimbursement is limited to medically necessary services that are covered by the Medicaid State Plan.

B. Medicaid covered services provided by SBHCs shall be reimbursed at the lower of either:

1. the provider's billed charges minus any third party coverage; or
2. the state's established schedule of fees for the service rendered, minus any third party coverage.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1420 (July 2008).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) if it is determined that submission to CMS for review and approval is necessary.

Alan Levine
Secretary

0807#077

RULE

Department of Natural Resources Office of Conservation

Statewide Order No. 29-B—Commercial Exploration and
Production Waste Facilities
(LAC 43:XIX.501, 511, 547, 549, and 565)

The Louisiana Office of Conservation has amended LAC 43:XIX.Chapter 5 (Statewide Order No. 29-B) in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., and pursuant to power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Sections 30:4 et seq. The amendment modifies the specific provisions at LAC 43:XIX.501, 511.A, 547.G, 549.C.3, 549.D, 549.E.2, and 565.F which provide for definitions and financial responsibility, and establish the limitations for treatment, closure and on-site reusable material for the parameters of total barium and zinc at commercial Exploration and Production Waste (E&P Waste) land treatment facilities.

The amendment to the above existing Rules will revise and update operational limits for treatment and closure for total barium and zinc at commercial E&P Waste land treatment facilities. The amendment will also revise and update limits for total barium for on-site reusable material at commercial E&P Waste land treatment facilities. The amendment is intended to update the regulations to address changes in industry practices consistent with both state and federal environmental guidelines. Additionally this

amendment corrects and clarifies certain portions of Chapter 5 concerning definitions, commercial E&P Waste treatment and disposal options, and financial responsibility requirements.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 5. Off-Site Storage, Treatment and/or Disposal of Exploration and Production Waste Generated from Drilling and Production of Oil and Gas Wells

§501. Definitions

* * *

Exploration and Production Waste (E&P Waste)—drilling wastes, salt water, and other wastes associated with the exploration, development, or production of crude oil or natural gas wells and which is not regulated by the provisions of, and, therefore, exempt from the Louisiana Hazardous Waste Regulations and the Federal Resource Conservation and Recovery Act, as amended. E&P Wastes include, but are not limited to the following.

Waste Type	E&P Waste Description
01	Salt water (produced brine or produced water), except for salt water whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations, process fluids generated by approved salvage oil operators who only receive oil (BS&W) from oil and gas leases, and nonhazardous natural gas plant processing waste fluid which is or may be commingled with produced formation water.
02	Oil-base drilling wastes (mud, fluids and cuttings).
03	Water-base drilling wastes (mud, fluids and cuttings).
04	Completion workover and stimulation fluids.
05	Production pit sludges.
06	Storage tank sludge from production operations, onsite and commercial saltwater disposal facilities, DNR permitted salvage oil facilities (that only receive waste oil [B,S, & W] from oil and gas leases), and sludges generated by service company and commercial facility or transfer station wash water systems.
07	Produced oily sands and solids.
08	Produced formation fresh water.
09	Rainwater from firewalls, ring levees and pits at drilling and production facilities.
10	Washout water and residual solids generated from the cleaning of containers that transport E&P Waste and are not contaminated by hazardous waste or material; washout water and solids (E&P Waste Type 10) is or may be generated at a commercial facility or transfer station by the cleaning of a container holding a residual amount of E&P Waste.
11	Washout pit water and residual solids from oilfield related carriers and service companies that are not permitted to haul hazardous waste or material.
12	Nonhazardous Natural gas plant processing waste solids.
13	(Reserved).
14	Pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pigging waste, i.e. waste fluids/solids generated from the cleaning of a pipeline.
15	E&P Wastes that are transported from permitted commercial facilities and transfer stations to permitted commercial treatment and disposal facilities, except those E&P Wastes defined as Waste Types 01 and 06.
16	Crude oil spill clean-up waste.
50	Salvageable hydrocarbons bound for permitted salvage oil operators.
99	Other E&P Waste not described above (shipment to a commercial facility or transfer station must be pre-approved prior to transport).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:1898 (November 2001), LR 29:931 (June 2003), LR 34:1421 (July 2008).

§511. Financial Responsibility

A. Each permitted commercial facility and transfer station must maintain evidence of financial responsibility for any liability for damages which may be caused to any party by the escape or discharge of any material or E&P Waste offsite from the commercial facility or transfer station. Such evidence must be provided by the applicant prior to issuance of a permit. Failure to maintain such evidence shall lead to initiation of procedures for permit suspension. If suspended, the permit shall remain suspended until financial responsibility has been confirmed.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2819 (December 2000), amended LR 27:1902 (November 2001), LR 29:938 (June 2003), LR 34:1421 (July 2008).

§547. Commercial Exploration and Production Waste Treatment and Disposal Options

A. - F. ...

G. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1911 (November 2001), amended LR 29:938 (June 2003), LR 34:1421 (July 2008).

§549. Land Treatment Facility Requirements

A. - C.2. ...

3. Throughout the operational life of a land treatment cell, in order to end the treatment phase and re-enter the application phase, a cell must be shown to comply with the following criteria.

Parameter	Limitation
PH	6.5 - 9
EC	10 mmhos/cm
SAR	12
ESP	15 percent
TPH	3 percent (by weight)
Metals (ppm)	
Arsenic	40
Cadmium	10
Chromium	1,000
Copper	1,500
Lead	300
Molybdenum	18
Nickel	420
Mercury	10
Selenium	10
Silver	200
Zinc	2,300
Leachate Testing*	
Barium	10.0 mg/l

*The Leachate testing method for Barium is included in the *Laboratory Manual for the Analysis of E&P Waste* (Department of Natural Resources, August 9, 1988, or latest version).

C.4. - D.1. ...

a. Soil in the treatment zone (0-24") of each cell must be sampled for the following parameters: pH, EC, SAR, ESP, CEC, TPH, As, barium leachate, Cd, Cr, Cu, Pb, Hg, Mo, Ni, Se, Ag, and Zn.

b. - c. ...

2. The following monitoring program must be conducted during the active life of a permitted E&P Waste land treatment system.

a. Soil in the treatment zone (waste treatment zone—WTZ and upper treatment zone—UTZ) must be sampled and tested quarterly to determine E&P Waste degradation and accumulation of metals and hydrocarbons. Samples must be analyzed for the following: As, barium leachate, Cd, Cr, Cu, Pb, Hg, Mo, Ni, Se, Ag, Zn, and TPH.

D.2.b. - D.3.f. ...

E. Closure and Post-Closure Monitoring

1.

2. Sampling and testing must be performed during the entire closure and post-closure periods. To certify closure of a land treatment system, water collected from the unsaturated zone monitoring system and groundwater must meet background water quality values; in addition, soils in the treatment zone and surface runoff water must meet the following criteria.

Parameter	Criteria	No. of Consecutive Samples
Soils in the Treatment Zone		
PH	6.5 - 9	2
TPH	≤ 3.0 percent	2
EC	≤ 10 mmhos/cm	2
TCLP Benzene	≤ 0.5 ppm	2
SAR	≤ 12	2
ESP	≤ 15 percent	2
Metals (ppm)		
As	≤ 10	2
Cd	≤ 10	2
Cr	≤ 1000	2
Cu	≤ 1,500	2
Pb	≤ 1000	2
Hg	≤ 10	2
Mo	≤ 18	2
Ni	≤ 420	2
Se	≤ 10	2
Ag	≤ 200	2
Zn	≤ 2,300	2
Leachate Testing*		
Ba	10.0 mg/l	2
Runoff Water		
PH	6.5 - 9.0	4
TPH	≤ 15 ppm	4
TCLP Benzene	≤ 0.5 ppm	4
EC	≤ 2.0 mmhos/cm	4
SAR	≤ 10	4
TSS	≤ 60 ppm	4
Chloride	500 ppm	4
Metals (ppm)		
As	≤ 0.2	4
Ba	≤ 10	4
Cd	≤ 0.05	4
Cr	≤ 0.15	4
Cu	≤ 1.3	4
Hg	≤ 0.01	4
Pb	≤ 0.10	4
Se	≤ 0.05	4
Zn	≤ 1.0	4

*The Leachate testing method for Barium is included in the *Laboratory Manual for the Analysis of E&P Waste* (Department of Natural Resources, August 9, 1988, or latest version).

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 27:1912 (November 2001), amended LR 34:1421 (July 2008).

§565. Resource Conservation and Recovery of Exploration and Production Waste

A. - E.4.b.

F. Testing Criteria for Reusable Material

Parameter	Limitation
Moisture Content	< 50% (by weight) or zero free moisture
pH*	6.5 - 9.0
Electrical Conductivity (EC)	8 mmhos/cm
Sodium Adsorption Ratio (SAR)	12
Exchangeable Sodium Percentage (ESP)	15%
Total Barium: Reuse at Location other than Commercial facility-----	40,000 ppm
Leachate Testing** for:	
TPH	10.0 mg/l
Chlorides	500.0 mg/l
TCLP Benzene	0.5 mg/l
Leachate Testing**:	
Arsenic	0.5 mg/l
Barium	10.0 mg/l
Cadmium	0.1 mg/l
Chromium	0.5 mg/l
Copper	0.5 mg/l
Lead	0.5 mg/l
Mercury	0.02 mg/l
Molybdenum	0.5 mg/l
Nickel	0.5 mg/l
Selenium	0.1 mg/l
Silver	0.5 mg/l
Zinc	5.0 mg/l
NORM	Not to exceed Applicable DEQ Criteria/Limits

*E&P Waste when chemically treated (fixated) shall, in addition to the criteria set forth be acceptable as reusable material with a pH range of 6.5 to 12 and an electrical conductivity of up to 50 mmhos/cm, provided such reusable material passes leachate testing requirements for chlorides in §565.F above and leachate tests for metals in §565.F above.

**The leachate testing method for TPH, chlorides and metals is included in the *Laboratory Manual for the Analysis of E&P Waste* (Department of Natural Resources, August 9, 1988, or latest version).

G. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1916 (November 2001), amended LR 29:939 (June 2003), LR 34:1422 (July 2008).

James H. Welsh
Commissioner

0807#045

RULE

**Department of Public Safety and Corrections
Corrections Services**

**Probation and Parole—Emergency Plan for Sex Offenders
(LAC 22:I.405)**

In accordance with the provisions of Acts 175, 285, and 683 of the 2006 Regular Session and Act 460 of the 2007 Regular Session, the Department of Public Safety and Corrections, Corrections Services, hereby promulgates the contents of Section 405, Emergency Plan for Sex Offenders on Probation and Parole Supervision in the Event of an Emergency/Disaster.

The purpose of the aforementioned regulation is to establish the secretary's policy regarding the temporary and/or permanent displacement of sex offenders under the supervision of the Division of Probation and Parole in times of an emergency/disaster.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 4. Division of Probation and Parole

**§405. Emergency Plan for Sex Offenders on Probation
and Parole Supervision in the Event of an
Emergency/Disaster**

A. Purpose. To establish the secretary's policy regarding the temporary and/or permanent displacement of sex offenders under the supervision of the Division of Probation and Parole in times of an emergency/disaster.

B. Applicability: assistant secretary, director, deputy director, regional directors, district administrators, and district supervisors of the Division of Probation and Parole. The Director of the Division of Probation and Parole is responsible for ensuring that appropriate written policy and procedures are in place to comply with the provisions of this regulation and to convey its contents to appropriate staff and to any and all sex offenders currently under supervision.

C. Policy

1. It is the secretary's policy to protect the public safety by establishing a uniform emergency procedure relative to the temporary and/or permanent displacement of sex offenders under the supervision of the Division of Probation and Parole.

D. Procedures

1. Requirements of the Division of Probation and Parole

a. The division shall establish a toll-free telephone number for sex offenders to call in the event of an emergency/disaster which results in their evacuation or temporary displacement.

b. In the event of an emergency/disaster resulting in the opening of shelters and/or other temporary housing in the state, the local probation and parole district office will post notices in any and all shelters within their geographical area. The notice shall include contact information for the local district office, the probation and parole toll-free telephone number and the department's website address.

c. Each district office will post notices in their office providing contact information in the event of an emergency/disaster resulting in the temporary displacement of sex offenders under supervision.

d. In the event a sex offender is evacuated/temporarily displaced from his approved in-state residence to a shelter/facility out of state, the supervising district will immediately notify all appropriate agencies through the interstate compact of the offender's location and take whatever action is appropriate in the case.

2. Requirements of the Sex Offender

a. Each sex offender under supervision will provide their probation and parole officer with at least one alternate address and telephone number in the event of an emergency/disaster that would require the offender to evacuate his approved residence. The sex offender is to evacuate to this alternate address in the event of an emergency/disaster unless he is prevented from doing so for a legitimate, bona fide reason.

b. Each sex offender under supervision must carry at all times a sex offender identification (ID) card provided by the division. The ID card will have the offender's name, DOC number, offense, supervision expiration date, toll-free telephone number and the department's website address.

c. In the event a sex offender is evacuated/temporarily displaced from his approved residence due to an emergency/disaster he is to contact either the local probation and parole district office or the headquarters office via the sex offender toll-free telephone number and advise of his new location. The sex offender is also to contact the local sheriff's office and chief of police and inform those agencies of the following: he is a sex offender; his name; date of birth; social security number; new residence location; and last address of registration prior to the emergency. These contacts are to be made as soon as possible and no later than 24 hours after arriving at the new location. This process is to be repeated every time the offender moves to a new location. This process applies to all sex offenders no matter where they are displaced to, both within the state and out of state.

d. In the event a sex offender is evacuated/temporarily displaced due to an emergency/disaster to an emergency shelter, temporary housing, private residence or hotel the sex offender shall immediately notify the management of the facility or home owner of their sex offender status. The sex offender will adhere to all registration and notification requirements when appropriate.

e. A sex offender shall not be housed in shelters, hotels, Federal Emergency Management Agency (FEMA) trailer parks or any other housing funded by FEMA where the general population of evacuees is staying. The sex offender shall be provided shelter or housing in an alternative location separate and apart from where the general population of evacuees is staying.

f. These requirements shall be included in the sex offender contract signed by the sex offender. Failure of the sex offender to comply with the provisions of this regulation shall be considered a violation of supervision and subject the offender to revocation proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:543.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:1423 (July 2008).

James M. Le Blanc
Secretary

0807#062

RULE

Department of Public Safety and Corrections Corrections Services

Probation and Parole—Supervised Release of Sex Offenders upon Expiration of Sentence (LAC 22:I.403)

In accordance with the provisions of Act 242 of the 2006 Regular Session, the Department of Public Safety and Corrections, Corrections Services, hereby promulgates the contents of Section 403, Supervised Release of Sex Offenders upon Expiration of Sentence.

The purpose of the aforementioned regulation is to establish the secretary's policy regarding the supervised release of sex offenders upon expiration of sentence pursuant to legislative intent and the provisions of Act 242 of the 2006 Regular Session.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 4. Division of Probation and Parole

§403. Supervised Release of Sex Offenders upon Expiration of Sentence

A. Purpose. To establish the secretary's policy regarding the supervised release of sex offenders upon expiration of sentence pursuant to legislative intent and the provisions of Act 242 of the 2006 Regular Session.

B. Applicability—assistant secretary and the director, deputy director, regional directors, and district administrators of the Division of Probation and Parole. The director of the Division of Probation and Parole is responsible for ensuring that appropriate written policy and procedures are in place to comply with the provisions of this regulation and to convey its contents to appropriate staff and any and all affected sex offenders under supervision pursuant to this regulation.

C. Policy

1. It is the secretary's policy that a uniform procedure be established and adhered to relative to the supervised release of certain sex offenders who have been released from the custody of the department upon expiration of sentence.

D. Definition

Probation and Parole Officer—shall include supervised release officers, Department of Public Safety and Corrections officers, and supervising officers as these terms are utilized in Act 242 of the 2006 Regular Session. Probation and parole officers are employed by the Division of Probation and Parole and have all the powers and duties of probation and parole officers as provided by law.

E. Procedures

1. A person convicted on or after August 15, 2006, of a sex offense as defined in R.S. 15:541(14.1) when the victim is under the age of 13 years, as stated on the bill of information, shall be placed upon supervised release for a period of five years when he is released from the custody of the Department of Public Safety and Corrections upon expiration of his sentence.

2. Supervised release shall be administered by the Division of Probation and Parole.

3. A probation and parole officer shall be assigned to those sex offenders placed upon supervised release pursuant to the provisions of this regulation. For those inmates releasing from a local jail facility, the offender's proposed residence plan shall be submitted by pre-class to the district of residence at least 90 days prior to release for approval by the Division of Probation and Parole. For those inmates releasing from a state correctional facility, the offender's proposed residence plan shall be submitted by the records office to the offender's district of residence at least 90 days prior to release for approval by the Division of Probation and Parole.

4. When a sex offender is placed on supervised release pursuant to the provisions of this regulation, the probation and parole officer shall:

a. inform the sex offender that he will be placed upon supervised release for a period of five years;

b. inform the sex offender of the conditions of supervised release as provided for in R.S. 15:561.5 (Paragraph E.5. of this Section);

c. require the sex offender to read and sign a form stating the fact that the sex offender will be placed upon supervised release and that the conditions of the supervised release have been explained to him.

5. A sex offender placed on supervised release pursuant to the provisions of this regulation shall comply with the following conditions:

a. report immediately to the Division of Probation and Parole District Office which is listed on the certificate of supervised release;

b. establish a schedule of a minimum of one meeting per month with the probation and parole officer to provide the officer with his current address, place of employment and verification of compliance with all registration and notification requirements of a sex offender as required by statute;

c. be subject to periodic visits with the probation and parole officer without prior notice;

d. abide by any curfew set by the probation and parole officer;

e. refrain from using or possessing any controlled dangerous substance or alcoholic beverage and submit, at the sex offender's expense, to screening, evaluation, and treatment for controlled dangerous substances or alcohol abuse as directed by the probation and parole officer;

f. refrain from using or possessing any pornographic or sexually explicit materials. *Pornographic or sexually explicit materials* means any paper, magazine, book, newspaper, periodical, pamphlet, composition, publication, photograph, drawing, phonograph record, album, cassette, wire or tape recording, compact disc, digital versatile disc, digital video disc, or any other form of visual technology or other similar tangible work or thing which is

devoted to or principally consists of descriptions or depictions of illicit sex or sexual immorality, the graphic depiction of sex, including but not limited to the visual depiction of sexual activity or nudity, ultimate sexual acts, normal or perverted, actual, simulated, or animated, whether between human beings, animals, or an animal and a human being;

g. report to the probation and parole officer when directed to do so;

h. not associate with persons known to be engaged in criminal activities or with persons known to have been convicted of a felony without written permission of the probation and parole officer;

i. in all respects, conduct himself honorably, work diligently at a lawful occupation, and support his dependents, if any, to the best of his ability;

j. promptly and truthfully answer all inquiries directed to him by the probation and parole officer.

k. live and remain at liberty and refrain from engaging in any type of criminal conduct;

l. not have in his possession or control any firearms or dangerous weapons;

m. submit himself to available medical, psychiatric or mental health examination and treatment for offenders convicted of sex offenses when deemed appropriate and ordered to do so by the probation and parole officer;

n. defray the cost, or any portion thereof, of the supervised release by making payments to the department in a sum and manner determined by the department, based upon the offender's ability to pay;

o. submit a residence plan for approval by the probation and parole officer;

p. comply with such other specific conditions as are appropriate, stated directly and without ambiguity so as to be understandable to a reasonable man.

6. Sex offenders on supervised release pursuant to this regulation shall be subject to the same probation and parole policies and procedures as any other sex offender on probation or parole supervision.

7. Sex offenders on supervised release who fail to abide by the conditions of their release and supervision as provided for in Paragraph E.5. shall be referred to the district attorney for prosecution of the new charge.

8. Upon a first conviction, the sex offender shall be fined not more than one thousand dollars and imprisoned with hard labor for not less than two years nor more than 10 years without benefit of parole, probation, or suspension of sentence.

9. Upon a second or subsequent conviction, the sex offender shall be fined \$3,000 and imprisoned with hard labor for not less than five years nor more than 20 years without benefit of parole, probation, or suspension of sentence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:561.6.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:1424 (July 2008).

James M. Le Blanc
Secretary

0807#063

RULE

Department of Revenue Policy Services Division

Requirement for Tax Preparers to File Income Tax Returns Electronically (LAC 61:III.1501)

Under the authority of R.S. 47:1511 and 47:1520 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, amends LAC 61:III.1501 to provide for the waiver of the electronic filing requirement for tax preparers to file certain individual income tax returns electronically.

This amendment to LAC 61:III.1501 defines "undue hardship", and clarifies that the penalty imposed by R.S. 47:1520(B) for failure to comply with the electronic filing requirement does not apply to the requirement for tax preparers to file income tax returns electronically.

Title 61

REVENUE AND TAXATION

Part III. Administrative Provisions and Miscellaneous Chapter 15. Electronic Filing and Payments §1501. Requirement for Tax Preparers to File Income Tax Returns Electronically

A. Definitions

Authorized Individual Income Tax Return—any individual tax return that can be filed electronically.

Filed Electronically—filing a tax return by electronic means using software that has been approved for electronic filing by the Louisiana Department of Revenue.

Individual Income Tax Return—any tax return required to be filed by R.S. 47:101.

Tax Preparer—a person or entity that prepares for compensation or employs one or more persons to prepare for compensation any Louisiana individual income tax return.

a. A tax preparer is an entity that is assigned a Tax Identification Number and includes all of the entity's locations.

b. The combined total of the returns prepared at all of the tax preparer's locations will be used to determine whether or not the tax preparer is subject to the electronic filing mandate.

B. Individual income tax returns prepared by a tax preparer that prepares more than 100 Louisiana individual income tax returns during any calendar year are required to be filed electronically as follows.

1. For returns due on or after January 1, 2008, 30 percent of the authorized individual income tax returns must be filed electronically.

2. For returns due on or after January 1, 2010, 60 percent of the authorized individual income tax returns must be filed electronically.

3. For returns due on or after January 1, 2012, 90 percent of the authorized individual income tax returns must be filed electronically.

C. A tax preparer that is subject to the electronic filing mandate must be accepted in the IRS e-file Program and have an electronic filer identification number (EFIN) and use software that has been approved for e-file by the Louisiana Department of Revenue.

D. Once a tax preparer is subject to the electronic filing mandate, the tax preparer must continue to e-file the required percentage of authorized individual income tax returns in future years regardless of the number of returns filed.

E. Waiver of Electronic Filing Requirement

1. The secretary may waive the electronic filing requirement if it is determined that complying with the requirement would cause an undue hardship.

2. For the purpose of waiver of the electronic filing requirement, inability by the tax preparer to obtain broadband access at the location where the tax returns are prepared will be considered an undue hardship and waiver of the requirement will be granted.

F. The penalty imposed by R.S. 47:1520(B) for failure to comply with the electronic filing requirement does not apply to the requirement for tax preparers to file income tax returns electronically.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 33:2463 (November 2007), amended LR 34:1425 (July 2008).

Cynthia Bridges
Secretary

0807#025

RULE

**Department of Revenue
Policy Services Division**

**State Sales Tax Holiday on Purchases of Hurricane-
Preparedness Items (LAC 61:I.4423)**

Under the authority of R.S. 47:1511 and Sec. 2 of Act 429 of the 2007 Regular Session, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue adopts LAC 61:I.4423 to provide for the definition of the following enumerated terms for purposes of the impending state sales tax holiday.

This Rule is necessary to allow the secretary to administer the state sales tax holiday for the tax year 2008 and beyond. R.S. 47:305.58 as enacted by Act 429 of the 2007 Regular Session of the Legislature allows for an annual state sales tax exemption on sales made on the last Saturday and Sunday of each May of certain hurricane-preparedness items or supplies. Because Act 429 does not define several terms as they are used in the Act, the Department of Revenue is authorized to define those terms and set a procedure for application of the Act.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 44. Sales and Use Tax Exemptions

**§4423. State Sales Tax Holiday on Purchases of
Hurricane-Preparedness Items**

A. Revised Statute 47:305.58 allows for an exemption of the state sales tax on sales made on the last Saturday and Sunday of each May of certain hurricane-preparedness items or supplies.

1. Tax-free purchases are authorized on the first \$1,500 of the sales price of each hurricane-preparedness item.

2. The sales tax exemption only applies to purchases of the following items or supplies:

a. any portable self-powered light source, including candles, flashlights and other articles of property designed to provide light;

b. any portable self-powered radio, two-way radio, or weather band radio;

c. any tarpaulin or other flexible waterproof sheeting;

d. any ground anchor system or tie-down kit;

e. any gas or diesel fuel tank;

f. any package of AAA-cell, AA-cell, C-cell, D-cell, 6 volt, or 9-volt batteries, excluding automobile and boat batteries;

g. any cell phone battery and any cell phone charger;

h. any nonelectric food storage cooler;

i. any portable generator used to provide light or communications or preserve food in the event of a power outage;

j. any *storm shutter device*, as defined by R.S. 47:305.58;

k. any carbon monoxide detector; and

l. any reusable freezer pack such as "blue ice."

3. The state sales tax exemption provided does not apply to hurricane-preparedness items or supplies sold at any "airport," "public lodging establishment or hotel," "convenience store," or "entertainment complex."

B. Definitions

Airport—any area of land or water, except a restricted landing area, which is designed for the landing and takeoff of aircraft, whether or not facilities are provided for the sheltering, servicing, or repairing of aircraft or for receiving or discharging passengers or cargo; all appurtenant areas used or suitable for airport buildings or other airport facilities; and all appurtenant rights of way including easements through or other interest in air space over land or water and other protection privileges, the acquisition or control of which is necessary to insure safe approaches to the landing areas and efficient operation thereof.

Hotel—any establishment engaged in the business of furnishing sleeping rooms, cottages, or cabins to transient guests, where such establishment consists of six or more sleeping rooms, cottages, or cabins at a single business

location. The term *public lodging establishment* is interpreted to include other businesses that offer lodging to transient guests for compensation, including "bed and breakfast" businesses.

Convenience Store—retail businesses that are smaller in square footage than full-line grocery stores, discount stores, department stores, or pharmacies, and that place primary emphasis on providing the public convenient locations from which to quickly purchase from limited lines of consumable products.

a. In order to be considered a *convenience store*, sales must consist primarily of motor fuel and lubricants; snack foods, including sandwiches, hot dogs, candy, nuts, and chips; beer; liquor; wine; tobacco products; soft drinks; fishing baits; newspapers; and magazines, and the sales of the business must be sufficiently diversified within these product lines so that the business is not classified as a specialty retailer such as a liquor store, sandwich shop, newsstand, or tobacco shop.

b. *Convenience stores* typically have the following characteristics:

- i. inside sales areas that are less than 5,000 sq. ft.;
- ii. off-street parking and/or convenient pedestrian access; and
- iii. extended hours of operation with many open 24 hours, seven days a week.

Entertainment Complex—a premise that is a site for the performance of musical, theatrical, or other entertainment; country clubs; tennis clubs; swimming clubs; bowling establishments; skating rinks; movie theatres; amusement parks; zoos; or similar entertainment-oriented businesses.

C. Procedure for State Sales Tax Holiday

1. A taxpayer may make state sales tax-free purchases on the first \$1,500 of the sales price on each of the above enumerated hurricane-preparedness items or supplies on the last Saturday and Sunday of each May.

2. The state sales tax holiday shall not apply to any vendor defined under Subsection B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and Sec. 2 of Act 429 of the 2007 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 34:1426 (July 2008).

Cynthia Bridges
Secretary

0807#024

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Deer Management Assistance Program (LAC 76:V.111)

The Wildlife and Fisheries Commission does hereby amend the rules and regulations for participation in the Deer Management Assistance Program.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§111. Rules and Regulations for Participation in the Deer Management Assistance Program

A. The following rules and regulations shall govern the Deer Management Assistance Program

1. Application Procedure

a. Application for enrollment of a new cooperator in the Deer Management Assistance Program (DMAP) must be submitted to the Department of Wildlife and Fisheries by August 1. Application for the renewal enrollment of an active cooperator must be submitted to the Department of Wildlife and Fisheries annually by September 1.

b. Each application for a new cooperator must be accompanied by a legal description of lands to be enrolled and a map of the property. Renewal applications must be accompanied by a legal description and map only if the boundaries of the enrolled property have changed from records on file from the previous hunting season. This information will remain on file in the appropriate regional office. The applicant must have under lease or otherwise control a minimum of 500 acres of contiguous deer habitat of which up to 250 acres may be agricultural lands, provided the remainder is in forest and/or marsh. Private lands within wildlife management area boundaries shall be enrolled in DMAP regardless of size.

c. Each cooperator will be assessed a \$25 enrollment fee and \$0.05/acre for participation in the program. DMAP fees must be paid by invoice to the Department of Wildlife and Fisheries Fiscal Section prior to September 15.

d. An agreement must be completed and signed by the official representative of the cooperator and submitted to the appropriate regional wildlife office for his approval. This agreement must be completed and signed annually.

e. Boundaries of lands enrolled in DMAP shall be clearly marked and posted with DMAP signs in compliance with R.S. 56:110 and the provisions of R.S. 56:110 are only applicable to property enrolled in DMAP. DMAP signs shall be removed if the land is no longer enrolled in DMAP. Rules and regulations for compliance with R.S. 56:110 are as follows.

i. The color of DMAP signs shall be orange. The words DMAP and Posted shall be printed on the sign in letters no less than 4 inches in height. Signs may be constructed of any material and minimum size is 11 1/4" x 11 1/4".

ii. Signs will be placed at 1000 foot intervals around the entire boundary of the property and at every entry point onto the property.

f. By enrolling in the DMAP, cooperators agree to allow department personnel access to their lands for management surveys, investigation of violations and other inspections deemed appropriate by the department. The person listed on the DMAP application as the contact person will serve as the liaison between the DMAP Cooperator and the department.

g. Each cooperator that enrolls in DMAP is strongly encouraged to provide keys or lock combinations annually to the Enforcement Division of the Department of Wildlife and Fisheries for access to main entrances of the DMAP property. Provision of keys is voluntary; however, the cooperator's compliance will ensure that DMAP enrolled properties will be properly and regularly patrolled.

2. Tags

a. A fixed number of special tags will be provided by the Department to each cooperator in DMAP to affix to deer taken as authorized by the program. These tags shall be used only on DMAP lands for which the tags were issued.

b. All antlerless deer (and antlered deer if special antlered tags are issued) taken shall be tagged, including those taken during archery season, muzzleloader, and on either-sex days of gun season.

c. Each hunter must have a tag in his possession while hunting on DMAP land in order to harvest an antlerless (or an antlered deer if special antlered tags are issued) deer. The tag shall be attached through the hock in such a manner that it cannot be removed before the deer is transported. The DMAP tag will remain with the deer so long as the deer is kept in the camp or field, is in route to the domicile of its possessor, or until it has been stored at the domicile of its possessor, or divided at a cold storage facility and has become identifiable as food rather than as wild game. The DMAP number shall be recorded on the possession tag of the deer or any part of the animal when divided and properly tagged.

d. Antlerless deer harvested on property enrolled in DMAP do not count in the daily or season bag limit for hunters.

e. Special antlered deer tags may be issued on property enrolled in DMAP to increase the antlered deer harvest if a Regional or Deer Program biologist deems it necessary for herd health or habitat management purposes. DMAP tagged antlered deer will not count in the daily or season bag limits.

f. All unused tags shall be returned by March 1 to the regional wildlife office which issued the tags.

3. Records

a. Cooperators are responsible for keeping accurate records on forms provided by the department for all deer harvested on lands enrolled in the program. Mandatory information includes tag number, sex of deer, date of kill, name of person taking the deer, hunting license number (transaction number, authorization number, lifetime number or date of birth for under 16 and over 59 years of age) and biological data (age, weight, antler measurements, lactation) as deemed essential by the Department of Wildlife and Fisheries Deer Section. Biological data collection must meet quality standards established by the Deer Section. Documentation of mandatory information shall be kept daily by the cooperator. Additional information may be requested depending on management goals of the cooperator.

b. Information on deer harvested shall be submitted by March 1 to the regional wildlife office handling the particular cooperator.

c. The contact person shall provide this documentation of harvested deer to the department upon request. Cooperators who do not have a field camp will be given 48 hours to provide this requested documentation.

B. Suspension and cancellation of DMAP Cooperators

1. Failure of the cooperator to follow these rules and regulations may result in suspension and cancellation of the program on those lands involved. Failure to make a good faith attempt to follow harvest recommendations may also result in suspension and cancellation of the program.

a. Suspension of Cooperator from DMAP. Suspension of the cooperator from DMAP, including forfeiture of unused tags, will occur immediately for any misuse of tags, failure to tag any antlerless deer, or failure to submit records to the department for examination in a timely fashion. Suspension of the cooperator, including forfeiture of unused tags, may also occur immediately if other DMAP rules or wildlife regulations are violated. Upon suspension of the cooperator from DMAP, the contact person may request a Department of Wildlife and Fisheries hearing within 10 working days to appeal said suspension. Cooperation by the DMAP Cooperator with the investigation of the violation will be taken into account by the department when considering cancellation of the program following a suspension for any of the above listed reasons. The cooperator may be allowed to continue with the program on a probational status if, in the judgment of the department, the facts relevant to a suspension do not warrant cancellation.

b. Cancellation of Cooperator from DMAP. Cancellation of a cooperator from DMAP may occur following a guilty plea or conviction for a DMAP rule or regulation violation by any individual or member hunting on the land enrolled in DMAP. The cooperator may not be allowed to participate in DMAP for one year following the cancellation for such guilty pleas or conviction. Upon cancellation of the cooperator from DMAP, the contact person may request an administrative hearing within 10 working days to appeal said cancellation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:204 (February 1991), amended LR 25:1656 (September 1999), LR 26:2011 (September 2000), LR 30:2496 (November 2004), LR 34:1427 (July 2008).

Robert J. Barham
Secretary

0807#050

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Emergency Cut-off Switches (LAC 76:XI.111)

Editor's Note: This Rule is being repromulgated because of an error upon submission. The original Rule can be viewed in its entirety on page 1049 of the June 20, 2008 *Louisiana Register*.

The Wildlife and Fisheries Commission does hereby enact Rules requiring the use of engine cut-off switches on Class A or Class One motorboat with a hand tiller outboard motor equipped with such devices.

**Title 76
WILDLIFE AND FISHERIES**

Part XI. Boating

**Chapter 1. Vessel Equipment; Requirements;
Penalties**

§111. Emergency Cut-off Switches

A. In accordance with R.S. 34:851.24 and R.S. 34:851.27, the provisions of this Act shall apply on all waters within the jurisdiction of this state.

B. Definitions

Engine Cut-off Switch—an operable emergency cut-off engine stop switch installed on a motorboat and that attaches to the motorboat operator by an engine cut-off switch link.

Engine Cut-off Switch Link—the lanyard and/or cut-off device used to attach the motorboat operator to the engine cut-off switch installed on the motorboat.

Hand Tiller Outboard Motor—an outboard motor that has a tiller or steering arm attached to the outboard motor to facilitate steering and does not have any mechanical assist device which is rigidly attached to the boat and used in steering the vessel, including but not limited to mechanical, hydraulic or electronic control systems. Hand tiller outboard motor shall not mean any type of electronic trolling motor.

C. No person shall operate a Class A or Class One motorboat with a hand tiller outboard motor in excess of 10 horsepower designed to have or having an engine cut-off switch, while the engine is running and the motorboat is underway, unless:

1. the engine cut-off switch is fully functional and in operable condition; and

2. the engine cut-off switch link is attached to the operator, the operator's clothing, or if worn, the operator's personal flotation device.

D. The provisions of this Section shall not apply to licensed commercial fishermen operating a motorboat while engaged in a commercial fishing activity.

E. The provisions of this Section shall not apply to sailboats.

F. Violation of this Section is a class one violation as defined in R.S. 56:31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:851.24 and R.S. 34:851.27.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:1049 (June 2008), repromulgated LR 34:1429 (July 2008).

Robert J. Barham
Secretary

0807#047

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

General and Wildlife Management Area Hunting
(LAC 76:XIX.111)

The Wildlife and Fisheries Commission does hereby promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

**Title 76
WILDLIFE AND FISHERIES**

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

**§111. General and Wildlife Management Area
Hunting Rules and Regulations**

A. Hunting Seasons and Wildlife Management Area Regulations

1. The rules and regulations contained within this digest have been officially approved and adopted by the Wildlife and Fisheries Commission under authority vested by Sections 115 and 116 of Title 56 of the Louisiana Revised Statutes of 1950 and are in full force and effect in conjunction with all applicable statutory laws. The Secretary of the Department of Wildlife and Fisheries has the authority to close or alter seasons in emergency situations in order to protect fish and wildlife resources.

2. Pursuant to Section 40.1 of Title 56 of the Louisiana Revised Statutes of 1950, the Wildlife and Fisheries Commission has adopted monetary values which are assigned to all illegally taken, possessed, injured or destroyed fish, wild birds, wild quadrupeds and other wildlife and aquatic life. Anyone taking, possessing, injuring or destroying fish, wild birds, wild quadrupeds and other wildlife and aquatic life shall be required to reimburse the Department of Wildlife and Fisheries a sum of money equal to the value of the wildlife illegally taken, possessed, injured or destroyed. This monetary reimbursement shall be in addition to any and all criminal penalties imposed for the illegal act.

B. Resident Game Birds and Animals

1. Shooting hours—one-half hour before sunrise to one-half hour after sunset.

C. Other Season Dates

1. Turkey. Please refer to separate pamphlet.

2. Raccoon and Opossum. No closed season. Raccoon and opossum can be taken at night by one or more licensed hunters with one or more dogs and one .22 rimfire firearm. A licensed hunter may take raccoon or opossum with .22 rimfire rifle, .36 caliber or smaller muzzleloader rifle or shotgun during daylight hours during the open rabbit season. Hunting from boats or motor vehicles is prohibited. No bag limit for nighttime or daytime raccoon or opossum hunting during the open trapping season except on certain WMAs as listed. The remainder of the year, the raccoon and opossum bag limit for daytime or nighttime is one per person per day or night. No one who hunts raccoons or opossums as prescribed above shall pelt during the closed trapping season nor sell skins or carcasses of raccoons and opossums taken during the open trapping season unless he is the holder of a valid trapping license which shall be required in addition to his basic hunting license. Pelting or selling carcasses is illegal during closed trapping season.

3. Nutria. On WMAs and private property nutria may be taken recreationally by licensed hunters from September 1 through the last day of February, during legal shooting hours by any legal hunting method with a daily limit of five. When taken with a shotgun, steel shot must be used. On WMAs during waterfowl seasons, nutria may be taken only with the use of shotguns with shot no larger than F steel, and

during gun deer seasons, anyone taking nutria must display 400 square inches of "hunter orange" and wear a "hunter orange" cap or hat. Recreational nutria hunters must remove each nutria carcass in whole condition from the hunting area, except that nutria may be gutted. Possession of detached nutria parts, including nutria tails, by recreational hunters is illegal. Nutria harvested recreationally may not be pelted nor may such nutria or any nutria parts from recreationally taken nutria be sold, including the tail. Trespassing upon private property for the purpose of taking nutria or other furbearing animals is punishable by fines and possible jail time (R.S. 56:265). The Coastwide Nutria Control Program is a separate program and is in no way related to the nutria recreational season. For questions on the Coastwide Nutria Control Program, call the New Iberia office (337) 373-0032.

4. Blackbirds and Crows. The season for crows shall be September 1 through January 1 with no limit; however crows, blackbirds, cowbirds and grackles may be taken year round during legal shooting hours if they are depredating or about to depredate upon ornamentals or shade trees, agricultural crops, livestock, wildlife, or when concentrated in such numbers as to cause a health hazard. Louisiana has determined that the birds listed above are crop depredators and that crows have been implicated in the spread of the West Nile virus in humans.

5. Pheasant. Open concurrently with the quail season; no limit.

6. Falconry. Special permit required. Resident and migratory game species may be taken except turkeys. Seasons and bag limits are the same as for statewide and WMA regulations. Refer to LAC 76:V.301 for specific Falconry rules.

7. Licensed Hunting Preserve. October 1-April 30. Pen-raised birds only. No limit entire season. Refer to LAC 76:V.305 for specific Hunting Preserve rules.

8. Deer Management Assistance Program (DMAP). Land enrolled in the voluntary program will be assessed a \$25 registration fee and \$0.05/acre fee. Deer management assistance tags must be in the possession of the hunter in order to harvest an antlerless deer. The tag shall be attached through the hock in such a manner that it cannot be removed before the deer is transported (including those taken on either-sex days and those taken with bow or muzzleloader). Antlerless deer harvested on property enrolled in DMAP does not count in the season or daily bag limit for hunters. Failure to do so is a violation of R.S. 56:115. Failing to follow DMAP rules and regulations may result in suspension and cancellation of the program on those lands involved. Refer to LAC 76:V.111 for specific DMAP rules.

9. Landowner Assistance Deer Tag (LADT)

a. Eligibility for LADT is limited to the following landowners or lessees:

- i. license deer farmers;
- ii. landowners or lessees with less than 500 acres who have verified deer depredation problems;
- iii. landowners with 40 acres or more enrolled in the Louisiana Forest Stewardship Program; and
- iv. landowners or lessees with 40 or more contiguous acres of forested or marsh land.

b. Each applicant will be assessed a \$25 administrative processing fee. Each hunter must have the

landowner antlerless deer tag in his possession while hunting on the property for which the tag was issued and immediately upon kill of an antlerless deer, the hunter must tag the animal through the hock. The deer must be tagged before it is transported from the site of kill and the tag will remain with the deer while the hunter is in route to his domicile. Antlerless deer harvested on property enrolled in LADT does not count in the season or daily bag limit for hunters. For more information, contact any Wildlife Division Regional Office.

10. Farm Raised White-Tailed Deer and Exotics on Licensed Supplemented Shooting Preserves

a. Definitions

Exotics—for purposes of this rule means any animal of the family Bovidae (except the Tribe Bovini [cattle]) or Cervidae which is not indigenous to Louisiana and which is confined on a Supplemented Hunting Preserve. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

Hunting—in its different tenses and for purposes of this rule means to take or attempt to take, in accordance with R.S. 56:8.

Same as Outside—for purposes of this rule means hunting on a supplemented hunting preserve must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission (LWFC).

Supplemented Hunting Preserve—for purposes of this rule means any enclosure for which a current farm-raising license has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the Department of Wildlife and Fisheries (LDWF) and is authorized in writing by the LDAF and LDWF to permit hunting.

White-Tailed Deer—for purposes of this rule means any animal of the species *Odocoileus virginianus* which is confined on a supplemented hunting preserve.

b. Seasons

i. Farm-Raised White-Tailed Deer—consult the regulations pamphlet.

ii. Exotics—year round.

c. Methods of Take

i. White-Tailed Deer—same as outside.

ii. Exotics—exotics may be taken with longbow (including compound bow and crossbow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber centerfire; or muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets only and other approved primitive firearms..

d. Shooting Hours

i. White-Tailed Deer—same as outside.

ii. Exotics—one-half hour before sunrise to one-half hour after sunset.

e. Bag Limit

i. Farm-Raised White-Tailed Deer—same as outside.

- ii. Exotics—no limit.
- f. Hunting Licenses
 - i. White-Tailed Deer—same as outside.
 - ii. Exotics—no person shall hunt any exotic without possessing a valid basic and big game hunting license.

g. Tagging. White-Tailed Deer and Exotics—each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

11. Bobcat. No person other than the holder of a valid big game license may take or possess bobcat, except licensed trappers who may take or possess bobcat during the open trapping season. A big game licensee shall only take bobcat during the time period from one-half hour before sunrise to one-half hour after sunset with approved archery equipment, shotgun, muzzleloader or centerfire firearm. A big game licensee shall not take more than one bobcat per calendar year. This regulation applies only to property that is privately owned and state wildlife management areas but does not apply to state wildlife refuges, the Kisatchie National Forest, or federally owned refuges and lands owned by the Corps of Engineers. On state wildlife management areas, the take of bobcat is restricted to those open seasons on the WMAs which require the respective legal weapons noted above.

D. Hunting-General Provisions

1. A basic resident or non-resident hunting license is required of all persons to hunt, take, possess or cause to be transported by any other person any wild bird or quadruped. See information below for exceptions.

2. All persons born on or after September 1, 1969 must show proof of satisfactorily completing a hunter safety course approved by LDWF to purchase a basic hunting license, except any active or veteran member of the United States armed services or any POST-certified law enforcement officer. Application for the exemption shall be filed in person at the Department of Wildlife and Fisheries main office building in the city of Baton Rouge. A person younger than 16 years of age may hunt without such certificate if he is accompanied by, and is under the direct supervision of a person 18 years of age or older.

3. A big game license is required in addition to the basic hunting license to hunt, take, possess or cause to be transported any deer. A separate wild turkey license is required in addition to the basic hunting license and the big game license to hunt, take, possess or cause to be transported any turkey.

4. Taking game quadrupeds or birds from aircraft or participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

5. Methods of Taking Resident Game Birds and Quadrupeds

a. It is illegal to intentionally feed, deposit, place, distribute, expose, scatter, or cause to be fed, deposited, placed, distributed, exposed, or scattered raw sweet potatoes to wild game quadrupeds.

b. Use of a longbow (including compound bow and crossbow) and arrow or a shotgun not larger than a 10 gauge fired from the shoulder without a rest shall be legal for

taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey. It shall be illegal to hunt or take squirrels or rabbits at any time with a breech-loaded rifle or handgun larger than a .22 caliber rimfire or a muzzleloader rifle larger than .36 caliber. During closed deer gun season, it shall be illegal to possess shotgun shells loaded with slugs or shot larger than BB lead or F steel shot while small game hunting.

c. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs is prohibited when or where a still hunting season or area is designated, and will be strictly enforced. Shotguns larger than 10 gauge or capable of holding more than three shells shall be prohibited. Plugs used in shotguns must be incapable of being removed without disassembly. Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

6. Nuisance Animals. Landowners or their designees may remove beaver and nutria causing damage to their property without a special permit. Water set traps and firearms may be used to remove beaver; nutria may be removed by any means except that nutria cannot be taken by the use of headlight and gun between the hours of sunset and sunrise. With a special permit issued by the department, beavers may be taken between one-half hour after official sunset to one-half hour before official sunrise for a period of three consecutive calendar evenings from the effective date of the permit. For specific details contact a regional office near you. Any nuisance beaver or nutria trapped or shot outside open trapping season cannot be pelted or sold. A trapping license is required to sell or pelt nuisance beavers or nutria taken during open trapping season. Squirrels found destroying commercial crops of pecans may be taken year-round by permit issued by the department. This permit shall be valid for 30 days from the date of issuance. Contact the local regional office for details.

7. Threatened and Endangered Species—Louisiana black bear, Louisiana pearl shell (mussel), sea turtles, gopher tortoise, ringed sawback turtle, brown pelican, bald eagle, peregrine falcon, whooping crane, Eskimo curlew, piping plover, interior least tern, ivory-billed woodpecker, red-cockaded woodpecker, Bachman's warbler, West Indian manatee, Florida panther, pallid sturgeon, Gulf sturgeon, Attwater's greater prairie chicken, whales and red wolf. Taking or harassment of any of these species is a violation of state and federal laws.

8. Unregulated Quadrupeds. Holders of a legal hunting license may take coyotes, unmarked hogs where legal, and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs is prohibited in all turkey hunting areas during the open turkey season. Coyote hunting is restricted to chase only when using dogs during still hunting segments of the firearm and archery only season for deer. Foxes are protected quadrupeds and may be taken only with traps by licensed trappers during the trapping season. Remainder of the year "chase only" allowed by licensed hunters.

9. Hunting and/or Discharging Firearms on Public Roads. Hunting, standing, loitering or shooting game quadrupeds or game birds with a gun during open season

while on a public highway or public road right-of-way is prohibited. Hunting or the discharge of firearms on roads or highways located on public levees or within 100 feet from the centerline of such levee roads or highways is prohibited. Spot lighting or shining from public roads is prohibited by state law. Hunting from all public roads and rights-of-way is prohibited and these provisions will be strictly enforced.

10. Tags. Any part of the deer or wild turkey divided shall have affixed thereto the name, date, address and big game license number of the person killing the deer or wild turkey and the sex of that animal. This information shall be legibly written in pen or pencil, on any piece of paper or cardboard or any material, which is attached or secured to or enclosing the part or parts. On lands enrolled in DMAP, deer management assistance tags must be attached and locked through the hock of antlerless deer, (including those taken with bow, muzzleloader and those antlerless deer taken on either-sex days) in a manner that it cannot be removed, before the deer is moved from the site of the kill.

11. Sex Identification. Positive evidence of sex identification, including the head, shall remain on any deer taken or killed within the state of Louisiana, or on all turkeys taken or killed during any special gobbler season when killing of turkey hens is prohibited, so long as such deer or turkey is kept in camp or field, or is in route to the domicile of its possessor, or until such deer or turkey has been stored at the domicile of its possessor or divided at a cold storage facility and has become identifiable as food rather than as wild game.

E. General Deer Hunting Regulations

1. Prior to hunting deer, all deer hunters, regardless of age or license status, must obtain deer tags and have in possession when hunting deer. Immediately upon harvesting a deer, the hunter must tag the deer with the appropriate carcass tag and document the kill on the deer tag license. Within 72 hours the hunter must validate the kill and record the validation number on the license. Hunters harvesting deer on DMAP and LADT lands can validate deer per instructions by LDWF using the DMAP and LADT harvest data sheets. Hunters on wildlife management areas can validate deer during mandatory deer check hunts, when deer check stations are in operation. Hunters may validate deer by calling the validation toll free number or using the validation web site.

2. One antlered and one antlerless deer per day (when legal) except on National Forest Lands and some Federal Refuges (check refuge regulations) where the daily limit shall be one deer per day. Season limit is six, three antlered bucks and three antlerless deer (all segments included) by all methods of take, except antlerless harvest on property enrolled in DMAP and LADT does not count in the season or daily bag limit for hunters and except antlerless harvest on state wildlife management areas during the daily permit deer hunts, when validated by LDWF personnel, does not count in the season bag limit for hunters. Antlerless deer may be harvested during entire deer season on private lands (all segments included) except in the following parishes: West Carroll and portions of East Carroll. Consult regulations pamphlet, modern firearms table for either-sex days for these parishes. This does not apply to public lands (wildlife management areas, National Forest Lands, and Federal Refuges) which will have specified either-sex days.

3. A legal buck is a deer with visible antler of hardened bony material, broken naturally through the skin. Killing bucks without at least one visible antler as described above and killing does is prohibited except where specifically allowed and except in Thistlethwaite Wildlife Management Area where a legal buck shall be defined as deer with at least 4 points on one side or a deer with unbranched antlers commonly referred to as spikes (no minimum length). To be counted as a point, a projection must be at least 1 inch long and its length must exceed the length of its base. The beam tip is counted as a point but not measured as a point.

4. Deer hunting restricted to legal bucks only, except where otherwise allowed.

5. Either-sex deer is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

6. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with anything other than buckshot or rifled slug. Handguns may be used for hunting.

7. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

8. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with dogs is allowed in all other areas having open deer seasons that are not specifically designated as still hunting only. Except in wildlife management areas, a leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address, and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

9. It is illegal to take deer while deer are swimming or while the hunter is in a boat with motor attached in operating position; however the restriction in this Paragraph shall not apply to any person who has lost one or more limbs.

10. Areas not specifically designated as open are closed.

11. Primitive Firearms Segment. (Special license and primitive firearms specifications apply only to the special state, WMA, National Forest and Preserves, and Federal Refuge seasons.) Still hunt only. Specific WMAs will also be open, check WMA schedule for specific details. Primitive Firearms license required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all deer hunting areas except Area 5 and as specified on public areas. It is unlawful to carry a gun, other than a primitive firearm, including those powered by air or other means, while hunting during the special primitive firearms segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot only).

a. Legal Primitive Firearms for Special Season. Rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, use black powder or approved substitute only, take ball or bullet projectile only, including sabot bullets and may be fitted with magnified scopes. This includes muzzleloaders known as "inline" muzzleloaders.

b. Single shot, breech loading rifles, .38 caliber or larger, of a king or type manufactured prior to 1900 and replicas, reproductions or reintroductions of that type rifle having and exposed hammer that use metallic cartridges loaded with black powder or modern smokeless power and may be fitted with magnified scopes.

c. Special Youth Deer Shotgun Season on Private Land (either-sex). Youths 17 or younger may hunt deer with shotguns using slugs only during the primitive firearms season in each deer hunting area.

12. Archery Segment. Consult regulations pamphlet. WMA seasons are the same as outside except as noted below. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all areas open for deer hunting except when a bucks only season is in progress for gun hunting, and except in Area 6 from October 1-15. Archers must conform to the bucks only regulations. Either-sex deer may be taken on WMAs at anytime during archery season except when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Lake Boeuf, and Pointe-aux-Chenes WMAs (See Schedule).

a. Bow and Arrow Regulations. Longbow, compound bow and crossbow or any bow drawn, held or released by mechanical means will be a legal means of take for all properly licensed hunters. Hunting arrows for deer must have well-sharpened broadhead points. Bow and arrow fishermen must have a sport fishing license and not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a). to carry a gun, including those powered by air or other means, while hunting with bow and arrow during the special bow and arrow deer season except it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only;

(b). to have in possession or use any poisoned or drugged arrow or arrows with explosive tips;

(c). to hunt deer with a bow having a pull less than 30 pounds;

(d). to hunt with a bow or crossbow fitted with an infrared, laser sight, electrically-operated sight or device specifically designed to enhance vision at night (does not include non-projecting red dot sights) [R.S. 56:116.1.A.(3)].

13. Hunter Orange. Any person hunting any wildlife during the open gun deer hunting season and possessing buckshots, slugs, a primitive firearm, or a centerfire rifle shall display on his head, chest and/or back a total of not less than 400 square inches of "hunter orange". Persons hunting on privately owned, legally posted land may wear a hunter orange cap or hat in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned and

legally posted or to archery deer hunters hunting on legally posted lands where firearm hunting is not allowed by agreement of the landowner or lessee. However, anyone hunting deer on such lands where hunting with firearms is allowed shall be required to display the 400 square inches or a hunter orange cap or hat while walking to and from elevated stands. While a person is hunting from an elevated stand, the 400 square inches or cap or hat may be concealed. Warning: Deer hunters are cautioned to watch for persons hunting other game or engaged in activities not requiring "hunter orange".

14. Special Handicapped Either-Sex Deer Season on Private Land. First Saturday of October for 2 days. Restricted to individuals with Physically Challenged Hunter Permit.

15. Special Youth Deer Hunt on Private Lands (Either-Sex). Areas 1, 4, 5 and 6—last Saturday of October for 2 days; Area 2—second Saturday of October for 2 days; and Areas 3, 7 and 8—fourth Saturday of September for 2 days. Youths 17 or younger only. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt.

F. Description of Areas

1. Area 1

a. All of the following parishes are open: Concordia, East Baton Rouge, East Feliciana, Franklin, Madison, St. Helena, Tensas, Washington.

b. Portions of the following parishes are also open:

i. Catahoula—east of Boeuf River to Ouachita River, east of Ouachita River from its confluence with Boeuf River to La. Hwy. 8, south and east of La. Hwy. 8 southwesterly to parish line.

ii. East Carroll—east of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison Parish line.

iii. Grant—east of U.S. 165 and south of La. 8.

iv. LaSalle—south of a line beginning where Little River enters Catahoula Lake following the center of the lake eastward to Old River then to U.S. Highway 84, east of U.S. Highway 84 northward to La. Highway 8, south of La. Highway 8 eastward to parish line.

v. Livingston—north of I-12.

vi. Rapides—east of U.S. 165 and north of Red River.

vii. St. Tammany—all except that portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

viii. Tangipahoa—north of I-12.

ix. West Feliciana—all except that portion known as Raccourci and Turnbull Island.

c. Still hunting only in all or portions of the following parishes:

i. Catahoula—south of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to La. 8 at Harrisonburg, west of La. 8 to La. 913, west of La. 913 and La. 15 to Deer Creek.

ii. East Carroll—east of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison Parish line.

iii. East Feliciana and East Baton Rouge—east of Thompson Creek from the Mississippi state line to La. 10, north of La. 10 from Thompson Creek to La. 67 at Clinton, west of La. 67 from Clinton to Mississippi state line, south of Mississippi state line from La. 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of La. 67 from La. 64 north to parish line, south of parish line from La. 64 eastward to Amite River, west of Amite River southward to La. 64, north of La. 64 to La. 37 at Magnolia, east of La. 37 northward to La. 64 at Indian Mound, north of La. 64 from Indian Mound to La. 67. Also, that portion of East Feliciana Parish east of La. 67 from parish line north to La. 959, south of La. 959 east to La. 63, west of La. 63 to Amite River, west of Amite River southward to parish line, north of parish line westward to La. 67.

iv. Franklin—all.

v. St. Helena—north of La. 16 from Tickfaw River at Montpelier westward to La. 449, east and south of La. 449 from La. 16 at Pine Grove northward to Rohner Road, south of Rohner Road to LA 1045, south of LA 1045 to the Tickfaw River, west of the Tickfaw River from La. 1045 southward to La. 16 at Montpelier.

vi. Tangipahoa—that portion of Tangipahoa Parish north of La. 10 from the Tchefuncte River to La. 1061 at Wilmer, east of La. 1061 to La. 440 at Bolivar, south of La. 440 to the Tchefuncte River, west of the Tchefuncte River from La. 440 southward to La. 10.

vii. Washington and St. Tammany—east of La. 21 from the Mississippi state line southward to the Bogue Chitto River, north of the Bogue Chitto River from La. 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi state line, south of the Mississippi state line from the Pearl River westward to La. 21. Also, that portion of Washington Parish west of La. 25 from the Mississippi state line southward to the Bogue Chitto River, then west of the Bogue Chitto River to its junction with the St. Tammany Parish line, north of the St. Tammany Parish line to the Tangipahoa Parish line, east of the Tangipahoa Parish line to the Mississippi state line, south of the Mississippi state line to its junction with La. 25.

viii. West Feliciana—west of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of U.S. 61 and La. 966, east of La. 966 from U.S. 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

2. Area 2

a. All of the following parishes are open:

i. Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Jackson, Lincoln, Natchitoches, Red River, Sabine, Union, Webster, Winn.

ii. Except: Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as Area 2, except still hunting only for deer and except National Forest Land within the Evangeline Unit, Calcasieu Ranger District described in Area 2 description shall be still hunting only.

b. Portions of the following parishes are also open:

i. Allen—north of U.S. 190 from parish line westward to Kinder, east of U.S. 165 from Kinder northward to La. 10 at Oakdale, north of La. 10 from Oakdale westward to the parish line.

ii. Avoyelles—that portion west of I-49.

iii. Catahoula—west of Boeuf River to Ouachita River, west of Ouachita River from its confluence with Boeuf River to La. Highway 8, north and west of La. Highway 8 southwesterly to parish line.

iv. Evangeline—all except the following portions: east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte, and north of U.S. 167 east of Ville Platte.

v. Grant—all except that portion south of La. 8 and east of U.S. 165.

vi. Jefferson Davis—north of U.S. 190.

vii. LaSalle—north of a line beginning where Little River enters Catahoula Lake, following the center of the lake eastward to Old River then to U.S. Highway 84, west of U.S. Highway 84 northward to La. Highway 8, north of La. Highway 8 eastward to parish line.

viii. Morehouse—west of U.S. 165 (from Arkansas state line) to Bonita, north and west of La. 140 to junction of La. 830-4 (Cooper Lake Road), west of La. 830-4 to Bastrop, west of La. 139 to junction of La. 593, west and south of La. 593 to Collinston, west of La. 138 to junction of La. 134 and north of La. 134 to Ouachita Parish line at Wham Brake.

ix. Ouachita—all except south of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse Parish line at Wham Brake.

x. Rapides—all except north of Red River and east of U.S. 165, south of La. 465 to junction of La. 121, west of La. 121 and La. 112 to Union Hill, and north of La. 113 from Union Hill to Vernon Parish line, and that portion south of Alexandria between Red River and U.S. 167 to junction of U.S. 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line.

xi. Vernon—north of La. Highway 10 from the parish line westward to La. 113, south of La. 113 eastward to parish line. Also the portion north of La. 465 west of La. 117 from Kurthwood to Leesville and north of La. 8 from Leesville to Texas state line.

c. Still hunting only in all or portions of the following parishes:

i. Claiborne and Webster—Caney, Corney and Middlefork tracts of Kisatchie National Forest. (See Kisatchie National Forest Regulations).

- ii. Ouachita—East of Ouachita River.
 - iii. Rapides—west of U.S. 167 from Alexandria southward to I-49 at Turkey Creek Exit, west of I-49 southward to Parish Line, north of Parish Line westward to U.S. 165, east of U.S. 165 northward to U.S. 167 at Alexandria. North of La. 465 from Vernon Parish line to La. 121, west of La. 121 to I-49, west of I-49 to La. 8, south and east of La. 8 to La. 118 (Mora Road), south and west of La. 118 to Natchitoches Parish line.
 - iv. Vernon—east of Mora-Hutton Road from Natchitoches Parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to La. 465, east and north of La. 465 to Rapides Parish line.
3. Area 3
- a. All of Acadia, Cameron and Vermilion Parishes are open.
 - b. Portions of the following parishes are also open:
 - i. Allen—south of U.S. 190 and west of La. 113.
 - ii. Beauregard—west of La. 113 and east of La. 27 from the parish line northward to DeRidder and north of U.S. 190 westward from DeRidder to Texas state line.
 - iii. Calcasieu—south of U.S. 90 from Sulphur to Texas state line. Also east of La. 27 from Sulphur northward to the parish line.
 - iv. Iberia—west of U.S. 90 and north of La. 14.
 - v. Jefferson Davis—all except north of U.S. 190.
 - vi. Lafayette—west of I-49 and U.S. 90.
 - vii. Rapides—south of La. 465 to junction of La. 121, west of La. 121 and La. 112 to Union Hill and north of La. 113 from Union Hill to Vernon Parish line.
 - viii. St. Landry—west of U.S. 167.
 - ix. Vernon—west and north of La. 113, south of La. 465, east of La. 117 from Kurthwood to Leesville, and south of La. 8 from Leesville to Texas state line.
4. Area 4
- a. All of Richland parish is open.
 - b. Portions of the following parishes are open:
 - i. East Carroll—west of mainline Mississippi River Levee and north and west of La. 877 from West Carroll Parish line to La. 580, north of La. 580 to U.S. 65, east of U.S. 65 to Madison Parish line.
 - ii. Morehouse—east of U.S. 165 (from Arkansas state line) to Bonita, south and east of La. 140 to junction of La. 830-4 (Cooper Lake Road), east of La. 830-4 to Bastrop, east of La. 139 at Bastrop to junction of La. 593, east and north of La. 593 to Collinston, east of La. 138 to junction of La. 134 and south of La. 134 to Ouachita line at Wham Brake.
 - iii. Ouachita—south of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse line at Wham Bake.
5. Area 5
- a. All of West Carroll Parish is open.
6. Area 6
- a. All of the following parishes are open: Ascension, Assumption, Iberville, Jefferson, Lafourche, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. James, St. John, St. Martin, Terrebonne, West Baton Rouge.
- b. Portions of the following parishes are also open:
 - i. Avoyelles—all except that portion west of I-49.
 - ii. Evangeline—that portion east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte and north of U.S. 167 east of Ville Platte.
 - iii. Iberia—east of U.S. 90.
 - iv. Lafayette—east of I-49 and U.S. 90.
 - v. Livingston—south of I-12.
 - vi. Rapides—south of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.
 - vii. St. Landry—east of U.S. 167.
 - viii. St. Mary—north of U.S. 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde.
 - ix. St. Tammany—that portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.
 - x. Tangipahoa—south of I-12.
 - xi. West Feliciana—west of Mississippi River, known as Raccourci and Turnbull Islands.
 - c. Still hunting only in all or portions of the following parishes:
 - i. Avoyelles—north of La. 1 from Simmesport westward to La. 115 at Marksville, east of La. 115 from Marksville northward to the Red River near Moncla, south and west of the Red River to La. 1 at Simmesport.
 - ii. Plaquemines—east of the Mississippi River.
 - iii. Rapides—south of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.
 - iv. St. Bernard—all of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre.
 - v. St. John—south of Pass Manchac from Lake Pontchartrain to U.S. 51, east of U.S. 51 from Pass Manchac to La. 638 (Frenier Beach Road). North of La. 638 from U.S. 51 to Lake Pontchartrain, west of Lake Pontchartrain from La. 638 to Pass Manchac.
 - vi. St. Landry—those lands surrounding Thistlethwaite WMA bounded north and east by La. 359, west by La. 10, and south by La. 103.
 - vii. High Water Benchmark Closure. Deer hunting in those portions of Iberia, Iberville, St. Martin, and St. Mary parishes south of Interstate 10, west of the East Guide Levee, east of the West Guide Levee, and north of U.S. Highway 90 will be closed when the river stage of the Atchafalaya River reaches 18 feet at Butte LaRose.
7. Area 7
- a. Portions of the following parishes are open:
 - i. Iberia—south of La. 14 and west of U.S. Hwy. 90.
 - ii. St. Mary—all except that portion north of U.S. 90 from Iberia Parish line eastward to Wax Lake Outlet, east

of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde.

8. Area 8

a. Portions of the following parishes are open:

i. Allen—that portion east of La. 113 from the parish line to U.S. 190, north of U.S. 190 eastward to Kinder, west of U.S. 165 northward to La. 10 at Oakdale and south of La. 10 from Oakdale westward to parish line.

ii. Beauregard—that portion east of La. 113. Also that portion west of La. 27 from parish line northward to DeRidder, south of U.S. 190 from DeRidder to Texas state line.

iii. Calcasieu—that portion east of La. 27 from the parish line southward to Sulphur and north of U.S. 90 from Sulphur to the Texas state line.

iv. Vernon—that portion east of La. 113 from the parish line northward to Pitkin and south of La. 10 from Pitkin southward to the parish line.

G. Wildlife Management Area Regulations

1. General

a. The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.

b. Citizens are cautioned that by entering a WMA managed by the LDWF they may be subjecting themselves and/or their vehicles to game and/or license checks, inspections and searches.

c. Wildlife management area seasons may be altered or closed anytime by the department secretary in emergency situations (floods, fire or other critical circumstances).

d. Hunters may enter the WMA no earlier than 4 a.m. unless otherwise specified. On days when daily permits are required, permit stations will open 2 hours before legal shooting hours. Hunters must check out and exit the WMA no later than two hours after sunset, or as otherwise specified.

e. Lands within WMA boundaries will have the same seasons and regulations pertaining to baiting and use of dogs as the WMA within which the lands are enclosed; however, with respect to private lands enclosed within a WMA, the owner or lessee may elect to hunt according to the regular season dates and hunting regulations applicable to the geographic area in which the lands are located, provided that the lands are first enrolled in DMAP or LADT. Interested parties should contact the nearest LDWF regional office for additional information.

f. Dumping garbage or trash on WMAs is prohibited. Garbage and trash may be properly disposed of in designated locations if provided.

g. Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.

h. Damage to or removal of trees, shrubs, hard mast (including but not limited to acorn and pecans), wild plants, non-game wildlife (including reptiles and amphibians or any species of butterflies, skippers or moths) is prohibited without a permit from the department. Gathering and/or removal of soft fruits, mushrooms and berries shall be limited to 5 gallons per person per day.

i. Burning of marshes is prohibited. Hunting actively burning marsh prohibited.

j. Nature Trails. Trails shall be limited to pedestrians only. No vehicles, ATVs, horses, mules, bicycles, etc., allowed. Removal of vegetation (standing or down) or other natural material prohibited.

k. Deer seasons are for legal buck deer unless otherwise specified.

l. Small game, when listed under the WMA regulations may include both resident game animals and game birds as well as migratory species of birds.

m. Oysters may not be harvested from any WMA, except that oysters may be harvested from private oyster leases and state seed grounds located within a WMA, when authorized by the Wildlife and Fisheries Commission and upon approval by the Department of Health and Hospitals.

n. Free ranging livestock prohibited.

2. Permits

a. A WMA Hunting Permit is required for persons aged 18 through 59 to hunt on WMAs.

b. Daily. Daily permits when required shall be obtained at permit stations on or near each WMA after first presenting a valid hunting license to a department employee. Hunters must retain permit in possession while hunting. Hunters may enter the area no earlier than two hours before legal shooting time unless otherwise specified. Hunters must checkout daily and exit the area not later than two hours after sunset unless otherwise specified.

c. Self-Clearing Permits. A self-clearing permit is required for all activities (hunting, fishing, hiking, birdwatching, sightseeing, etc.) on WMAs unless otherwise specified. The self-clearing permit will consist of three portions: check in, check out and a vehicle tag. On WMAs where self-clearing permits are required, all persons must obtain a WMA self-clearing permit from an information station. The check in portion must be completed and put in a permit box before each day's activity on the day of the activity (except if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA, users need only to check in once during any 72 hour period). Users may check-in one day in advance of use. The Check Out portion must be carried by each person while on the WMA and must be completed and put in a permit box immediately upon exiting the WMA or within 72 hours after checking in if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA. Each person must leave the vehicle tag portion of his permit on the dashboard of the vehicle used to enter into the WMA in such a way that it can be easily read from outside of the vehicle. This must be done only when the vehicle is parked and left unattended on the WMA. If an ATV, boat or other type vehicle was used to enter the WMA, then the vehicle tag must be attached to that vehicle in such a manner that it

can be readily seen and read. No permit is required of fishers and boaters who do not travel on a WMA road and/or launch on the WMA as long as they do not get out of the boat and onto the WMA. When mandatory deer checks are specified on WMAs, hunters must check deer at a check station. Call the appropriate region office for the location of the deer check station on these WMAs. (Self-clearing permits are not required for persons only traveling through the WMA provided that the most direct route is taken and no activities or stops take place.)

d. Persons using WMAs or other department administered lands for any purpose must possess one of the following: a valid Wild Louisiana stamp, a valid Louisiana fishing license, or a valid Louisiana hunting license. Persons younger than 16 or older than 60 years of age are exempt from this requirement. Also a self-clearing WMA permit, detailed above, may be required (available at most entrances to each WMA). Check individual WMA listings for exceptions.

3. Special Seasons

a. Youth Deer Hunt. Only youths 17 or may hunt. All other seasons are closed except handicapped seasons. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of a hunter safety certification, a valid Louisiana hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt. Contact the appropriate region office for special check station locations when daily permits are required and maps of specific hunting areas. Either-sex deer may be taken on WMAs with youth hunts. Consult the regulations pamphlet for WMAs offering youth hunts.

NOTE: Some hunts may be by pre-application lottery.

b. Youth Squirrel Hunt (on selected WMAs only). Only youths 17 or younger may hunt. Squirrel, rabbit, raccoon and opossum may be taken. Hogs may not be taken. No dogs allowed. All other seasons will remain open to other hunters. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. Self-clearing permits are required. Consult the regulations pamphlet for WMAs offering youth squirrel hunts.

c. Youth Mourning Dove Hunt. A youth mourning dove hunt will be conducted on specific WMAs and will follow the same regulations provided for youth deer hunts on the first or second weekend of the mourning dove season (Saturday and/or Sunday only). Consult the regulations pamphlet for WMAs offering youth mourning dove hunts.

d. Handicapped Season. An either-sex deer season will be held for hunters possessing a physically challenged hunter permit on WMAs during the dates specified under the individual WMA. Participants must possess a physically challenged hunter permit. Contact region office for permit application and map of specific hunting area. Consult the regulations pamphlet for WMAs offering handicapped seasons. Pointe-aux-Chenes will have an experimental Lottery Handicapped waterfowl hunt. Contact New Iberia Office, Fur and Refuge Division for details.

e. Turkey Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadlines. All turkeys must be reported at self-clearing station. Contact region offices for more details. Consult separate turkey hunting regulations pamphlet for more details.

f. Waterfowl Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadline. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

g. Mourning Dove Lottery Hunts. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

h. Trapping. Consult Annual Trapping Regulations for specific dates. All traps must be run daily. Traps with teeth are illegal. Hunter orange required when a deer gun season is in progress. A permit is required to carry a firearm outside of the normal hunting season and is available at the region office.

i. Raccoon Hunting. A licensed hunter may take raccoon or opossum, one per person per day, during daylight hours only, during the open rabbit season on WMAs. Nighttime Experimental—all nighttime raccoon hunting where allowed is with dogs only. There is no bag limit. Self-clearing permit required.

j. Sport Fishing. Sport fishing, crawfishing and frogging are allowed on WMAs when in compliance with current laws and regulations except as otherwise specified under individual WMA listings.

k. Additional Department Lands. The department manages additional lands that are included in the WMA system and available for public recreation. Small tracts are located in Vernon, Evangeline, St. Helena and other parishes. These small tracts have been acquired from the Farmers Home Administration or other sources for conservation purposes. Contact the appropriate Wildlife and Fisheries Region Office for specific information and any additional season dates.

4. Firearms

a. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms are not allowed in or on vehicles, boats under power, motorcycles, ATVs, ATCs or in camping areas on WMAs. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas and except as may be permitted for authorized trappers.

b. Firearms and bows and arrows are not allowed on WMAs during closed seasons except on designated shooting ranges or as permitted for trapping. Bows and broadhead arrows are not allowed on WMAs except during deer

archery season, turkey season or as permitted for bowfishing.

c. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists except as specified under Wildlife Management Area listing.

d. Loaded firearms are not allowed near WMA check stations.

e. Centerfire rifles and handguns larger than .22 caliber rimfire, shotgun slugs or shot larger than BB lead or F steel shot cannot be carried onto any WMA except during modern firearm deer season.

f. Target shooting and other forms of practice shooting are prohibited on WMAs except as otherwise specified.

g. Discharging of firearms on or hunting from designated roads, ATV trails and their rights-of-way is prohibited during the modern firearm and muzzleloader deer season.

5. Methods of Taking Game

a. Moving deer or hogs on a WMA with organized drivers and standers, drivers or making use of noises or noise-making devices is prohibited.

b. On wildlife management areas the daily limit shall be one antlered deer and one antlerless deer (when legal) per day. Three antlered and three antlerless per season (all segments included) by all methods of take, except antlerless deer harvested on wildlife management areas during hunts designated as daily permit deer hunts do not count in the season bag limit for hunters. A numbered WMA tag must be affixed to the deer carcass by LDWF personnel and recorded in the official check station records.

c. Baiting or hunting over bait is prohibited on all WMAs (hogs included).

d. Hunters who kill deer on WMAs that require daily permits must have deer checked at the check station on same day of kill. Deer may not be skinned nor have any external body parts removed including but not limited to feet, legs, tail, head or ears before being checked out.

e. Deer hunting on WMAs is restricted to still hunting only. No WMA will be open for deer during early still hunt season unless specified in the regulation pamphlet.

f. Construction of and/or hunting from permanent tree stands or permanent blinds on WMAs is prohibited. Any permanent stand or permanent blind will be removed and destroyed. A permanent blind is any blind using non-natural materials or having a frame which is not dismantled within two hours after the end of legal shooting time each day. Blinds with frames of wood, plastic, metal poles, wire, mesh, webbing or other materials may be used but must be removed from the WMA within two hours after the end of legal shooting time each day. Blinds made solely of natural vegetation and not held together by nails or other metallic fasteners may be left in place but cannot be used to reserve hunting locations. All decoys must be removed from the WMA daily. Permanent tree stands are any stands that use nails, screws, spikes, etc., to attach to trees and are strictly prohibited. Portable deer stands (those that are designed to be routinely carried by one person) may not be left on WMAs unless the stands are removed from trees and left in a non-hunting position (a non-hunting position is one in which a hunter could not hunt from the stand in its present

position). Also, all stands left must be legibly tagged with the user's name, address, phone number and big game hunting license number (or lifetime license number). No stand may be left on any WMA prior to the day before deer season opens on that WMA and all stands must be removed from the WMA within one day after the close of deer hunting on that WMA. Free standing blinds must be disassembled when not in use. Stands left will not reserve hunting sites for the owner or user. All portable stands, blinds, tripods, etc. found unattended in a hunting position or untagged will be confiscated and disposed of by the Department of Wildlife and Fisheries. LDWF not responsible for unattended stands left on an area.

g. Physically Challenged Wheelchair Confined Deer and Waterfowl Hunting Areas. Special deer and waterfowl hunting areas, blinds and stands identified with LDWF logos, have been established for PCHP wheelchair confined hunters on wildlife management areas. Hunters must obtain PCHP permits and are required to make reservations to use blinds and stands. PCHP wheelchair hunting areas are available on Alexandria State Forest, Big Colewa Bayou, Buckhorn, Clear Creek, Elbow Slough, Jackson-Bienville, Ouachita and Sherburne WMAs. Check WMA hunting schedules or call the LDWF Offices in Pineville, Ferriday, Lake Charles, Opelousas, Minden, Monroe or Baton Rouge for information.

h. Hunting from utility poles, high tension power lines, oil and gas exploration facilities or platforms is prohibited.

i. It is illegal to save or reserve hunting locations using permanent stands or blinds. Stands or blinds attached to trees with screws, nails, spikes, etc., are illegal.

j. Tree climbing spurs, spikes or screw-in steps are prohibited.

k. Unattended decoys will be confiscated and forfeited to the Department of Wildlife and Fisheries and disposed of by the department. This action is necessary to prevent preemption of hunting space.

l. Spot lighting (shining) from vehicles is prohibited on all WMAs.

m. Horses and mules may be ridden on wildlife management areas except where prohibited and except during gun seasons for deer and turkey. Riding is restricted to designated roads and trails depicted on WMA map, self-clearing permit is required. Organized trail rides prohibited except allowed by permit only on Camp Beauregard. Hunting and trapping from horses and mules is prohibited except for quail hunting or as otherwise specified.

n. All hunters (including archers and small game hunters) except waterfowl hunters and mourning dove hunters on WMAs must display 400 square inches of "hunter orange" and wear a "hunter orange" cap during open gun season for deer. Hunters participating in special dog seasons for rabbit and squirrel are required to wear a minimum of a "hunter orange" cap. All other hunters and archers (while on the ground) except waterfowl hunters also must wear a minimum of a "hunter orange" cap during special dog seasons for rabbit and squirrel. Also all persons afield during hunting seasons are encouraged to display "hunter orange".

o. Deer hunters hunting from concealed ground blinds must display a minimum of 400 square inches of

"hunter orange" above or around their blinds which is visible from 360 degrees.

p. Archery Season for Deer. The archery season on WMAs is the same as outside and is open for either-sex deer except as otherwise specified on individual WMAs. Archery season restricted on Atchafalaya Delta and closed on certain WMAs when special seasons for youth or handicapped hunts are in progress. Consult regulations pamphlet for specific seasons.

q. Either-sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMAs. Archers must abide by bucks only regulations and other restrictions when such seasons are in progress.

r. Primitive Firearms Season for Deer. Either-sex unless otherwise specified. See WMA deer schedule. Except youth 17 or younger may use shotgun with slugs during primitive firearm season on the WMA.

6. Camping

a. Camping on WMAs, including trailers, houseboats, recreational vehicles and tents, is allowed only in designated areas and for a period not to exceed 16 consecutive days, regardless if the camp is attended or unattended. Houseboats shall not impede navigation. At the end of the 16 day period, camps must be removed from the area for at least 48 hours. Camping area use limited exclusively to outdoor recreational activities.

b. Houseboats are prohibited from overnight mooring within WMAs except on stream banks adjacent to department-owned designated camping areas. Overnight mooring of vessels that provide lodging for hire are prohibited on WMAs. On Atchafalaya Delta WMA and Pass-a-Loutre, houseboats may be moored in specially designated areas throughout the hunting season. At all other times of the year, mooring is limited to a period not to exceed 16 consecutive days. Permits are required for the mooring of houseboats on Pass-a-Loutre and Atchafalaya Delta WMAs. Permits must be obtained from the New Iberia office.

c. Discharge of human waste onto lands or waters of any WMA is strictly prohibited by state and federal law. In the event public restroom facilities are not available at a WMA, the following is required. Anyone camping on a WMA in a camper, trailer, or other unit (other than a houseboat or tent) shall have and shall utilize an operational disposal system attached to the unit. Tent campers shall have and shall utilize portable waste disposal units and shall remove all human waste from the WMA upon leaving. Houseboats moored on a WMA shall have a permit or letter of certification from the health unit (Department of Health and Hospitals) of the parish within which the WMA occurs verifying that it has an approved sewerage disposal system on board. Further, that system shall be utilized by occupants of the houseboats when on the WMA.

d. No refuse or garbage may be dumped from these boats.

e. Firearms may not be kept loaded or discharged in a camping area.

f. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations when provided or carried off by campers.

g. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation, including restitution for damages.

h. Swimming is prohibited within 100 yards of boat launching ramps.

7. Restricted Areas

a. For your safety, all oil and gas production facilities (wells, pumping stations and storage facilities) are off limits.

b. No unauthorized entry or unauthorized hunting in restricted areas or refuges, unless otherwise specified.

8. Dogs. All use of dogs on WMAs, except for bird hunting and duck hunting, is experimental as required by law. Having or using dogs on any WMA is prohibited except for nighttime experimental raccoon hunting, squirrel hunting, rabbit hunting, bird hunting, duck hunting, hog hunting and bird dog training when allowed; see individual WMA season listings for WMAs that allow dogs. Dogs running at large are prohibited on WMAs. The owner or handler of said dogs shall be liable. Only recognizable breeds of bird dogs and retrievers are allowed for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons.

9. Vehicles

a. An all-terrain vehicle is an off-road vehicle (not legal for highway use) with factory specifications not to exceed the following: weight-750 pounds, length-85", and width-48". ATV tires are restricted to those no larger than 25 x 12 with a maximum 1" lug height and a maximum allowable tire pressure of 7 psi as indicated on the tire by the manufacturer. Use of all other ATVs or ATV tires are prohibited on a WMA.

b. Vehicles having wheels with a wheel-tire combination having a radius of 17 inches or more from the center of the hub (measured horizontal to ground) are prohibited.

c. The testing, racing, speeding or unusual maneuvering of any type of vehicle is prohibited within wildlife management areas due to property damages resulting in high maintenance costs, disturbance of wildlife and destruction of forest reproduction.

d. Tractor or implement tires with farm tread designs R1, R2 and R4 known commonly as spade or lug grip types are prohibited on all vehicles.

e. Airboats, aircraft, personal water craft, "mud crawling vessels" (commonly referred to as crawfish combines which use paddle wheels for locomotion) and hover craft are prohibited on all WMAs and refuges. Personal water craft are defined as a vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and is designed to be operated by a person sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. Personal water craft allowed on designated areas of Alexander State Forest WMA.

f. Driving or parking vehicles on food or cover plots and strips is prohibited.

g. Blocking the entrance to roads and trails is prohibited.

h. Licensed motorized vehicles (LMVs) legal for highway use, including motorcycles, are restricted entirely to designated roads as indicated on WMA maps. ATVs are restricted to marked ATV trails only, except when WMA roads are closed to LMVs. ATVs may then use those roads when allowed. WMA maps available at all region offices. This restriction does not apply to bicycles.

NOTE: All ATV trails are marked with signs and/or paint, but not all ATV trails appear on WMA maps.

i. Use of special ATV trails for handicapped persons is restricted to special ATV handicapped permittees. Handicapped ATV permittees are restricted to handicapped ATV trails or other ATV trails only as indicated on WMA maps or as marked by sign and/or paint. Persons 60 years of age and older, with proof of age, are also allowed to use special handicapped trails and need not obtain a permit. However, these persons must abide by all rules in place for these trails. Handicapped persons under the age of 60 must apply for and obtain a physically challenged hunter program permit from the department.

j. Entrances to ATV trails will be marked with peach colored paint. Entrances to handicapped-only ATV trails will be marked with blue colored paint. Entrances to ATV trails that are open all year long will be marked with purple paint. The end of all ATV trails will be marked by red paint. WMA maps serve only as a general guide to the route of most ATV trails, therefore all signage and paint marking as previously described will be used to determine compliance. Deviation from this will constitute a violation of WMA rules and regulations.

k. Roads and trails may be closed due to poor condition, construction or wet weather.

l. ATVs, and motorcycles cannot be left overnight on WMAs except on designated camping areas. ATVs are prohibited from two hours after sunset to 4 a.m., except raccoon hunters may use ATVs during nighttime raccoon take seasons only. ATVs are prohibited from March 1 through August 31 except squirrel hunters are allowed to use ATV trails during the spring squirrel season on the WMA and except certain trails may be open during this time period to provide access for fishing or other purposes and some ATV trails will be open all year long on certain WMAs.

m. Caution—many department-maintained roadways on WMAs are unimproved and substandard. A maximum 20 mph speed limit is recommended for all land vehicles using these roads.

n. Hunters are allowed to retrieve their own downed deer and hogs with the aid of an ATV except on Thistlethwaite and Sherburne WMAs under the following conditions.

i. No firearms or archery equipment is in possession of the retrieval party or on the ATV.

ii. The retrieval party may consist of no more than one ATV and one helper.

iii. ATVs may not be used to locate or search for wounded game or for any other purpose than retrieval of deer and hogs once they have been legally harvested and located.

10. Commercial Activities.

a. Hunting Guides/Outfitters. No person or group may act as a hunting guide, outfitter or in any other capacity for which they are paid or promised to be paid directly or indirectly by any other individual or individuals for services

rendered to any other person or persons hunting on any Wildlife Management Area, regardless of whether such payment is for guiding, outfitting, lodging or club memberships.

b. Except for licensed activities otherwise allowed by law, commercial activities are prohibited without a permit issued by the secretary of the department.

c. Commercial Fishing. Permits are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou WMAs. Gill nets or trammel nets and the take or possession of grass carp are prohibited on Spring Bayou WMA. Drag seines (except minnow and bait seines) are prohibited except experimental bait seines allowed on Dewey Wills WMA north of La. 28 in Diversion Canal. Commercial fishing is prohibited during regular waterfowl seasons on Grand Bay, Silver Lake and Lower Sunk Lake on Three Rivers WMA. Commercial fishing is prohibited on Salvador/Timken, Ouachita and Pointe-aux-Chenes WMAs except commercial fishing on Pointe-aux-Chenes is allowed in Cut Off Canal and Wonder Lake. No commercial fishing activity shall impede navigation and no unattended vessels or barges will be allowed. Non-compliance with permit regulations will result in revocation of commercial fishing privileges for the period the license is issued and one year thereafter. Commercial fishing is allowed on Pass-a-Loutre and Atchafalaya Delta WMAs. See Pass-a-Loutre for additional commercial fishing regulations on mullet.

11. Wildlife Management Areas Basic Season Structure. For season dates, bag limits, shooting hours, special seasons and other information consult the annual regulations pamphlet for specific details.

12. Resident Small Game (squirrel, rabbit, quail, mourning dove, woodcock, snipe, rail and gallinule). Same as outside except closed during modern firearm either-sex deer seasons and except non-toxic shot must be used for rail and gallinule. Consult regulations pamphlet. Unless otherwise specified under a specific WMA hunting schedule, the use of dogs for rabbit and squirrel hunting is prohibited. Spring squirrel season with or without dogs—first Saturday of May for 9 days. Consult regulations pamphlet for specific WMAs.

13. Waterfowl (ducks, geese and coots). Consult regulations pamphlet. Hunting after 2 p.m. prohibited on all WMAs except for Atchafalaya Delta, Biloxi, Lake Boeuf, Pass-a-Loutre, Pointe-aux-Chenes, Salvador/Timken and Wisner WMAs. Consult specific WMA regulations for shooting hours on these WMAs.

14. Archery. Consult regulations pamphlet.

15. Hogs. Consult regulations pamphlet for specific WMA regulations. Unmarked hogs may be taken during any legal hunting season, except during the spring squirrel season, on designated WMAs by properly licensed hunters using only guns or bow and arrow legal for specified seasons in progress. Hunters may harvest hogs during the month of March on Pass-a-Loutre WMA only by using shotguns with shot no larger than BB lead or F steel, or .22 caliber rimfire firearms. Hogs may not be taken with the aid of dogs, except unmarked hogs may be taken with the aid of dogs on Pearl River, Red River and Three Rivers WMAs (consult Pearl River, Red River and Three Rivers WMAs regulations) by permit from either the Baton Rouge or Ferriday Offices and all hogs must be killed immediately and may not be

transported live under any conditions and hunters may use centerfire pistols in addition to using guns allowed for season in progress.

16. Outlaw Quadrupeds and Birds. Consult regulations pamphlet. During hunting seasons specified on WMAs, except the turkey and spring squirrel seasons, take of outlaw quadrupeds and birds, with or without the use of electronic calls, is allowed by properly licensed hunters and only with guns or bows and arrows legal for season in progress on WMA. However, crows, blackbirds, grackles and cowbirds may not be taken before September 1 or after January 1.

17. Wildlife Management Areas Hunting Schedule and Regulations

a. Acadiana Conservation Corridor
b. Alexander State Forest. From December through February all hunters must check daily with the Office of Forestry for scheduled burning activity. No hunting or other activity will be permitted in burn units the day of the burning. Call 318-487-5172 or 318-487-5058 for information on burning schedules. Vehicles restricted to paved and graveled roads. No parking on or fishing or swimming from bridges. No open fires except in recreation areas.

c. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than employees of the Department of Wildlife and Fisheries at any time. ATVs, ATCs and motorcycles prohibited except as permitted for authorized WMA trappers. Mudboats or air-cooled propulsion engines greater than 36 horsepower are prohibited on the WMA.

d. Attakapas
e. Bayou Macon. All night activities prohibited except as otherwise provided.

f. Bayou Pierre
g. Bens Creek
h. Big Colewa Bayou. All nighttime activities prohibited.

i. Big Lake
j. Biloxi
k. Bodcau
l. Boeuf
m. Buckhorn
n. Camp Beauregard. Daily military clearance required for all recreational users. Registration for use of self-clearing permit required once per year. All game harvested must be reported on self-clearing checkout permit. Retriever training allowed on selected portions of the WMA. Contact the region office for specific details. No hunting in restricted areas.

o. Clear Creek (formerly Boise-Vernon)
p. Dewey W. Wills. Crawfish: 100 pounds per person per day.

q. Elbow Slough. Steel shot only for all hunting. All motorized vehicles prohibited.

r. Elm Hall. No ATVs allowed.
s. Floy Ward McElroy.

t. Fort Polk. Daily military clearance required to hunt or trap. Registration for use of self-clearing permit required once per year. New special regulations apply to ATV users.

u. Grassy Lake. Commercial Fishing: Permitted except on Smith Bay, Red River Bay and Grassy Lake

proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor at Spring Bayou headquarters or Opelousas Region Office. No hunting in restricted area.

v. Jackson-Bienville. Beginning September 1, 2004, ATVs are allowed only on non-public maintained gravel roads and marked ATV trails.

w. Joyce. Swamp Walk: Adhere to all WMA rules and regulations. No loaded firearms or hunting allowed within 100 yards of walkways. Check hunting schedule and use walkway at your own risk.

x. Lake Boeuf. Hunting allowed until 12 noon on all game. All nighttime activities prohibited.

y. Lake Ramsay. Foot traffic only—all vehicles restricted to Parish Roads.

z. Little River
aa. Loggy Bayou
bb. Manchac. Crabs: No crab traps allowed. Attended lift nets are allowed.

cc. Maurepas Swamp. No loaded firearms or hunting allowed within 100 yards of Nature Trail.

dd. Ouachita. Waterfowl Refuge: North of La. Hwy. 15 closed to all hunting, fishing and trapping and ATV use during duck season including early teal season. Crawfish: 100 pounds per person per day limit. Night crawfishing prohibited. No traps or nets left overnight. Commercial Fishing: Closed. All nighttime activities prohibited except as otherwise provided.

ee. Pass-a-Loutre. Commercial Fishing: Same as outside. Commercial mullet fishing open only in: South Pass, Pass-a-Loutre, North Pass, Southeast Pass, Northeast Pass, Dennis Pass, Johnson Pass, Loomis Pass, Cadro Pass, Wright Pass, Viveats Pass, Cognevich Pass, Blind Bay, Redfish Bay, Garden Island Bay, Northshore Bay, East Bay (west of barrier islands) and oil and gas canals as described on the Department Pass-a-Loutre WMA map. ATVs, ATCs and motorcycles prohibited on this area. Oyster harvesting is prohibited. Mudboats or air-cooled propulsion engines greater than 36 horsepower are prohibited on the WMA.

ff. Pearl River. All roads closed 8 p.m. to 4:30 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting will be closed when the river stage at Pearl River reaches 16.5 feet except waterfowl hunting south of Hwy. 90. No hunting in the vicinity of Nature Trail. Observe "No Hunting" signs. Rifle range open Friday, Saturday and Sunday with a fee.

gg. Peason Ridge. Daily military clearance required to hunt or trap. Registration for use of self-clearing permit required once per year. Special federal regulations apply to ATV users.

hh. Pointe-aux-Chenes. Hunting until 12 noon on all game, except for mourning dove hunting and youth lottery deer hunt as specified in regulation pamphlet. Point Farm: Gate will be open all weekends during month of February. No motorized vessels allowed in the drainage ditches. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Oyster harvesting is prohibited. Fish may be taken only by rod and

reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. All boats powered by engines having horsepower ratings above 25 h.p. are not allowed in the Grand Bayou, Montegut and Pointe-aux-Chenes water management units. Public is permitted to travel anytime through the WMA for access purposes only, in the waterways known as Grand Bayou, Humble Canal, Little Bayou Blue and Grand Bayou Blue unless authorized by the Department. All other motorized vehicles, horses and mules are prohibited unless authorized by the department.

ii. Pomme de Terre. Commercial Fishing: permitted Monday through Friday, except closed during duck season. Commercial fishing permits available from area supervisor, Opelousas Region Office or Spring Bayou headquarters. Sport Fishing: Same as outside except allowed only after 2 p.m. only during waterfowl season. Crawfish: March 15-July 31, recreational only, 100 lbs. per boat or group daily.

jj. Red River. Recreational crawfishing allowed on Yakey Farms wetland restoration projects February 1 to the last day of February, 100 pounds per person per day, maximum of five wire traps per person. No traps or nets left overnight. No motorized watercraft allowed.

kk. Russell Sage. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited except as otherwise provided. Internal combustion engines and craft limited to 10 h.p. rating or less in the Greentree Reservoirs.

NOTE: All season dates on Chauvin Tract (U.S. 165 North) same as outside, EXCEPT still hunt only and EXCEPT deer hunting restricted to archery only. All vehicles including ATVs prohibited.

ll. Sabine

mm. Sabine Island. Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east.

nn. Salvador/Timken. Hunting until 12 noon only for all game. All nighttime activities prohibited, including frogging. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be permitted. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) maximum may be taken for bait. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Boats powered by internal combustion engines having horsepower ratings above

25 h.p. are permitted only in oil company access canals, Louisiana Cypress Canal, the Netherlands Pond including the West Canal, Lakes—"Baie Des Chactas" and "Baie du Cabanage" and the Rathborne Access ditch. Use of mudboats powered by internal combustion engines with four cylinders or less is permitted in interior ditches from first Saturday in September through January and may be further permitted. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited. ATVs, ATCs and motorcycles prohibited on this area.

oo. Sandy Hollow. Bird Dog Training: Consult regulation pamphlet. Wild birds only (use of pen-raised birds prohibited). Bird Dog Field Trials: Permit required from Baton Rouge Region Office. Horseback Riding: Self-clearing permit required. Organized trail rides prohibited. Riding allowed only on designated roads and trails depicted on WMA map. Horses and mules are specifically prohibited during turkey and gun season for deer except as allowed for bird dog field trials. No horses and mules on green planted areas.

pp. Sherburne. Crawfishing: Recreational crawfishing only on the South Farm Complexes. Crawfish harvest limited to 100 pounds per vehicle or boat per day. No traps or nets left overnight. No motorized watercraft allowed on farm complex. Commercial crawfishing not allowed. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details. Vehicular traffic prohibited on east Atchafalaya River levee within Sherburne WMA boundaries. Rifle and Pistol Range open daily. Skeet ranges open by appointment only, contact Hunter Education Office. No trespassing in restricted area behind ranges.

NOTE: Atchafalaya National Wildlife Refuge, and U.S. Army Corps of Engineers land holdings adjacent to the Sherburne Wildlife Management Area will have the same rules and regulations as Sherburne WMA. No hunting or trapping in restricted area.

qq. Sicily Island Hills

rr. Soda Lake. No motorized vehicles allowed. Bicycles allowed. All trapping and hunting prohibited except archery hunting for deer and falconry.

ss. Spring Bayou. Commercial Fishing: permitted Monday through Friday except slat traps and hoop nets permitted any day and except gill or trammel nets or the take or possession of grass carp are prohibited. Permits available from area supervisor or Opelousas Region Office. Closed until after 2 p.m. during waterfowl season. Sport Fishing: Same as outside except allowed only after 2 p.m. during waterfowl season. Crawfish: recreational only. No hunting allowed in headquarters area. Only overnight campers allowed in the improved Boggy Bayou Camping area. Rules and regulations posted at camp site. A fee is assessed for use of this campsite. Water skiing allowed only in Old River and Grand Lac.

tt. Tangipahoa Parish School Board. No horseback riding during gun season for deer or turkey. ATVs are not allowed.

uu. Thistlethwaite. All motorized vehicles restricted to improved roads only. All users must enter and leave through main gate only. No entry into restricted areas.

vv. Three Rivers

ww. Tunica Hills. All vehicles restricted to parish roads. Access to restricted areas is unauthorized. Refer to WMA map. Camping prohibited on area. North of Hwy. 66 (North Tract) closed to all users the day after turkey season closes to August 31.

xx. Union. All nighttime activities prohibited except as otherwise provided.

yy. West Bay

zz. Wisner

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:1603 (July 2002), LR 29:1124 (July 2003), repromulgated LR 29:1522 (August 2003), amended LR 30:1495 (July 2004), LR 31:1611 (July 2005), LR 32:1251 (July 2006), LR 33:1382 (July 2007), LR 34:1429 (July 2008).

Robert J. Barham
Secretary

0807#048

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Landowner Antlerless Deer Tag Program (LAC 76:V.119)

The Wildlife and Fisheries Commission does hereby amend the rules and regulations for participation in the Landowner Antlerless Deer Tag Program.

Title 76

WILDLIFE AND FISHERIES

PART V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§119. Rules and Regulations for Participation in the Landowner Antlerless Deer Tag Program

A. The following rules and regulations shall govern the Landowner Antlerless Deer Tag (LADT) Program.

1. Eligibility. The following landowners or lessees are eligible to participate in this program:

a. licensed deer farmers authorized to hunt deer by Department of Agriculture and Forestry and Department of Wildlife and Fisheries (LDWF);

b. landowners or lessees with less than 500 acres who have verified deer depredation problems and have met all of the requirements of LDWF as stated in the Nuisance Deer Management Program and who are dependent upon this commercial crop as a major source of income;

c. landowners with 40 acres or more enrolled in the Louisiana Forest Stewardship Program and who have a written wildlife management plan on file with LDWF;

d. landowners or lessees with 40 or more contiguous acres of forested or marsh land.

2. Application Procedure

a. Application for enrollment in the Landowner Antlerless Deer Tag Program must be submitted to the Regional Office, Deer Program personnel, or Forest Stewardship Program personnel of LDWF prior to September 1. The application will become an official agreement between the applicant and LDWF.

b. Each applicant will be assessed a \$25 administrative processing fee which must be paid prior to October 1. Applicant must identify the enrolled property on a Louisiana road atlas that will be kept on file in the Regional Office.

c. By enrollment in this program the applicant agrees to allow LDWF personnel access to their land for management surveys, investigations of violations and other inspections deemed appropriate by the department.

d. Boundaries of lands enrolled in the LADT program shall be clearly marked and posted with LADT or DMAP signs. Signs will be placed at 1000 foot intervals around the entire boundary of the property and at every point onto the property. Signs shall be removed if the land is no longer enrolled in the program. The color of the LADT sign shall be white, with the words LADT and Posted printed on the sign in letters no less than 4 inches. The minimum sign size is 11 1/4" x 11 1/4".

3. Tags

a. A fixed number of Landowner Antlerless Deer Tags will be provided by the department to each applicant that must be attached to each antlerless deer harvested during the regular deer season. These tags can be used only on the land for which they were issued and must be attached to all antlerless deer killed during the entire deer season including special either-sex days. Tag allotment for each applicant will be determined by deer program personnel.

b. The total harvest of antlerless deer is restricted to that number of antlerless deer for which tags were issued. Once the number of antlerless deer for which tags were issued have been killed, all deer hunting will then be for bucks-only, even though there may be either-sex days later in the season for the area at large. No additional tags will be issued to the applicant.

c. Each hunter must have the Landowner Antlerless Deer Tag in his possession while hunting on the property for which the tag was issued and immediately upon kill of an antlerless deer, the hunter must tag the animal through the hock. The deer must be tagged before it is transported from the site of kill and the tag will remain with the deer while the hunter is in route to his domicile. The tag number will be recorded on the possession tag for the deer or any part(s) of the animal when divided and properly tagged among other individuals.

d. Antlerless deer harvested on property enrolled in LADT do not count in the daily or season bag limit for hunters.

4. Records

a. Approved applicants will keep daily records for all deer harvested as required by LDWF personnel. This information along with any unused tags will be submitted to the Regional Office, the Deer Program, or Forest Stewardship Program personnel by March 1. Information will include: date of kill; name of hunter; Social Security number of hunter; hunting license # of hunter, if applicable; sex of animal; landowner antlerless tag number. Additional biological information from harvested deer may be required of some applicants for management purposes.

b. Approved applicants will provide documentation of harvested deer during the season to department personnel upon request. Applicants will be given 48 hours to provide this requested information.

5. Cancellation of Program

a. Failure of the approved applicant or other persons permitted to hunt on this property to follow these rules and regulations may result in cancellation of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:2011 (September 2000), amended LR 27:1935 (November 2001), LR 30:2497 (November 2004), LR 34:1443 (July 2008).

Robert J. Barham
Secretary

0807#049

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Physically Challenged Hunter Permit (LAC 76:XIX.105)

The Wildlife and Fisheries Commission does hereby amend regulations for the Physically Challenged Hunters Permit Program.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Seasons

§105. Physically Challenged Hunters Permit

A. Definitions

ATV—a small motorized vehicle designed for off road use, weighing less than 750 pounds, designed for no more than two passengers, with a maximum of six wheels, and tires with a manufacturers recommended air pressure of less than 10 pounds per square inch.

Amputee of the Upper Extremity—an individual suffering the loss of at least one arm, hand, or five fingers from one hand.

Commission—the Louisiana Wildlife and Fisheries Commission.

Commission Approved Physician—any physician licensed to practice medicine by the Louisiana State Board of Medical Examiners who evaluates permit applicants to determine the disabled hunter rule classification of permanent disability.

Department—the Louisiana Department of Wildlife and Fisheries.

Disabled Hunter Oversight Committee—a committee of five individuals which collectively have final authority to approve or deny, by majority vote, rejected applications for disabled hunter permits. The five members of the committee shall be appointed by the commission from the Louisiana Outdoorsmen with Disabilities Inc., Louisiana Handicapped Sportsmen, Inc., the Wildlife Division, the Enforcement Division, and the commission.

Disabled Hunter Permit—a permit issued by the Department of Wildlife and Fisheries to qualified disabled individuals.

Disabled Hunter Review Board—a board of five individuals which collectively review and approve or reject, by majority vote, applications for disabled hunter permits.

The board shall be selected by the commission with recommendations from: the Louisiana Outdoorsmen with Disabilities Inc. (two recommendations), Louisiana Handicapped Sportsmen, Inc. (two recommendations), and the Louisiana Department of Health and Hospitals (one recommendation).

Enforcement Division—the Enforcement Division of the Louisiana Department of Wildlife and Fisheries.

Handicap ATV Permit—a permit issued by the Wildlife Division to certain disabled hunters to allow access to the specially designated handicapped ATV trails on Wildlife Management Areas.

Helper—an individual who accompanies a permitted disabled hunter to assist the disabled hunter in accessing a hunting area, carrying hunting gear, and retrieving harvested game.

Mobility Impaired—a permanent disability caused by injury, illness, or birth defect that prevents an individual from walking farther than very short distances (less than 150 yards) even with the help of mechanical aids.

Permanent Disability—a qualifying disability that a commission approved physician, the Disabled Hunter Review Board, and the Wildlife Division or the Disabled Hunter Oversight Committee have determined will not improve over time or with medical treatment.

Special Deer Season—a special deer season only for individuals with valid disabled hunter permits established by the Louisiana Wildlife and Fisheries Commission.

Special Handicapped Hunt—special hunt or hunts on certain W.M.A.s only for individuals with valid disabled hunter permits.

W.M.A.—a tract of land managed by the Louisiana Department of Wildlife and Fisheries and proclaimed as a Wildlife Management Area by the governor of Louisiana.

Wheelchair Bound—a permanent disability that prohibits mobility by any means other than a wheelchair.

Wildlife Division—the Wildlife Division of the Louisiana Department of Wildlife and Fisheries.

B. Wheelchair Bound

1. Qualifications

a. Permanent Disability. The disability must permanently confine the applicant to the use of a wheelchair. If the applicant may eventually recover enough to not require the use of a wheelchair, he or she does not qualify for this class permit. If the future prognosis is uncertain, the applicant does not qualify at this time.

b. Certification by Commission Approved Physician

i. Applicants must be certified permanently disabled and confined to a wheelchair by:

- (a). a commission approved physician;
- (b). the Disabled Hunter Review Board; and
- (c). the Wildlife Division.

ii. Should the commission approved physician determine the applicant is not permanently confined to a wheelchair for medical reasons, the application is rejected and no permit shall be issued. If approved by the physician, the application must then be approved by the Wildlife Division and the Disabled Hunter Review Board. Should either reject the application, it shall be forwarded to the Disabled Hunter Oversight Committee which shall make the final determination to approve or reject the application.

c. Disqualification
i. Applicants not disabled sufficiently to meet the confined to a wheelchair criterion shall not qualify for this class permit.

ii. Applicants with felony convictions or with Class Two or above wildlife convictions, WMA violations or littering within the last five years, as determined by the Enforcement Division, shall not be issued permits. Fishing and boating violations are excluded.

2. Approved Applicants Receive the Following Considerations

a. Special Handicapped Hunts—may participate in special W.M.A. hunts.

b. Special deer seasons:

i. may participate in special statewide handicapped hunts;

ii. may take either-sex deer on private lands statewide during the entire gun deer season and during the muzzle loader season. This provision does not include W.M.A.s, National Wildlife Refuges, Kisatchie National Forest, or other federal properties.

c. Crossbow—may use a crossbow to archery hunt during the statewide archery season.

d. Access to Wildlife Management Areas—upon request, permittees of this class shall receive a handicap ATV permit/sticker for access to specially designated ATV trails on W.M.A.s.

e. Hunting from Vehicles—may hunt resident game from a stationary vehicle or stationary boat statewide, provided that this activity does not violate state or parish laws.

f. Helpers—permittee may be accompanied by helpers (no more than two) as necessary to get to and from a hunting area or stand and to assist in retrieving harvested game. Helpers may not use or possess firearms/bows/crossbows when acting as a helper unless the weapon is legal for the game hunted and the season is open to all licensed hunters in the area the helper is hunting. Permittee is allowed one extra ATV for his helper(s). At no time will parked or unattended helper's ATV and permittee's ATV be placed at separate locations.

3. Conditions of Approval

a. Nontransferable. The disabled hunter permit is nontransferable and is valid for named permittee only.

b. Permit in Possession

i. The permit must be carried by named permittee at all times while hunting in the field or transporting game harvested under the permit.

ii. Permittee must, in addition to the permit, carry one other form of picture identification while hunting or transporting harvested game.

c. Helpers. Helpers accompanying handicapped hunters are not permitted to carry firearms/bows/crossbows except as provided for by statewide or W.M.A. regulations. (See Subparagraph B.2.f.)

d. All Terrain Vehicles

i. ATVs may be used only on regular public ATV trails and handicapped ATV trails as specifically designated on W.M.A. maps.

ii. Approved individuals (permittees and helpers) may drive the ATV to a stand within 100 yards of an ATV trail. The ATV may also be used to retrieve the permittees

harvested deer. Travel on an ATV beyond 100 yards of the designated trail, except to retrieve a deer, is prohibited.

e. Other Licenses Required. The issuance of a disabled hunter permit does not exempt the permittee from other license requirements. All applicable licenses required to hunt a particular species of game must be purchased and in the permittees possession while hunting.

f. Revocation

i. Any violation of the permit conditions by the permittee and/or helper of wildlife laws and/or regulations may result in cancellation of this permit.

ii. Should there be a change in the permittee's condition, the permittee must notify the Wildlife Division. If said change is sufficient to make the permanent use of a wheelchair unnecessary, the permit shall be revoked.

g. Duration

i. This permit is valid for the lifetime of named permittee or until revoked by the department.

ii. The department shall retain the right to change the duration and/or conditions of the disabled hunter permits to comply with future commission or legislative actions.

h. Cost—none.

C. Mobility Impaired

1. Qualifications

a. Permanent Disability

i. The disability must be permanent and impair the applicant sufficiently to preclude walking farther than very short distances (less than 150 yards) even with mechanical aids. If the applicant may eventually recover, he or she does not qualify. If the future prognosis is uncertain, the applicant does not qualify at this time.

ii. Qualifying disabilities under this class may include, but are not limited to:

(a). permanent and continual use of artificial limbs, crutches, leg braces, or canes due to injury, disease, or birth defect;

(b). defects of circulatory system, respiratory system, skeletal structure, or neurological disorders caused by disease, injury, or birth defect.

iii. Nonqualifying disabilities may include, but are not limited to:

(a). vision impairment;

(b). arm, hand, shoulder, or other impairments that do not affect walking;

(c). any impairment considered to be a part of or resulting from the normal aging process;

(d). any impairment resulting from or due to a lack of physical conditioning.

b. Certification by Commission Approved Physician

i. Applicants must be certified permanently disabled and mobility impaired by:

(a). a commission approved physician;

(b). the Disabled Hunter Review Board; and

(c). the Wildlife Division.

ii. Should the commission approved physician determine the applicant is not permanently mobility impaired, the application is rejected and no permit shall be issued. If approved by the physician, the application must then be approved by the Disabled Hunter Review Board and the Wildlife Division. Should either reject the application, it shall be forwarded to the Disabled Hunter Oversight

Committee which shall make the final determination to approve or reject the application.

c. Disqualification

i. Applicants not disabled sufficiently to meet the mobility impaired criterion shall not qualify for the class permit.

ii. Applicants with felony convictions or with Class Two or above wildlife convictions, WMA violations or littering within the last five years, as determined by the Enforcement Division, shall not be issued permits. Fishing and boating violations are excluded.

2. Approved Applicants Receive the Following Considerations

a. Special Handicapped Hunts—may participate in special W.M.A. hunts.

b. Special Deer Seasons—may participate in special statewide handicapped hunts.

c. Access To Wildlife Management Areas—upon request, permittees of this class shall receive a handicap ATV permit/sticker for access to specially designated ATV trails on W.M.A.s.

d. Helpers—permittee may be accompanied by helpers (no more than two) as necessary to get to and from a hunting area or stand and to assist in retrieving harvested game. Helpers may not use or possess firearms/bows/crossbows when acting as a helper unless the weapon is legal for the game hunted and the season is open to all licensed hunters in the area the helper is hunting. Permittee is allowed one extra ATV for his helper(s). At no time will parked or unattended helper's ATV and permittee's ATV be placed at separate locations.

3. Conditions of Approval

a. Nontransferable. The disabled hunter permit is nontransferable and is valid for named permittee only.

b. Permit in Possession

i. The permit must be carried by named permittee at all times while hunting in the field or transporting game harvested under the permit.

ii. Permittee must, in addition to the permit, carry one other form of picture identification while hunting or transporting harvested game.

c. Helpers. Helpers accompanying handicapped hunters are not permitted to carry firearms/bows/crossbows except as provided for by statewide or W.M.A. regulations. (See Subparagraph C.2.e.)

d. All Terrain Vehicles

i. ATVs may be used only on regular public ATV trails and handicapped ATV trails as specially designated on W.M.A. maps.

e. Other Licenses Required. The issuance of a disabled hunter permit does not exempt the permittee from other license requirements. All applicable licenses required to hunt a particular species of game must be purchased and in the permittees possession while hunting.

f. Revocation

i. Any violation of the permit conditions by the permittee and/or helper of wildlife laws and/or regulations may result in cancellation of the permit.

ii. Should there be a change in the permittee's condition, the permittee must notify the Wildlife Division. If said change is sufficient to enable the permittee to walk more than 150 yards, the permit shall be revoked.

g. Duration

i. This permit is valid for the lifetime of named permittee or until revoked by the department.

ii. The department shall retain the right to change the duration and/or conditions of the disabled hunter permits to comply with future commission or legislative action.

h. Cost—none.

D. Amputee of the Upper Extremity

1. Qualifications

a. Permanent Disability. The applicant must have an amputation of at least one arm, hand, or all five fingers of one hand to qualify for a permit of this class.

b. Certification by Commission Approved Physician

i. Applicants must be certified permanently disabled as an amputee of the upper extremity by a commission approved Physician.

ii. Should the commission approved physician determine the applicant is not an amputee of the upper extremity, the application shall be rejected. If approved by the physician, the application must then be approved by the Disabled Hunter Review Board and the Wildlife Division. Should either reject the application, it shall be forwarded to the Disabled Hunter Oversight Committee which shall make the final determination to approve or reject the application.

c. Disqualification

i. Applicants not disabled sufficiently to meet the amputee of the upper extremity criterion shall not qualify for this class permit.

ii. Applicants with felony convictions or with Class Two or above wildlife convictions, WMA violations or littering within the last five years, as determined by the Enforcement Division, shall not be issued permits. Fishing and boating violations are excluded.

2. Approved Applicants Receive the Following Considerations

a. Special Handicapped Hunts—may participate in special W.M.A. hunts.

b. Special Deer Seasons—may participate in special statewide handicapped hunts.

c. Access to Wildlife Management Areas—upon request, permittees of this class shall receive a handicap ATV permit/sticker for access to specially designated ATV trails of W.M.A.s.

d. Crossbow—may use a crossbow to archery hunt during the statewide archery season.

e. Helpers—permittee may be accompanied by helpers (no more than two) as necessary to get to and from a hunting area or stand and to assist in retrieving harvested game. Helpers may not use or possess firearms/bows/crossbows when acting as a helper unless the weapon is legal for the game hunted and the season is open to all licensed hunters in the area the helper is hunting. Permittee is allowed one extra ATV for his helper(s). At no time will parked or unattended helper's ATV and permittee's ATV be placed at separate locations.

3. Conditions of Approval

a. Nontransferable. The disabled hunter permit is nontransferable and is valid for named permittee only.

b. Permit in Possession

i. The permit must be carried by named permittee at all times while hunting in the field or transporting game harvested under the permit.

Title 76

WILDLIFE AND FISHERIES

**PART XIX. HUNTING AND WMA REGULATIONS
Chapter 1. Resident Game Hunting Season**

§101. General

A. The Resident Game Hunting Season regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the regulation pamphlet may be obtained from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 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), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), LR 30:1493 (July 2004), LR 31:1627 (July 2005), LR 32:1253 (July 2006), LR 33:1399 (July 2007), LR 34:1447 (July 2008).

§103. Resident Game Birds and Animals

A. Shooting Hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult regulation pamphlet for seasons or specific regulations on wildlife management areas or specific localities.

ii. Permittee must, in addition to the permit, carry one other form of picture identification while hunting or transporting harvested game.

c. Helpers. Helpers accompanying handicapped hunters are not permitted to carry firearms/bows/crossbows except as provided for by statewide or W.M.A. regulations. (See Subparagraph D.2.e.)

d. All Terrain Vehicles

i. ATVs may be used only on regular public ATV trails and handicapped ATV trails as specially designated on W.M.A. maps.

e. Other Licenses Required. The issuance of a disabled hunter permit does not exempt the permittee from other license requirements. All applicable licenses required to hunt a particular species of game must be purchased and in the permittee's possession while hunting.

f. Revocation. Any violation of the permit conditions by the permittee and/or helper of wildlife laws and/or regulations may result in cancellation of this permit.

g. Duration

i. This permit is valid for the lifetime of named permittee or until revoked by the department.

ii. The department shall retain the right to change the duration and/or conditions of the disabled hunter permits to comply with future commission or legislative action.

h. Cost—none

AUTHORITY NOTE: Promulgated in accordance with Act 1226 of the 1995 Louisiana Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 22:856 (September 1996), amended LR 34:1444 (July 2008).

Patrick C. Morrow
Chairman

0807#051

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

**Resident Game Birds and Game Quadrupeds Hunting
Season Dates (LAC 76:XIX.101 and 103)**

The Wildlife and Fisheries Commission does hereby promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

C. Deer Hunting Schedule

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No Dogs Allowed)	With or Without Dogs
1	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last Sun. of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan.

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	OPENS: 3rd Saturday of November CLOSES: Last Day of February	10	20
Rabbit and Squirrel	OPENS: 1st Saturday of October CLOSES: Last Day of February	8	16
Squirrel*	OPENS: 1st Saturday of May for 23 days	3	6
Deer	See Schedule	1 antlered and 1 antlerless (when legal)	6/season (3 antlered deer and 3 antlerless deer)

*NOTE: Spring squirrel season is closed on the Kisatchie National Forest, National Wildlife Refuges, U.S. Army Corps of Engineers property. Some State Wildlife Management Areas will be open, check WMA season schedule.

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No Dogs Allowed)	With or Without Dogs
2	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: Next to last Sat. of Oct. CLOSES: Fri. before last Sat. of Oct. OPENS: Mon. after the last day of Modern Firearm Season in Jan. CLOSES: After 7 days.	OPENS: Last Sat. of Oct. CLOSES: Tues. before 2nd Sat. of Dec. in odd numbered years and on Wed. during even numbered years EXCEPT when there are 5 Sats. in Nov. and then it will close on the Tues. in odd numbered years or Wed. during even numbered years before the 1st Sat. of Dec.	OPENS: Wed. before the 2nd Sat. of Dec. in odd numbered years and on Thurs. during even numbered years EXCEPT when there are 5 Sats. in Nov., then it will open on the Wed. before the 1st Sat. of Dec. on odd years and Thurs. during even numbered years. CLOSES: 40 days after opening in odd numbered years or 39 days after opening in even numbered years.
3	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1st Sat. of Dec. CLOSES: After 37 days	
4	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 1st Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Nov. OPENS: Mon. after 1st Sat. of Jan. CLOSES: Mon. after 2nd Sat. of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Sun. after 1st Sat. of Jan.	
5	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov. (BUCKS ONLY) OPENS: Day after Christmas Day CLOSES: Jan. 1st (BUCKS ONLY)	OPENS: Day after Thanksgiving Day CLOSES: Sun. after 2nd Sat. of Dec.	
6	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last Sun. of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. And then it will close on the Fri. before the 1st Sat. of Dec.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan.
7	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: 1st Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Nov.	OPENS: 3rd Sat. of Oct. CLOSES: Fri. before 1st Sat. of Nov. OPENS: 2nd Sat. of Nov. CLOSES: Sun. after Thanksgiving Day	OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days
8	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day	OPENS: 1st Sat. of Dec. CLOSES: After 37 days.

D. Modern Firearm Schedule (either sex seasons)

Parish	Area	Modern Firearm Either-Sex Days
East Carroll	Area 1 New for 2008-2009	Antlerless deer may be harvested during entire deer season on private lands (all segments included), east of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison Parish line.
East Carroll	Area 4 portion	Nov. 8-9, 28-30, 2008, west of mainline Mississippi River Levee and north and west of La. 877 from West Carroll Parish line to La. 580, north of La. 580 to U.S. 65, east of U.S. 65 to Madison Parish line.
West Carroll	Area 5	Nov. 28-30, 2008

E. Farm Raised White-tailed Deer on supplemented shooting preserves: archery, firearm, primitive firearms: October 1-January 31 (either-sex).

F. Exotics on Supplemented Shooting Preserves: Either sex, no closed season.

G. Spring Squirrel Hunting

1. Season Dates: Opens first Saturday of May for 23 days.

2. Closed Areas: Kisatchie National Forest, National Wildlife Refuges, and U.S. Army Corps of Engineers property and WMAs except as provided in Paragraph 3 below.

3. Wildlife Management Area Schedule: Opens first Saturday of May for 9 days on all WMAs except Ft. Polk, Peason Ridge and Camp Beauregard. 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), 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), LR 30:1494 (July 2004), LR 31:1627 (July 2005), LR 32:1254 (July 2006), LR 33:115 (January 2007), LR 33:1399 (July 2007), LR 34:1447 (July 2008).

Robert J. Barham
Secretary

0807#052

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Agricultural and Environmental Sciences Horticulture Commission

Definitions; Enforcement; Requirements for Licensees or Permittees; Stop Orders and Notice of Non-Compliance (LAC 7:XXIX.102, 103, 115 and 123)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:3801(F) the Department of Agriculture and Forestry, Horticulture Commission, hereby proposes to amend regulations to provide for the defining of terms used in the regulations; for a person holding a license in a regulated profession to be the licensee only for one person or business; for stop orders and notices of non-compliance; and for circumstances when a person may be brought to a hearing for alleged violations related to stop orders and notices of non-compliance.

The purpose of these amendments are to define terms used in the regulations, prevent the improper use of licenses, and to adopt procedures regarding the use of stop orders and notices of non-compliance and to establish the circumstances for adjudicatory proceedings related to stop orders or notices of non-compliance.

This Rule is enabled by R.S. 3:3801.

Title 7

AGRICULTURE AND ANIMALS

Part XXIX. Horticulture Commission

Chapter 1. Horticulture

§102. Definitions

A. The words and terms defined in R.S. 3:3803 are applicable to this Chapter.

B. The following words and terms are defined for the purpose of enforcing the provisions of R.S. 3:3801 et seq.

* * *

Department—The Louisiana Department of Agriculture and Forestry

* * *

Horticulture Law—Louisiana Revised Statutes of 1950, Title 3, Chapter 24, §3801 et seq.

* * *

Stop Order and Notice of Non-Compliance—a directive issued by the commissioner or the department or authorized agent to a person prohibiting that person from continuing a particular course of conduct or prohibiting the advertisement, application, distribution, disturbance, movement, performance, sale or offer for sale of a service or material thing, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3803.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Horticulture Commission, LR 26:627 (April 2000), amended LR 33:1854 (September 2007), LR 34:

§103. Enforcement

A. Hearings

1. Investigative hearings shall be for the purpose of investigating alleged violations of the Horticulture Law or regulations promulgated by the commission.

A.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:183 (April 1982), amended LR 9:410 (June 1983), LR 34:

§115. General Requirements for All Licensees or Permittees

A. ...

B. A person holding a license in a regulated profession may be the licensee for only one person or business. The licenses of all licensees regularly assigned to work in any outlet shall be prominently displayed at all times in a location accessible to the general public or any representative of the commission.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 20:640 (June 1994), LR 21:548 (June 1995), LR 31:1053 (May 2005), LR 34:

§123. Stop Orders and Notice of Non-Compliance

A. A person believed to be in violation of the Horticulture Law or regulations of the commission may be issued a verbal or written stop order or written notice of non-compliance by the department or authorized agent to prevent possible future violations from occurring.

B. If an alleged violator refuses to accept a written stop order or notice of non-compliance when tendered or refuses or fails to claim such stop order or notice of non-compliance sent by certified mail, the stop order or notice of non-compliance shall be deemed to have been delivered to the alleged violator.

C. An adjudicatory proceeding before the commission shall commence against an alleged violator for the alleged violations that led to the issuance of the stop order or order of non-compliance, even if he is in compliance, under any of the following circumstances:

1. if the alleged violations involve fraudulent practices or activities;

2. if the alleged violations caused personal injury or economic loss other than payment for services rendered, to another person;

3. if the alleged violator has refused or failed to accept the stop order or order of non-compliance, or has attempted to avoid or evade delivery of the stop order or order of non-compliance.

D. An adjudicatory proceeding before the commission shall commence against an alleged violator for the alleged violations that led to the issuance of the stop order or order of non-compliance if he refuses or fails to comply with the stop order or order of non-compliance.

E. No provision of this Section shall prevent the institution of an adjudicatory proceeding against an alleged violator who has not been issued a stop order or notice of non-compliance or for violations that occur after the issuance of a stop order or notice of non-compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Horticulture Commission, LR 34:

Family Impact Statement

The proposed amendments to LAC XXIX.102, 103, 115 and the promulgation of §123 relative to the definition of terms used in the regulations; provides for a person holding a license in a regulated profession to be the licensee only for one person or business; provide for stop orders and notices of non-compliance; provides for circumstances when a person may be brought to a hearing for alleged violations related to stop orders and notices of non-compliance do not appear to affect:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may submit written comments on the proposed Rule through August 25, 2008, to Craig Roussel, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble concerning the proposed Rule is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Definitions; Enforcement; Requirements for Licensees or Permittees; Stop Orders and Notice of Non-compliance

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will result in no anticipated costs or savings to state or local governmental entities. The proposed amendments to these regulations defines terms used in the regulations, prevents the improper use of licenses, and adopts procedures regarding the use of stop orders and notices of non-compliance and establishes the circumstances for adjudicatory proceedings related to stop orders and notices of non-compliance.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state and local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact of the proposed rule on competition and employment.

Craig Gannuch
Assistant Commissioner
0807#055

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Livestock Sanitary Board**

Diseases of Animals (Brucellosis)
(LAC 7:XXI.101, 111, 121, 307, 309)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:2093, R.S. 3:2095 and R.S.3:2223, the Department of Agriculture and Forestry, Livestock Sanitary Board, proposes to amend regulations adding certain definitions, providing for the branding and movement of brucellosis exposed cattle, the testing for brucellosis of cattle at public livestock auction markets and providing for the reporting of certain diseases in animals.

In August of 2000, Louisiana was classified as "brucellosis free" by the United States Department of Agriculture. All of Louisiana's surrounding states (Texas, Arkansas and Mississippi) and all of the gulf coast states are considered "brucellosis free" as well; all of which greatly reduces the need for brucellosis testing. Additionally, 56 percent of Louisiana cattle are sold for slaughter and are tested at the slaughter house. The cattle going to slaughter are being tested twice for brucellosis, once at the livestock auction market, and once at the slaughter house. The elimination of the testing for brucellosis at auction markets for animals going to slaughter stops the redundancy of testing; decreases costs; and increases the economic benefit to Louisiana cattle producers by reducing weight loss resulting from the stress and the bruising, injuries, and deaths to cattle, that can occur during the testing procedure; thereby increasing the sales price of these animals.

The department is also amending regulations regarding the reporting of certain diseases in animals by adding several diseases to the contagious diseases list and by requiring that a determination or possible determination of a contagious disease be reported within 24 hours of determination. The prompt reporting of a contagious disease is one of the first lines of defense against the spread of such a disease.

This Rule complies with and is enabled by R.S. 3:2093, 3:2095, and 3:2223.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 1. General Provisions

§101. Definitions

* * *

Accredited Veterinarian—a veterinarian approved by the United States Department of Agriculture (USDA) to perform functions stated in part 161, Title 9, Code of Federal Regulations (CFR).

* * *

Aquaculture—producing, raising, managing, harvesting, or marketing of aquatic livestock under controlled conditions.

* * *

Aquatic Livestock—finfish species and crawfish produced, raised, managed, or harvested within or from a constructed impoundment in compliance with rules and regulations adopted pursuant to this Part. "Aquatic livestock" shall not include those species of fish excluded from this Part by R.S. 3:559.14.

* * *

Depopulation—the removal of all animals in a herd, flock or group by extermination and proper disposal of the carcasses.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:230 (March 1985), amended LR 11:615 (June 1985), LR 12:289 (May 1986), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 12:498 (August 1986), LR 14:217 (April 1988), LR 15:811 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 23:949 (August 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1677 (September 1998), LR 28:1170 (June 2002), LR 34:

§111. Livestock Auction Market Requirements

A. - F.3. ...

G. General Livestock Health Requirements

1. All livestock auction markets shall be prohibited from selling or offering for sale any animal that manifests symptoms of illness unless such animal is to be sold for immediate slaughter. These diseased and exposed animals, except Brucellosis reactors which are specifically governed by §111.G.2, shall be immediately isolated, and identified and returned, under quarantine, directly to the premises of the original owner at the owner's expense; consigned directly to a recognized slaughter establishment maintaining meat inspection; or consigned directly to a rendering plant.

2. All brucellosis reactor cattle shall be branded with the letter B on the left jaw and all brucellosis exposed cattle shall be identified with a 3 inch hot brand on the tail head with the letter S. All reactor and exposed cattle shall be separated from other cattle, placed in separate quarantine pens or stalls identified by quarantine sign. Reactor cattle shall be sold to an approved slaughter establishment for immediate slaughter only. Exposed cattle may be sold to state-federal approved quarantined feedlots or to an approved slaughter establishment for immediate slaughter.

G.3. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2095 and R.S. 3:2223.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:233 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 17:30 (January 1991), LR 31:419 (February 2005), LR 34:

§121. Reporting of Contagious Diseases

A. All veterinarians practicing veterinary medicine in this state shall report any of the diseases listed in this Section to the state veterinarian within 24 hours after making a

diagnosis or tentative diagnosis of any such disease. The report may be made by telephone, fax, or electronic mail. The reportable diseases are: classical swine fever (hog cholera), anthrax, vesicular conditions, all equine encephalomyelitis conditions, transmissible spongiform encephalopathies (including chronic wasting disease, scrapie, bovine spongiform encephalopathy), pseudorabies (Aujeszky's Disease), tuberculosis, brucellosis, rabies, strangles (*Streptococcus equi equi*), equine herpes virus 1, equine viral arteritis, spring viremia of carp, viral hemorrhagic septicemia, Newcastle disease and other paramyxovirus infections, avian influenza (highly pathogenic), ornithosis (chlamydiosis, psittacosis), salmonellas (pullorum disease or fowl typhoid), infectious laryngotracheitis (other than vaccine induced), any disease classified by USDA as a foreign animal disease, or any other disease condition which may seriously threaten the any animal population of this state.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2095 and R.S. 3:2223.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:234 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:813 (October 1989), LR 16:391 (May 1990), LR 23:197 (February 1997), amended by the Department of Agriculture and Forestry, Officer of the Commissioner, LR 28:1170 (June 2002), LR 29:1460 (August 2003), LR 24:

§307. Livestock Auction Market Requirements

A. All cattle which are sold or offered for sale in livestock auction markets must meet the general requirements of §111 and the following specific requirements.

1. - 1.b.ii....

c. All cattle over 12 months of age are subject to the following provisions regarding testing for brucellosis:

i. Cattle that are required to be tested for brucellosis prior to sale are those which:

(a). are eligible to be returned to a farm after sale;

(b). originate from a state declared brucellosis free less for than 5 years prior to the sale date; and

(c). are tested for brucellosis are to be identified by an official metal ear tag and official back tag.

ii. Cattle that are not required to be tested for brucellosis are those that are:

(a). steers and spayed heifers;

(b). "S" branded and listed on a permit prior to shipment from a quarantine feedlot to an auction barn;

(c). individually identified cattle which are less than 24 months of age for beef breeds and less than 20 months of age for dairy breeds, that have received an official brucellosis calthood vaccination and which are not parturient or post-parturient;

(d). individually identified cattle originating in and moving directly from a certified brucellosis free herd and accompanied by a copy of the last herd test record which includes the animal or animals being offered for sale;

(e). consigned to slaughter. These cattle are to be identified by an official back tag.

- d. - d.i. ...
- d.ii. - d.iii.a.b. Repealed.
- e. - g.ii ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2095 and R.S.3: 3:2223.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:237 (March 1985), amended LR 11:615 (June 1985), LR 12:501 (August 1986), LR 12:598 (September 1986), LR 13:556 (October 1987), LR 14:220 (April 1988), LR 14:695 (October 1988), LR 15:810 (October 1989), LR 17:31 (January 1991), LR 18:837 (August 1992), LR 22:960 (October 1996), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1677 (September 1998), LR 25:1083 (June 1999), LR 27:182 (February 2001).

§309. Governing the Sale of Cattle in Louisiana by Livestock Dealers

A. - A.1.b.i.(d). ...

(e). those consigned to slaughter. An official back tag shall be applied prior to sale.

A.1.b.ii. - A.1.e.iv. ...

v. those consigned to slaughter. An official back tag shall be applied prior to sale.

A.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:562, R.S. 3:2093, R.S. 3:2095 and R.S. 3:2223.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:237 (March 1985), amended LR 11:615 (June 1985), LR 12:502 (August 1986), LR 13:558 (October 1987), LR 14:221 (April 1988), LR 17:31 (January 1991), LR 18:838 (August 1992), LR 22:960 (October 1996), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1678 (September 1998), LR 25:1083 (June 1999), LR 27:182 (February 2001).

Family Impact Statement

The proposed amendments to the rules in LAC 7:XXI.Diseases of Animals, adding certain definitions, providing for the branding and movement of brucellosis exposed cattle, the testing for brucellosis of cattle at public livestock auction markets and providing for the reporting of certain diseases in animals should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rule to Dr. Henry Moreau through the close of business on August 25, 2008 at 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble regarding this Rule is necessary.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Diseases of Animals (Brucellosis)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change eliminates the testing for brucellosis at auction markets, but will continue the testing for brucellosis at slaughterhouses. In August of 2000 Louisiana was classified as brucellosis free. Thus, the double testing requirement is no longer necessary. The proposed rule change will decrease the number of brucellosis' tests conducted each year.

Employees assigned to testing at auction markets will be reassigned to cooperative agreement programs funded by the United States Department of Agriculture/Animal Plant and Health Inspection Service (U.S.D.A./A.P.H.I.S.) thereby better utilizing U.S.D.A./A.P.H.I.S. funding.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will result in an increased economic benefit to Louisiana's cattle producers due to the reduction of stress and injuries that occur during testing. Testing at the point-of-sale causes the loss of some cattle and loss of pounds on other cattle due to the stress on the cattle being tested. These tests decrease the sale price of cattle by approximately \$2 per 100 pounds. Based upon the amount of cattle currently being tested for brucellosis each year, 90,000, and based upon the average weight of 1,000 pounds per cow, the proposed change could have an aggregate economic benefit in the amount of \$1.8 million per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have an effect on competition and employment.

Craig Gannuch
Assistant Commissioner
0807#059

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Forestry**

Forestry Productivity Program (LAC 7:XXXIX.1307)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Forestry proposes to amend rules and regulations regarding the Louisiana Forest Productivity Program.

The Forestry Productivity Program, through the Office of Forestry, offers cost share assistance to forest landowners with some restriction in the amount of reforestation work that can be done in a single fiscal year. R.S. 3:4412(C) limits the state's involvement in providing assistance under this program to 50 percent of the cost incurred by a participating

landowner up to a total value of \$10,000 to any one landowner during a fiscal year. The cost share rates established by regulations are the maximum rates for reimbursement by the department of costs incurred by a participating landowner. These rates have not changed since 2002 although the costs to the landowners have increased since that time. In order to maintain the 50-50 split in cost between the department and private landowners it is necessary to increase the maximum rates payable by the department.

This Rule complies with and is enabled by R.S. 3:4412 and R.S. 3:4413.

**Title 7
AGRICULTURE AND ANIMALS
Part XXXIX. Forestry**

**Chapter 13. Forestry Productivity Program
§1307. Extent of State Participation**

A. - D. ...

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Interested persons should submit written comments on the proposed rules to Louis Heaton through the close of business on August 25, 2008 at P.O. Box 1628, Baton Rouge, LA 70821 (5825 Florida Blvd, Baton Rouge). No preamble regarding these rules is necessary.

Mike Strain DVM
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Forestry Productivity Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will result in no implementation costs to state or local governmental units. This rule change merely increases the maximum rates payable by the department to any one landowner through the Forestry Productivity Program. This program offers cost share assistance to forest landowner. R.S. 3:4412(C) limits the state's involvement in providing assistance to 50 percent of the cost incurred by the landowner's reforestation efforts. Although the costs to the landowners for reforestation efforts have increased, the state's maximum reimbursement rates have not changed since 2002.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no impact upon revenue collections of state or local governmental units. The Forestry productivity Program is currently funded with a statutory dedication, with the original source of those monies being timber severance taxes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Landowners who utilize the Forestry Productivity Program could be impacted by the increase in maximum state cost share rates. Due to the costs of reforestation increasing, the increase in maximum cost share rates could provide a net decrease in costs to those landowners. The proposed rule only modifies maximum cost share.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change, which is designated to recover expenses associated with reforestation, could allow more private vendors to grow their forestry business by potentially increasing their revenue and employment.

Craig Gannuch
Assistant Commissioner
0807#056

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Maximum Cost-Share Rates 50 Percent Of The Cost Per Acre Not To Exceed The Following Rates		
FPP1 Artificial Regeneration Component		
Code	Tree Planting	Maximum C/S Rate
01	Pine (loblolly or slash, planting and seedling cost)	\$50
02	Hardwood (planting and seedling cost)	\$80
03	Labor Only (pine or hardwood)	\$30
04	Longleaf Pine (planting and seedling cost)	\$75
Direct Seeding		
05	Pine (seed and labor cost)	\$15
06	Hardwood (seed and labor cost)	\$30
Site Preparation		
11	Light (discing, mowing, or sub-soiling)	\$15
12	Burn Only (cut-over areas or agricultural lands)	\$15
13	Chemical and Burn (aerial, ground, or injection)	\$75
14	Mechanical and Burn	\$115
15	Post-site Preparation (aerial, ground, or injection)	\$50
16	Chemical and Herschal	\$90
FPP2 Site Preparation for Natural Regeneration		
21	Burning Only	\$15
22	Chemical or Mechanical	\$65
23	Chemical and Burning	\$75
FPP3 Control of Competing Vegetation		
31	Chemical Release (aerial, ground, or injection)	\$50
32	Precommercial Thinning (mechanical)	\$65
33	Burning Only (longleaf pine)	\$15

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4412 and R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1679 (September 1998), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 28:267 (February 2002), LR 34:

Family Impact Statement

The proposed amendment to LAC 7:XXXIX.Chapter 13 regarding the Louisiana Forest Productivity Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

NOTICE OF INTENT

Department of Agriculture and Forestry Livestock Brand Commission

Brands, Grades and Inspections (LAC 7:IX.101 and 103)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:742, the Department of Agriculture and Forestry, Livestock Brand Commission, proposes to repeal regulations regarding the Livestock Brand Commission.

The department is repealing the current regulations at this time and will re-promulgate new regulations upon approval of the Livestock Brand Commission.

This Rule complies with and is enabled by R.S. 3:742 and R.S. 3:732.

Title 7

AGRICULTURE AND ANIMALS

Part IX. Brands, Grades and Inspections

Chapter 1. Brands and Marks

§101. For the Prevention of Livestock Theft by Regulation or Livestock Movement on the Highways of the State (Regulation I)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:742 and R.S. 3:732.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Livestock Brand Commission, May 1951, adoption re-affirmed November 1951, repealed by the Department of Agriculture and Forestry, Livestock Brand Commission, LR 34:

§103. For the Prevention of Livestock Theft by Requiring Butchers and Slaughter Establishments to Keep Certain Records and Providing for the Inspection of Premises, Records, etc. (Regulation II)

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:734, R.S. 3:744 and R.S. 3:732.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Livestock Brand Commission, January 1952, repealed by the Department of Agriculture and Forestry, Livestock Brand Commission, LR 34:

Family Impact Statement

The proposed amendments to rules 7:IX. Brands, Grades and Inspections should not have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Interested persons should submit written comments on the proposed Rule to Dr. Brent Robbins through the close of business on August 25, 2008 at 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble regarding this Rule is necessary.

Mike Strain
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Brands, Grades and Inspections

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units as a result of this proposed rule change. These rule changes repeal current regulations and the Department of Agriculture and Forestry will re-promulgate new regulations following approval of the Livestock Brand Commission.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is estimated to be no costs and or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have an effect on competition and employment.

Craig Gannuch
Assistant Commissioner
0807#057

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Seed Commission

Germination Tolerances (LAC 7:XIII.105 and 143)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 3:1433, the Department of Agriculture and Forestry, Office of the Louisiana Seed Commission, proposes to amend regulations regarding germination tolerances for seed, revise the method of charging for certification from a crop to a variety method, and removal of the \$0.16 per weight unit application fee for bulk seed certification.

The proposed change to the Rule replaces the current germination tolerance table used primarily by testing laboratories for testing purposes to an equally valid germination tolerance table which is better suited to meet the needs of farmers and seed dealers. The revision of the method of charging for certification from a crop to a variety method reflects changes in the industry for certification.

This Rule is enabled by R.S. 3:1431 and 3:1433.

**Title 7
AGRICULTURE AND ANIMALS**

Part XIII. Seeds

Chapter 1. Louisiana Seed Law

Subchapter A. Enforcement of the Louisiana Seed Law

§105. Tolerances

A. Except as otherwise provided in this Section, the tolerances published in the latest rules and regulations for testing seed by the Association of Official Seed Analysts shall be applicable in the administration of the Louisiana Seed Law.

B. Germination Tolerances. The following tolerances, which are recognized by the Federal Seed Act, 7 USC 1551-1611, are adopted and are applicable to the percentage of germination and also to the sum of the germination plus the hard seed. Maximum tolerance values for comparing two 400-seed germination tests of the same or different submitted samples tested in the same or different laboratories.

Average Percent Germination		Tolerance*
A	B	C
99	2	2
97 - 98	3 - 4	3
94 - 96	5 - 7	4
91 - 93	8 - 10	5
87 - 90	11 - 14	6
82 - 86	15 - 19	7
76 - 81	20 - 25	8
70 - 75	26 - 31	9
60 - 69	32 - 41	10
51 - 59	42 - 50	11

*When only 200 seeds of mixtures are tested, 2 percent shall be added to the above germination tolerances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:104 (April 1978), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 33:1609 (August 2007), LR 34:

§143. Fees

A. The application fee for certification shall be \$23 for each variety, per applicant, one variety per application, plus \$.90 per acre inspection fee for all crops except sweet potatoes and sugar cane which shall be \$1.80 per acre and turf and pasture grass which shall be \$25 per acre. The application fee shall be due and payable upon filing of the application for certification.

B. The fee for certification on any application submitted after the deadline shown in §131 shall be \$100.

C. A fee of \$50 shall be charged for each re-inspection of a field.

D. Fees for certified seed shall be \$.16 per weight unit and be calculated on the total weight units in the certifiable lot. The number of weight units for a particular lot of seed shall be reported when the certified sample is taken. Fees are due when the certified seed sample is submitted to the state seed testing laboratory.

1. The weight unit for rice is 100 pounds; all other commodity weight units are 50 pounds.

2. Any person who sells, distributes, or offers for sale certified seed in Louisiana and who has paid certification fees for a particular lot of seed may request a refund on the

unsold portion of the certified lot from the Louisiana Department of Agriculture and Forestry. Any person requesting a refund must submit:

a. a written request to the department within nine months of the certified test date, stating:

i. lot number for the seed that the request is being made;

ii. number of weight units sold from the certified lot, and

iii. the number of weight units partitioned for refund from the certified lot;

b. all unused tags from the certified lot

E. Fees for Sweet Potatoes

1. The fee for greenhouse inspections of virus-tested sweet potato plants and mini-roots shall be \$50 per crop year.

2. A fee of \$0.15 cents per 1,000 plants will be collected for each 1,000 sweet potato plants inspected for certification purposes.

F. Fees for Phytosanitary Inspection

1. A fee of \$0.50 per acre shall be charged for phytosanitary inspections.

2. The application fee for phytosanitary inspection shall be due and payable upon filing of the application for certification.

G. Fees for Re-Sampling Certified Seed

1. A fee of \$30 will be charged for each re-sample, which fee shall be due and payable when the request for re-sample is initially made.

H. Fees for Bulk Sampling

1. A fee of \$30 shall be charged for each bulk sample by vacuum probe, which shall be due and payable when request for bulk sample is initially made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 10:495 (July 1984), amended by the Department of Agriculture and Forestry, Seed Commission, LR 12:825 (December 1986), LR 14:604 (September 1988), LR 16:847 (October 1990), LR 25:1617 (September 1999), LR 26:235 (February 2000) LR 29:2632 (December 2003), LR 31:420 (February 2005), LR 31:1511 (July 2005), LR 34:

Family Impact Statement

The proposed amendments to Title 7, Part XIII, §105 and §143 regarding germination tolerances and sugarcane (tissue culture) certification standards should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;

2. the authority and rights of parents regarding the education and supervision of their children;

3. the functioning of the family;

4. family earnings and family budget;

5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may submit written comments on the proposed Rule through August 25, 2008, to Eric Gates, Department of Agriculture and Forestry, 5825 Florida Blvd.,

Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above. No preamble concerning the proposed Rule is available.

Mike Strain, DVM
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Germination Tolerances**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will no implementation costs or savings to state or local governmental units. The proposed rule change merely puts into place what the Department of Agriculture and Forestry currently practices in reference to germination tolerances and the charging methods for seed certification.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule could result in a reduction in state revenue collections that are deposited into the Department of Agriculture and Forestry's Seed Commission Fund. This rule modifies the seed certification application fee from \$23 for each crop to each variety, which will result in farmers paying the \$23 fee fewer times. However, the actual revenue reduction will most likely not materialize as this proposed application fee rule change is already current practice of the Department of Agriculture and Forestry. Thus, the real impact of such a rule change will be minimal.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule could result in an estimated economic benefit to the seed industry in that the germination tolerance table is more user friendly and the \$23 application fee will be paid less than what is currently allowed for in current rules. However, the actual economic benefit to the farmer as a result of proposed rule change will most likely not materialize, as this proposed application fee rule change is already current practice of the Department of Agriculture and Forestry. Thus, the real impact of such a rule change will be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have an effect on competition and employment.

Craig Gannuch
Assistant Commissioner
0807#058

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 127—LEAP Alternate Assessment, Level 1
(LAA 1) Extended Standards (LAC 28:CXLI.Chapters 1-7)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement *Bulletin 127—LEAP Alternate Assessment, Level 1 (LAA 1) Extended Standards*. Bulletin 127 will be printed in codified format as Part CXLI of the Louisiana Administrative Code. Bulletin 127 contains extensions of the general education grade-level expectations in English

language arts, mathematics, and science. The document will provide information that directs academic, grade-level instruction that will prepare students with significant cognitive disabilities for the redesigned LAA 1, which is required by the No Child Left Behind Act (NCLB). LAA 1 development required extensions of the general education standards that would make grade-level academic items accessible to the population of students with significant cognitive disabilities.

**Title 28
EDUCATION**

**Part CXLI. Bulletin 127—LEAP Alternate Assessment,
Level 1 (LAA 1) Extended Standards**

Chapter 1. General Provisions

§101. Introduction

A. In 2001, Louisiana administered the LEAP Alternate Assessment (LAA) for the first time. With the inception of LEAP Alternative Assessment, Level 2 (LAA 2), LAA became LEAP Alternate Assessment, Level 1 (LAA 1). LAA 1 is a performance assessment based on selected Louisiana content standards in:

1. English-language arts;
2. mathematics;
3. science; and
4. social studies.

B. In 2003, Louisiana continued to expand its content standards by developing Grade-Level Expectations (GLEs). GLEs identify what *all* students should know or be able to do by the end of a given grade level in these four content areas. Extended Standards (ESs) have been developed for the LAA 1 population in English-language arts, mathematics, and science. The ESs capture the essence of the GLEs and provide a way for students with significant cognitive disabilities to access the general education curriculum. The ESs also provide the foundation for the redesigned LAA 1, to be administered for the first time in spring of 2008.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§103. Purposes of the Extended Standards Handbook

A. The LAA 1 Extended Standards Handbook includes:

1. grade-specific information about the Extended Standards;
2. introductory information for each content area contained within the handbook;
3. definitions; and
4. tables that map the relationship between the standards and/or strands, benchmarks, GLEs, and ESs.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§105. Extended Standards Development

A. There is a progression of specificity in the Louisiana content standards. The content standards are broad statements of what students should know and be able to do, benchmarks are more specific, and GLEs state what all students should know and be able to do at the end of a given grade level. Each Extended Standard provides a description of the essence of a content standard and the GLEs appropriate for students who meet the eligibility criteria for

LEAP Alternate Assessment, Level 1. Additionally, three levels of academic complexity related to each ES provide instructional access for students with varying academic abilities. Extended Standards have been developed for English language arts and mathematics in grades 3 through 10 based on GLEs. Extended Standards have also been developed for science grades 4, 8, and 11 and are based on benchmarks. Extended Standards for social studies may be developed at a future date. The ESs are organized in four grade spans:

1. third through fourth grades;
2. fifth through sixth grades;
3. seventh through eighth grades; and
4. ninth through eleventh grades.

B. Extended Standards do not represent the entire curriculum for a given grade or content area. Rather, they represent the core academic content considered appropriate for students taking LAA 1 at each grade span. Therefore, only those standards, benchmarks, and categories selected by the development committee are included in the handbook.

C. For mastery to be achieved at a given level, it may be necessary for those skills to be introduced at an earlier grade. Similarly, skills will need to be maintained after mastery has occurred.

D. The Extended Standards were developed with the following goals in mind:

1. to articulate academic learning from one grade to the next for students with significant cognitive disabilities;
2. to facilitate access to grade level content for students with significant cognitive disabilities;
3. to move from the concrete to the abstract;
4. to attend to prerequisite skills and understandings.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§107. Conclusion

A. Louisiana's content standards, assessments, and accountability have been major components of the Louisiana education reform program for several years. The more recent addition of the GLEs has further defined what Louisiana students are expected to know and do. As an extension of the content standards, benchmarks, and GLEs, the Extended Standards provide links from curriculum to instruction and to assessment for the LAA 1 student population. The primary goal of the Extended Standards Handbook is a common understanding among parents, students, teachers, and the general public about what is expected of Louisiana students with significant cognitive disabilities as they progress in school.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§109. Definitions

A. Assessment Verbs

Analyze—to examine methodically by separating into parts and studying their interrelations.

Apply—to put to or adapt for a special use (e.g., apply positional concepts).

Assemble—to put parts together in a prescribed manner (e.g., assemble a puzzle).

Compare—to examine in order to note the similarities or differences (e.g., compare this story to that story).

Complete—to make whole, with all necessary elements or parts (e.g., complete this sentence).

Compose—in relation to writing: the combination of separate parts of a thought to create a whole (e.g., a phrase or a sentence).

Demonstrate—to show clearly and deliberately (e.g., demonstrate the main idea).

Describe—to represent orally, in writing, in pictures, or in symbols (e.g., describe this character).

Determine—to decide (e.g., determine what you will do next).

Extend—to expand or continue (e.g., extend this pattern).

Find—to come upon, to discover (e.g., find the horizontal length between two points).

Follow Directions—to complete a task based on written, visual, or oral instructions.

Identify—to know or recognize from past experience (e.g., identify the first step).

Imitate—to repeat specified actions.

Locate—to find by searching; to determine the position of (e.g., locate your desk).

Match—to connect two items/ideas with similar qualities (e.g., match these cards).

Modify—to change in form or character (e.g., modify a recipe).

Recognize—to know or identify from past experience (e.g., recognize that this is a ruler).

Reproduce—to produce again or recreate (e.g., reproduce this pattern).

Respond—to answer or to reply (e.g., respond with an eye gaze).

Select—to choose or to identify something from options.

Sequence—to place in the order in which events/ideas/processes took place (e.g., sequence these pictures).

Solve—to work out a problem which leads to a correct solution (e.g., solve this math task).

Sort—to arrange according to one or more characteristics (e.g., sort these coins).

Use—to put into service or apply for a purpose (e.g., use this cup).

Write—to combine words to convey an idea (e.g., write an informal letter).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

Chapter 3. English Language Arts

Subchapter A. General

§301. Introduction

A. For students taking LAA 1, the selected Louisiana English language arts content standards for LAA 1 encompass reading, writing, researching, and listening and speaking. Each benchmark within a standard delineates what students should know and be able to do by the end of a grade span. GLEs further define the knowledge and skills students are expected to master by the end of each grade or high school course. The GLEs for each grade are developmentally

appropriate and increase in complexity to build the knowledge and skills students need. GLEs appropriate for LAA 1 are extended to capture the essence of the GLEs students with significant cognitive disabilities must know and be able to do and are referred to as Extended Standards (ESs). Three levels of complexity provide students of varying abilities instructional access to grade level academic content. Mastery of an ES is generally indicated by a student performing at level 3.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§303. Definitions

Affix—a letter or group of letters attached to the beginning and/or end of a root word that changes its meaning or function, such as the prefix *un-* and the suffix *-er* (e.g., unknown; teacher).

Climax—in a story or play, the turning point or highest point of interest in the action of the plot. (See *Plot Sequence*.)

Connotative—the emotional, implied, or suggested meaning attached to a word that goes beyond its literal meaning.

Deductive Reasoning—the process of logical reasoning that proceeds from the more general to the more specific; reasoning from whole to parts.

Denotative—the literal meaning or dictionary definition of a word.

Dialect—the social or regional variation of a language as it differs from the standard language.

Etymology—the study of words—their origins, history, and meanings.

Fiction—literary writing whose content comes from the imagination and is not necessarily based on fact but is designed to entertain; specifically, a type of literature, especially prose (novels, short stories, and forms of folklore).

Foreshadowing—the technique of arranging events and information in a narrative so that later events are set up beforehand.

Graphic Organizer—a representation of information in forms such as maps, charts, graphs (including pie charts and bar graphs), or tables, which visually organize information to identify patterns and relationships.

Homonym—one of two or more words that have the same sound and often the same spelling but that differ in meaning, such as bay (a body of water) and bay (part of a window).

Idiom—a verbal expression that does not mean what it literally says and which may not be understood without local knowledge of the given language. For example: *you're barking up the wrong tree* is the equivalent to arriving at the wrong conclusion.

Inference—process of drawing a conclusion or making a logical judgment based on prior conclusions or evidence but without direct observation.

Irony—a literary technique for implying, through words, plot, or character development, that the actual comments or situation is quite different from what is asserted. The author's use of tone, exaggeration, or understatement often suggests the opposite of the literal meaning of the words used.

Literary Devices—rhetorical elements (such as metaphor, foreshadowing, flashback, allusion, symbolism, irony, hyperbole, etc.) used to create a desired mood or tone in a piece of writing.

Metaphor—a figure of speech that makes an implied comparison between two things, such as, *her hair is coal black*.

Mood—the emotional state expressed in a literary work.

Nonfiction—a genre of writing designed to explain, argue, or describe a real event rather than to tell an invented story. A type of prose other than fiction but including biography and autobiography.

Personification—a metaphorical figure of speech in which nonhumans (plants, animals, objects, or concepts) are given human qualities (e.g., *The dish ran away with the spoon*.)

Phonemic Awareness—an understanding of the sounds (phonemes) that make up syllables and spoken words.

Phonics—the application of sound-symbol relationships to read and write words.

Plot Sequence—the structure of the actions of a narrative or drama. The classic plot sequence is as follows:

1. exposition;
2. rising action;
3. climax; and
4. falling action leading to resolution.

Prefix—an affix (a letter or group of letters) that comes before a base or root word, such as *re* at the start of *reheat*.

Resolution—the part of a story following the climax in which the conflict is resolved.

Rising Action—the part of a story in which the plot becomes increasingly complicated and introduces the conflict. Rising action generally leads to the climax of the story.

Simile—a comparison of two things that is apparently dissimilar, usually using the words *like* or *as*, for example: *feet as cold as ice*.

Story Elements—typical components that make up a story's structure and can be discussed individually, such as plot, characters, setting, theme, conflict, and outcome.

Style—an author's distinctive manner of using language that suits his or her ideas and purpose in writing. An author's style often reflects his or her personality and beliefs and appears through each writer's characteristic ways of arranging ideas and use of diction, sentence structures, rhythm, figures of speech, and other elements of composition.

Suffix—an affix (a letter or group of letters) that comes at the end of a base or root word that changes the meaning or grammatical function of the word, such as *-s* at the end of *teachers* or *asks*.

Symbol and Symbolism—

Symbol—a word or a set of words that signifies an object or event which itself signifies something else. Scales, for example, symbolize justice; a dove, peace; the lion, strength and courage.

Symbolism—the use of a concrete image to express an emotion or an abstract idea, such as the white whale representing the concept of evil in *Moby Dick*.

Theme—a main idea or central idea that may be stated directly or indirectly. A theme may be profound, difficult to understand, or even moralistic. Generally a theme can be extracted as the reader explores a text.

Thesis Statement—the main point or argument of which an author or speaker tries to convince an audience through writing or speech.

Tone—the reflections of an author’s attitude toward the topic and the audience as suggested by his or her word choices and stylistic efforts, for example, using a formal or informal tone. The tone of a text may also indicate the message or reaction that an author hopes for from the audience.

Visual Texts—information conveyed with images, or with meaningful patterns or sequences. Visual texts range from diagrams to documentaries. Other examples include tables, flowcharts, storyboards, picture glossaries, maps, and movies.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§305. Elementary School—Third-Fourth Grades

A. At the elementary level, third- and fourth-grade students focus on understanding and learning the basics of how to read and write, listening strategies, speaking skills, and skills to acquire and communicate knowledge. Third- and fourth-grade students with significant cognitive disabilities also focus on these English language arts (ELA) skills. ESs and complexity levels provide instructional access; accommodations and assistive technology allow each student to learn and communicate what he or she knows.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§307. Middle School—Fifth-Sixth Grades; Seventh-Eighth Grades

A. At the middle school level, the focus is on developing an understanding of literary and structural elements found in literature and informational texts. Students develop competence in communicating thoughts and ideas through written expression. For students with significant cognitive disabilities, speaking and listening skills at this grade cluster also focus on effective communication. Students follow multi-step directions, carry out single procedures and routines, and participate in group discussions. Students use a variety of research skills to access information from daily schedules, calendars, and other technological resources.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§309. High School—Ninth-Twelfth Grades

A. At the high school level, students in grades nine through twelve focus on developing the ability to gain a higher level of understanding of the texts that they read.

B. Ninth-grade through twelfth-grade students develop competence in using writing processes to craft a wide variety of compositions for academic, as well as real-life purposes.

C. At this level, students with significant cognitive disabilities fine-tune their speaking and listening skills and learn to follow complex directions. Students participate in group discussions and carry out complex procedures and routines. Research skills at grades nine through twelve include the ability to access information from timelines and other technological resources.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

Subchapter B. Standards/Benchmarks/GLEs/Extended Standards/Complexity Levels

NOTE: Codes identify standards, benchmarks, and grade clusters from the *Louisiana English Language Arts Content Standards* (see Table 1 in §319).

§317. Complexity Level Codes

A. Three complexity levels (CLs) are described for each ES. CLs are coded from three (highest level of complexity) to one (lowest level of complexity). Complexity levels are descriptions of varying opportunities to access the academic content identified by the ES.

1. Level 1 describes the least complex application of the ES and reflects a student’s initial encounter with content related to the ES.

2. Level 2 describes a more complex application of the extended standards.

3. Level 3 reflects even more complex learning situations, typically involving comprehension and subsequent processing of discourse, text, and underlying text structure. Mastery of an ES is generally indicated by a student performing at level 3.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§319. Benchmark Codes, GLE Numbering, and Extended Standards

A. Benchmarks are coded by content area, standard number, and grade cluster.

1. The first part is always ELA, which stands for English language arts.

2. The second part, or term, indicates the standard number.

3. The third term indicates the grade cluster and benchmark number.

Table 1. Explanation of Benchmark Codes	
Code(s)	Explanation
ELA-1-E2	English Language Arts, Standard 1, Elementary, Benchmark 2
ELA-4-M1	English Language Arts, Standard 4, Middle School, Benchmark 1
ELA-3-H4	English Language Arts, Standard 3, High School, Benchmark 4

B. GLEs are numbered consecutively in each grade level in a grade span and grouped by standard in the following order.

1. Standards 1 and 7—Reading and responding
2. Standard 2—Writing process
3. Standard 4—Speaking and listening
4. Standard 5—Using information resources

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§321. Extended Standards Numbering

A. Extended standards numbering relates to two similar GLEs, one from each grade in the span. [*Example:* In the benchmark coded ELA-1-E4, GLE number 8 is from grade level 3; it is about identifying story elements. In that same

benchmark, GLE number 5 is from grade level 4; it is also about identifying story elements. The extended standard, therefore, is coded ES-8/5 and refers to GLE 8 from grade 3

and GLE 5 from grade 4.] Refer to the following sample and key.

Sample Page and Key for English Language Arts			
Standard One: Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes.			
Benchmarks	Grade-Level Expectations	Extended Standards	Complexity Levels
ELA-1-E4: recognizing story elements (e.g., setting, plot, character, theme) and literary devices (e.g., simile, dialogue, personification) within a selection	8. Identify story elements, including: <ul style="list-style-type: none"> ● theme ● conflict ● character traits, feelings, and motivation (ELA-1-E4) 5. Identify a variety of story elements, including: <ul style="list-style-type: none"> ● the impact of setting on character ● multiple conflicts ● first- and third-person points of view ● development of theme (ELA-1-E4) 	<ul style="list-style-type: none"> ● ES-8/5: Identify story elements, including: character 	3. Identify the main character in a story 2. Identify two characters in a story 1. Identify one character in a story

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§323. Third-Fourth Grade Span

A. Focus. Extended standards for grades three and four focus on students' development of reading, writing, and

speaking and listening skills. Students also learn to access information in electronic and print sources.

B. Standards

1. Standard One. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes.

Grades 3-4 English Language Arts			
Benchmarks	Grade-Level Expectations	Extended Standards	Complexity Levels
ELA-1-E1: gaining meaning from print and building vocabulary using a full range of strategies (e.g., self-monitoring and correcting, searching, cross-checking), evidenced by reading behaviors using phonemic awareness, phonics, sentence structure, and meaning	1. Decode words using knowledge of base words, root words, and common prefixes and suffixes (ELA-1-E1) 1. Use understanding of base words, roots, prefixes, and suffixes to decode more complex words (ELA-1-E1)	ES-1/1: Determine the meaning of base/root words with affixes that indicate negation and plurals, i.e.: <ul style="list-style-type: none"> ● un- ● -s ● -es 	3. Given a word with an affix, determine its meaning 2. Identify a second word with the same affix 1. Identify a word with an affix
ELA-1-E4: recognizing story elements (e.g., setting, plot, character, theme) and literary devices (e.g., simile, dialogue, personification) within a selection	8. Identify story elements, including: <ul style="list-style-type: none"> ● theme ● conflict ● character traits, feelings, and motivation (ELA-1-E4) 5. Identify a variety of story elements, including: <ul style="list-style-type: none"> ● the impact of setting on character ● multiple conflicts ● first- and third-person points of view ● development of theme (ELA-1-E4) 	ES-8/5: Identify story elements, including: character	3. Identify the main character in a story 2. Identify two characters in a story 1. Identify one character in a story

2. Standard Seven. Students apply reasoning and problem-solving skills to reading, writing, speaking, listening, viewing, and visually representing.

Grades 3-4 English Language Arts			
Benchmarks	Grade-Level Expectations	Extended Standards	Complexity Levels
<p>ELA-7-E1: using comprehension strategies (e.g., sequencing, predicting, drawing conclusions, comparing and contrasting, making inferences, determining main ideas) to interpret oral, written, and visual texts</p>	<p>17. Demonstrate understanding of information in grade-appropriate texts using a variety of strategies, including:</p> <ul style="list-style-type: none"> ● sequencing events ● making predictions using information from texts ● making simple inferences and drawing conclusions about information in texts ● comparing and contrasting, including story elements (e.g., theme, character, and conflicts) and main points or ideas in informational texts ● distinguishing between a main idea and a summary ● identifying main ideas of texts (ELA-7-E1) <p>14. Demonstrate understanding of information in grade-appropriate texts using a variety of strategies, such as:</p> <ul style="list-style-type: none"> ● sequencing events and steps in a process ● explaining how the setting impacts other story elements, including the characters' traits and actions ● using specific evidence from a story to describe a character's traits, actions, relationships, and/or motivations ● confirming or denying a prediction about information in a text ● comparing and contrasting story elements or information within and across texts ● identifying stated main ideas and supporting details ● making simple inferences (ELA-7-E1) 	<p>ES-17/14: Demonstrate understanding of information in texts, including:</p> <ul style="list-style-type: none"> ● identifying main idea ● sequencing events 	<p>A. Main Idea</p> <ol style="list-style-type: none"> 3. Identify the main idea in texts 2. Identify two ideas in texts 1. Identify one idea in texts <p>B. Sequence of Events</p> <ol style="list-style-type: none"> 3. Identify the beginning and end of texts 2. Identify the end of texts 1. Identify the beginning of texts

Grades 3-4 English Language Arts			
Benchmarks	Grade-Level Expectations	Extended Standards	Complexity Levels
ELA-7-E4: using basic reasoning skills to distinguish fact from opinion, skim and scan for facts, determine cause and effect, generate inquiry, and make connections with real-life situations	<p>21. Apply basic reasoning skills, including:</p> <ul style="list-style-type: none"> identifying differences between fact and opinion skimming and scanning texts to locate specific information identifying multiple causes and/or effects in texts and life situations raising questions to obtain clarification and/or direct investigation connecting what is learned to real-life situations (ELA-7-E4) <p>19. Demonstrate understanding of information in grade-appropriate texts using a variety of strategies, including:</p> <ul style="list-style-type: none"> supporting differences between fact and opinion with information from texts skimming and scanning texts for various purposes (e.g., locating information, verifying facts) identifying cause-effect relationships in texts and real-life situations generating questions to guide examination of topics in texts and real-life situations explaining connection between information from texts and real-life experiences (ELA-7-E4) 	<p>ES-21/19: Apply basic reasoning skills, including:</p> <ul style="list-style-type: none"> skimming and scanning text for specific information 	<p>3. Locate, in a field of seven, the text that represents specific information</p> <p>2. Locate, in a field of five, the text that represents specific information</p> <p>1. Locate, in a field of three, the text that represents specific information</p>

3. Standard 2. Students write competently for a variety of purposes and audiences.

Grades 3-4 English Language Arts			
Benchmarks	Grade-Level Expectations	Extended Standards	Complexity Levels
ELA-2-E1: drawing, dictating and writing compositions that clearly state or imply a central idea with supporting details in a logical, sequential order (beginning, middle, end)	<p>22. Write compositions of two or more paragraphs that are organized with the following:</p> <ul style="list-style-type: none"> a central idea a logical, sequential order supporting details that develop ideas transitional words within and between paragraphs (ELA-2-E1) 	<p>ES-22/20: Write a composition that is organized with:</p> <ul style="list-style-type: none"> central idea logical, sequential order <p>Note that “write” may include drawing and dictating. See the corresponding benchmark.</p>	<p>3. Write a sentence or phrase that expresses a central idea and has a logical sequence</p> <p>2. Write a central idea in a simple sentence or phrase</p> <p>1. Identify the central idea in a simple sentence or phrase</p>

Grades 3-4 English Language Arts			
Benchmarks	Grade-Level Expectations	Extended Standards	Complexity Levels
	<p>20. Write compositions of at least three paragraphs organized with the following:</p> <ul style="list-style-type: none"> ● a clearly stated central idea ● an introduction and a conclusion ● a middle developed with supporting details ● a logical, sequential order ● transitional words and phrases that unify points and ideas (ELA-2-E1) 		
<p>ELA-2-E6: writing as a response to texts and life experiences (e.g., journals, letters, lists)</p>	<p>27. Write for various purposes, including:</p> <ul style="list-style-type: none"> ● informal letters using appropriate letter format ● book reports and informational compositions that include main ideas and significant details from the text (ELA-2-E6) <p>26. Write for various purposes, including:</p> <ul style="list-style-type: none"> ● formal and informal letters that follow a specific letter format, include relevant information, and use an appropriate closure ● informational reports that include facts and examples and that present important details in a logical order ● book reports that include an opinion and/or a persuasive viewpoint (ELA-2-E6) 	<p>ES-27/26: Write for various purposes, including:</p> <ul style="list-style-type: none"> ● informal letters ● lists <p>Note that “write” may include drawing or dictating.</p>	<p>3. Write a letter</p> <p>2. Write a list</p> <p>1. Sign your name</p>

4. Standard Four. Students demonstrate competence in speaking and listening as tools for learning and communicating.

Grades 3-4 English Language Arts			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
<p>ELA-4-E2: giving and following directions/procedures</p>	<p>38. Give and follow precise directions and instructions (ELA-4-E2)</p> <p>35. Interpret, follow, and give multi-step directions (ELA-4-E2)</p>	<p>ES-38/35: Follow simple directions</p>	<p>3. Follow a two-step direction in familiar context</p> <p>2. Follow a one-step direction in familiar context (e.g., Put on your coat.)</p> <p>1. Follow a one-word command (e.g., stop, go)</p>

Grades 3-4 English Language Arts			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
ELA-4-E5: speaking and listening for a variety of audiences (e.g., classroom, real-life, workplace) and purposes (e.g., awareness, concentration, enjoyment, information, problem solving)	42. Use active listening strategies, including: <ul style="list-style-type: none"> • asking questions and responding to ideas/opinions • giving oral responses, such as explanations of written and/or spoken texts (ELA-4-E5) 37. Demonstrate active listening strategies, including asking questions, responding to cues, and making eye contact (ELA-4-E5)	ES-42/37: Use listening strategies	3. Respond with two or more words to a question 2. Respond with a one-word answer (other than “yes” or “no”) to a question (e.g., “Is milk white or green?”) 1. Respond to a “yes” or “no” question (e.g., “Is the window open?”)

5. Standard 5. Students locate, select, and synthesize information from a variety of texts, media, references, and

technological sources to acquire and communicate knowledge.

Grades 3-4 English Language Arts			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
ELA-5-E6: recognizing and using graphic organizers (e.g., charts/graphs, tables/schedules, diagrams/maps)	52. Locate information found in graphic organizers such as timelines, charts, graphs, schedules, tables, diagrams, and maps (ELA-5-E6) 50. Read and interpret timelines, charts, graphs, schedules, tables, diagrams, and maps generated from grade-appropriate materials (ELA-5-E6)	ES-52/50: Locate information, including: <ul style="list-style-type: none"> • daily schedule 	3. Sequence all events on a daily schedule 2. Locate “What comes next?” on a daily schedule 1. Locate information on a daily schedule

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§325. Fifth-Sixth Grade Span

A. Focus. Extended standards for grades five and six target reading strategies and skills and vocabulary development. Students learn to identify story elements and ideas in fiction and nonfiction texts. Through the use of a variety of strategies, students use reasoning skills to

comprehend text. Writing ability continues to develop. By focusing on improving active listening strategies, students follow multi-step directions and participate in group activities. Students access and apply information found in electronic and print sources.

B. Standards

1. Standard One. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes.

Grades 5-6 English Language Arts			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
ELA-1-M1: using knowledge of word meaning and developing basic and technical vocabulary using various strategies (e.g., context clues, idioms, affixes, etymology, multiple-meaning words)	1. Identify word meanings using a variety of strategies, including: <ul style="list-style-type: none"> • using context clues (e.g., definition, restatement, example, contrast) • using structural analysis (e.g., base words, roots, affixes) • determining word origins (etymology) • using electronic and print dictionaries, thesauruses, glossaries (ELA-1-M1) 	ES-1/1: Identify word meanings using context clues Will not be assessed on the state assessment	3. Use a homophone correctly 2. Identify the correct meaning of a homophone in a sentence or phrase 1. Identify a multiple-meaning word or a homophone used in text (e.g., fall; sail/sale)

Grades 5-6 English Language Arts			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
	1. Identify word meanings using a variety of strategies, including: <ul style="list-style-type: none"> • using context clues (e.g., definition, restatement, example, contrast) • using structural analysis (e.g., roots, affixes) • determining word origins (etymology) • explaining word analogies (ELA-1-M1) 		
ELA-1-M1: using knowledge of word meaning and developing basic and technical vocabulary using various strategies (e.g., context clues, idioms, affixes, etymology, multiple-meaning words)	4. Develop specific vocabulary (e.g., for reading scientific, geographical, historical, and mathematical texts, as well as news and current events) for various purposes (ELA-1-M1) 3. Develop specific vocabulary (e.g., scientific, content specific, current events) for various purposes (ELA-1-M1)	ES-4/3: Develop a vocabulary of common content-specific words	3. Select the correct content word to complete a simple sentence or phrase 2. Categorize four content-specific words from two content areas 1. Identify a content-specific word
ELA-1-M2: interpreting story elements (e.g., mood, tone, style) and literary devices (e.g., flashback, metaphor, foreshadowing, symbolism) within a selection	5. Identify and explain story elements, including: <ul style="list-style-type: none"> • theme development • character development • relationship of word choice and mood • plot sequence (e.g., exposition, rising action, climax, falling action, resolution) (ELA-1-M2) 4. Identify and explain story elements, including: <ul style="list-style-type: none"> • theme development • character development • relationship of word choice and mood • plot sequence (e.g., exposition, rising action, climax, falling action, resolution) (ELA-1-M2) 	ES-5/4: Identify story elements, including: <ul style="list-style-type: none"> • character • character trait 	3. Identify a character trait of the main character in a story 2. Identify the main character and a secondary character in a story 1. Identify the main character in a story

2. Standard 7. Students apply reasoning and problem-solving skills to reading, writing, speaking, listening, viewing, and visually representing.

Grades 5-6 English Language Arts			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
ELA-7-M1: using comprehension strategies (e.g., summarizing, recognizing literary devices, paraphrasing) to analyze oral, written, and visual texts	12. Demonstrate understanding of information in grade-appropriate texts using a variety of strategies, including: <ul style="list-style-type: none"> • sequencing events and steps in a process • summarizing and paraphrasing information • identifying stated and implied main ideas and supporting details for each 	ES-12/11: Demonstrate understanding of information in texts, including: <ul style="list-style-type: none"> • sequencing events • identifying main idea 	A. Sequence of events 3. Identify the beginning, middle, and end of a text 2. Identify the middle of a text 1. Identify the beginning and end of a text B. Make predictions

**Grades 5-6
English Language Arts**

Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
	<ul style="list-style-type: none"> • comparing and contrasting literary elements and ideas • making simple inferences and drawing conclusions • predicting the outcome of a story or situation with reasonable justification • identifying literary devices (ELA-7-M1) <p>11. Demonstrate understanding of information in grade-appropriate texts using a variety of strategies, including:</p> <ul style="list-style-type: none"> • sequencing events and steps in a process • summarizing and paraphrasing information • identifying stated or implied main ideas and supporting details • comparing and contrasting literary elements and ideas • making simple inferences and drawing conclusions • predicting the outcome of a story or situation • identifying literary devices (ELA-7-M1) 	<ul style="list-style-type: none"> • making predictions 	<p>3. Identify what happened last and predict what will happen next in a text</p> <p>2. Predict what will happen next in a text</p> <p>1. Predict what will happen last in a text</p>
<p>ELA-7-M4: using inductive and deductive reasoning skills across oral, written, and visual texts</p>	<p>17. Analyze grade-appropriate print and nonprint texts using various reasoning skills, including:</p> <ul style="list-style-type: none"> • identifying cause-effect relationships • raising questions • thinking inductively and deductively • generating a theory or hypothesis • skimming/scanning • distinguishing facts from opinions and probability (ELA-7-M4) <p>16. Analyze grade-appropriate print and nonprint texts using various reasoning skills, including:</p> <ul style="list-style-type: none"> • identifying cause-effect relationships • raising questions • reasoning inductively and deductively • generating a theory or hypothesis • skimming/scanning 	<p>ES-17/16: Demonstrate understanding of text by using reasoning skills, including:</p> <ul style="list-style-type: none"> • skimming and scanning • cause and effect 	<p>3. Identify a cause and an effect in text</p> <p>2. Identify a cause or effect in text</p> <p>1. Skim or scan text to locate specific information</p>

Grades 5-6 English Language Arts			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
	<ul style="list-style-type: none"> distinguishing facts from opinions and probability (ELA-7-M4) 		

3. Standard Two. Students write competently for a variety of purposes and audiences.

Grades 5-6 English Language Arts			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
ELA-2-M1: writing multiparagraph compositions (150–200 words) that clearly imply a central idea with supporting details in a logical, sequential order	<p>18. Write multiparagraph compositions on student- or teacher-selected topics organized with the following:</p> <ul style="list-style-type: none"> an established central idea important ideas or events stated in sequential or chronological order elaboration (e.g., fact, examples, specific details) transitional words and phrases that unify points and ideas an overall structure including an introduction, a body/middle, and a concluding paragraph that summarizes important ideas (ELA-2-M1) <p>17. Write multiparagraph compositions on student- or teacher-selected topics organized with the following:</p> <ul style="list-style-type: none"> an established central idea organizational patterns (e.g., comparison/contrast, order of importance, chronological order) appropriate to the topic elaboration (e.g., fact, examples, and/or specific details) transitional words and phrases that unify ideas and points an overall structure including an introduction, a body/middle, and a concluding paragraph that summarizes important ideas (ELA-2-M1) 	<p>ES-18/17: Write a composition that is organized with:</p> <ul style="list-style-type: none"> central idea organization patterns (e.g., logical, sequential, or chronological order) elaboration (e.g., facts, examples, and/or supporting details) <p>Note that “write” may include drawing and dictating.</p>	<p>3. Given a topic, use “first,” “then” or “next,” and “last” to sequence the events in writing a composition</p> <p>2. Given a topic, use “first” and “then” or “next” to write one or two sentences</p> <p>1. Given a topic, use “first” to write a sequence of two events</p>

Grades 5-6 English Language Arts			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
ELA-2-M6: writing as a response to texts and life experiences (e.g., personal and business letters)	<p>25. Write for various purposes, including:</p> <ul style="list-style-type: none"> formal and informal letters that state a purpose, make requests, or give compliments evaluations of media, such as films, performances, or field trips explanations of stories and poems using retellings, examples, and text-based evidence (ELA-2-M6) <p>24. Write for various purposes, including:</p> <ul style="list-style-type: none"> business letters that include a heading, inside address, salutation, body, and signature evaluations, supported with facts and opinions, of newspaper/magazine articles and editorial cartoons text-supported interpretations of elements of novels, stories, poems, and plays (ELA-2-M6) 	<p>ES-25/24: Write for various purposes, including:</p> <ul style="list-style-type: none"> informal letter list evaluation of media <p>Note that “write” may include drawing and dictating.</p>	<p>3. Given a topic, evaluate a medium (e.g., film, performance, field trip)</p> <p>2. Given a topic, write an informal letter (e.g., thank you)</p> <p>1. Given a topic, write a list of two items</p>

4. Standard Four. Students demonstrate competence in speaking and listening as tools for learning and communicating.

Grades 5-6 English Language Arts			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
ELA-4-M2: giving and following directions/procedures	<p>34. Follow procedures (e.g., read, question, write a response, form groups) from detailed oral instructions (ELA-4-M2)</p> <p>33. Follow procedures (e.g., read, question, write a response, form groups) from detailed oral instructions (ELA-4-M2)</p>	ES-34/33: Follow multi-step directions	<p>3. Follow a three-step direction</p> <p>2. Follow an unfamiliar two-step direction</p> <p>1. Follow a familiar two-step direction</p>
ELA-4-M4: speaking and listening for a variety of audiences (e.g., classroom, real-life, workplace) and purposes (e.g., awareness, concentration, enjoyment, information, problem solving)	<p>38. Demonstrate active listening strategies (e.g., asking focused questions, responding to questions, making visual contact) (ELA-4-M4)</p> <p>37. Demonstrate active listening strategies for various purposes, including:</p> <ul style="list-style-type: none"> viewing a video to interpret the meaning of the story, to determine the speaker’s/character’s attitude using verbal and nonverbal cues, and to 	ES-38/37: Demonstrate active listening strategies	<p>3. Respond with three or more words to a question about a multiple-sentence statement (e.g., large black dog)</p> <p>2. Respond with two words to a question about a multiple-sentence statement (e.g., large dog)</p> <p>1. Respond with one word to a question about a multiple-sentence statement (e.g., dog)</p>

Grades 5-6 English Language Arts			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
	<p>draw conclusions about the presentation</p> <ul style="list-style-type: none"> summarizing the main points of a speaker's message, including supporting details and their significance (ELA-4-M4) 		
ELA-4-M6: participating in a variety of roles in group discussions (e.g., facilitator, recorder)	<p>41. Participate in group and panel discussions, including:</p> <ul style="list-style-type: none"> explaining the effectiveness and dynamics of group process applying agreed-upon rules for formal and informal discussions assuming a variety of roles (e.g., facilitator, recorder, leader, listener) (ELA-4-M6) <p>40. Participate in group and panel discussions, including:</p> <ul style="list-style-type: none"> explaining the effectiveness and dynamics of group process applying agreed-upon rules for formal and informal discussions assuming a variety of roles (e.g., facilitator, recorder, leader, listener) (ELA-4-M6) 	<p>ES-41/40: Participate in a group discussion</p> <p>Will not be on the state assessment</p>	<p>3. Act as a facilitator in a group discussion (e.g., point to person who has the next turn to speak)</p> <p>2. Act as a time keeper in a group discussion (e.g., tell para to start clock, stop clock)</p> <p>1. Participate in a group discussion as a listener (e.g., turn toward or make eye-contact with each speaker, encourage speaker with nod of head)</p>

5. Standard Five. Students locate, select, and synthesize information from a variety of texts, media,

references, and technological sources to acquire and communicate knowledge.

Grades 5-6 English Language Arts			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
ELA-5-M6: identifying and interpreting graphic organizers (e.g., flowcharts, timelines, tree diagrams)	<p>48. Interpret information from a variety of grade-appropriate sources, including timelines, charts, schedules, tables, diagrams, and maps (ELA-5-M6)</p> <p>48. Interpret information from a variety of graphic organizers, including timelines, charts, schedules, tables, diagrams, and maps in grade-appropriate sources (ELA-5-M6)</p>	<p>ES-48/48: Locate information, including:</p> <ul style="list-style-type: none"> daily schedule calendar 	<p>3. Respond to a question regarding information on a calendar</p> <p>2. Locate information on a calendar</p> <p>1. Identify a calendar from other similar items (e.g., a list, a diagram)</p>

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§327. Seventh-Eighth Grade Span

A. Focus. Extended standards for grades seven and eight continue to focus on reading, writing, and thinking skills. Students build upon previously learned reading strategies to

encounter a wide range of genres. Students' writing becomes more developed. The purposes for writing also increase. Seventh- and eighth-grade students use active listening strategies to follow instructions and carry out procedures or routines, as well as participate in group activities. At this

grade span, students increase the amount and type of information they can access in electronic and print sources.

B. Standards

1. Standard One. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes.

Grades 7-8 English Language Arts			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
ELA-1-M1: using knowledge of word meaning and developing basic and technical vocabulary using various strategies (e.g., context clues, idioms, affixes, etymology, multiple-meaning words)	<p>1. Develop vocabulary using a variety of strategies, including:</p> <ul style="list-style-type: none"> ● use of connotative and denotative meanings ● use of Greek, Latin, and Anglo-Saxon base words, roots, affixes, and word parts (ELA-1-M1) <p>1. Develop vocabulary using a variety of strategies, including:</p> <ul style="list-style-type: none"> ● use of connotative and denotative meanings ● use of Greek, Latin, and Anglo-Saxon roots and word parts (ELA-1-M1) 	<p>ES-1/1: Determine the meaning of base/root words with affixes that indicate inflected verbs and nouns, i.e.:</p> <ul style="list-style-type: none"> ● re- ● -er 	<p>3. Given an inflected verb or noun, determine its meaning from a known root/base word (e.g., reheat from heat; teacher from teach)</p> <p>2. Identify a second inflected verb or noun with the same affix</p> <p>1. Identify an inflected verb (paint/repaint) or an inflected noun (paint/painter)</p>
ELA-1-M2: interpreting story elements (e.g., mood, tone, style) and literary devices (e.g., flashback, metaphor, foreshadowing, symbolism) within a selection	<p>2. Explain story elements, including:</p> <ul style="list-style-type: none"> ● the revelation of character motivation through thoughts, words, and actions ● plot sequence (e.g., exposition, rising action, climax, falling action, resolution) ● conflicts (e.g., man vs. man, nature, society, self) and their effect on plot ● effects of first- and third-person points of view ● theme development (ELA-1-M2) <p>2. Interpret story elements, including:</p> <ul style="list-style-type: none"> ● stated and implied themes ● development of character types (e.g., flat, round, dynamic, static) ● effectiveness of plot sequence and/or subplots ● the relationship of conflicts and multiple conflicts (e.g., man vs. man, nature, society, self) to plot ● difference in third-person limited and omniscient points of view ● how a theme is developed (ELA-1-M2) 	<p>ES-2/2: Identify story elements, including:</p> <ul style="list-style-type: none"> ● character ● character trait ● setting 	<p>3. Identify changes in the setting within one or more stories</p> <p>2. Identify one setting in a story</p> <p>1. Identify the main character and one of his/her character traits</p>

2. Standard Seven. Students apply reasoning and problem-solving skills to reading, writing, speaking, listening, viewing, and visually representing.

Grades 7-8 English Language Arts			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
ELA-7-M1: using comprehension strategies (e.g., summarizing, recognizing literary devices, paraphrasing) to analyze oral, written, and visual texts	<p>9. Demonstrate understanding of information in grade-appropriate texts using a variety of strategies, including:</p> <ul style="list-style-type: none"> ● sequencing events and steps in a process ● summarizing and paraphrasing information ● identifying stated or implied main ideas and explaining how details support ideas ● comparing and contrasting literary elements and ideas ● making inferences and drawing conclusions ● predicting the outcome of a story or situation ● identifying literary devices (ELA-7-M1) <p>9. Demonstrate understanding of information in grade-appropriate texts using a variety of strategies, including:</p> <ul style="list-style-type: none"> ● sequencing events to examine and evaluate information ● summarizing and paraphrasing to examine and evaluate information ● interpreting stated or implied main ideas ● comparing and contrasting literary elements and ideas within and across texts ● making inferences and drawing conclusions ● predicting the outcome of a story or situation ● identifying literary devices (ELA-7-M1) 	<p>ES-9/9: Demonstrate understanding of information in grade appropriate texts, including:</p> <ul style="list-style-type: none"> ● sequencing events ● summarizing ● identifying main idea ● predicting the outcome 	<p>3. Predict the outcome of text</p> <p>2. Identify the main idea of text</p> <p>1. Identify the sequence of events in text</p>
ELA-7-M4: using inductive and deductive reasoning skills across oral, written, and visual texts	<p>14. Analyze grade-appropriate print and nonprint texts using various reasoning skills, for example:</p> <ul style="list-style-type: none"> ● identifying cause-effect relationships ● raising questions ● reasoning inductively and deductively ● generating a theory or hypothesis 	<p>ES-14/14: Demonstrate understanding of text by using reasoning skills, including:</p> <ul style="list-style-type: none"> ● skimming and scanning ● cause and effect ● generating a theory or hypothesis (“If...then” statement) 	<p>3. Complete an “If...then” statement from information found within a given text</p> <p>2. Identify a cause and effect relationship in text</p> <p>1. Identify a cause or effect in text</p>

Grades 7-8 English Language Arts			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
	<ul style="list-style-type: none"> skimming/scanning (ELA-7-M4) <p>14. Analyze grade-appropriate print and nonprint texts using various reasoning skills, including:</p> <ul style="list-style-type: none"> identifying cause-effect relationships raising questions reasoning inductively and deductively generating a theory or hypothesis skimming/scanning distinguishing facts from opinions and probability (ELA-7-M4) 		

3. Standard Two. Students write competently for a variety of purposes and audiences.

Grades 7-8 English Language Arts			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
<p>ELA-2-M1: writing multiparagraph compositions (150–200 words) that clearly imply a central idea with supporting details in a logical, sequential order</p>	<p>15. Write multiparagraph compositions on student- or teacher-selected topics organized with the following:</p> <ul style="list-style-type: none"> established central idea organizational patterns (e.g., comparison/contrast, order of importance, chronological order) appropriate to the topic elaboration (e.g., fact, examples, and/or specific details) transitional words and phrases that unify ideas and points overall structure including an introduction, a body/middle, and a concluding paragraph that summarizes important ideas and details (ELA-2-M1) <p>15. Write complex, multiparagraph compositions on student- or teacher-selected topics organized with the following:</p> <ul style="list-style-type: none"> a clearly stated focus or central idea important ideas or events stated in a selected order 	<p>ES-15/15: Write a composition that is organized with:</p> <ul style="list-style-type: none"> established central idea organizational patterns (e.g., logical, sequential order, order of importance, chronological order) appropriate to the topic elaboration (e.g., facts, examples, and supporting details) overall structure, including an introduction, a body/middle, and a conclusion <p>Note that “write” may include drawing and dictating.</p>	<p>3. Given a topic, write a composition that expresses a central/main idea and is organized with a beginning, body/middle, and conclusion</p> <p>2. Given a topic, write sentences or phrases that express a main idea and some elaboration</p> <p>1. Given a topic, write related sentences or phrases that express chronological or sequential order</p>

Grades 7-8 English Language Arts			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
	<ul style="list-style-type: none"> organizational patterns (e.g., comparison/contrast, order of importance, chronological order) appropriate to the topic elaboration (anecdotes, relevant facts, examples, and/or specific details) transitional words and phrases that unify ideas and points an overall structure (e.g., introduction, body/middle, and concluding paragraph that summarizes important ideas and details) (ELA-2-M1) 		
ELA-2-M6: writing as a response to texts and life experiences (e.g., personal and business letters)	<p>22. Write for various purposes, including:</p> <ul style="list-style-type: none"> letters of complaint supported with complete and accurate information and reasons evaluations of media, such as television, radio, and the arts text-supported interpretations of elements of grade-appropriate stories, poems, plays, and novels applications, such as memberships and library cards (ELA-2-M6) <p>22. Write for a wide variety of purposes, including:</p> <ul style="list-style-type: none"> persuasive letters that include appropriate wording and tone and that state an opinion evaluations of advertisements, political cartoons, and speeches text-supported interpretations of elements of grade-appropriate stories, poems, plays, and novels (ELA-2-M6) 	<p>ES-22/22: Write for various purposes, including:</p> <ul style="list-style-type: none"> informal letter list evaluations of media text-supported interpretations of stories, poems, plays, and novels applications <p>Note that “write” may include drawing and dictating.</p>	<p>3. Write an application (e.g., for a library card)</p> <p>2. Write a letter/note to a friend/parent/teacher</p> <p>1. Write an evaluation of a medium (e.g., television, radio)</p>

4. Standard Four. Students demonstrate competence in speaking and listening as tools for learning and communicating.

Grades 7-8 English Language Arts			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
ELA-4-M2: giving and following directions/procedures	30. Follow procedures (e.g., read, question, write a response, form groups)	ES-30/30: Follow instructions and carry out simple procedures/routines	3. Follow a familiar four-step procedure/routine

	<p>from detailed oral instructions (ELA-4-M2)</p> <p>30. Follow procedures (e.g., read, question, write a response, form groups) from detailed oral instructions (ELA-4-M2)</p>		<p>2. Follow instructions for an unfamiliar, simple procedure/routine</p> <p>1. Follow a familiar, simple procedure/routine (e.g., three-step recipe in Family/ Consumer Science)</p>
<p>ELA-4-M6: participating in a variety of roles in group discussions (e.g., facilitator, recorder)</p>	<p>38. Participate in group and panel discussions, including:</p> <ul style="list-style-type: none"> explaining the effectiveness and dynamics of group process applying agreed-upon rules for formal and informal discussions assuming a variety of roles (e.g., facilitator, recorder, leader, listener) (ELA-4-M6) <p>38. Participate in group and panel discussions, including:</p> <ul style="list-style-type: none"> explaining the effectiveness and dynamics of group process applying agreed-upon rules for formal and informal discussions assuming a variety of roles (e.g., facilitator, recorder, leader, listener) (ELA-4-M6) 	<p>ES-38/38: Participate in a group discussion, including:</p> <ul style="list-style-type: none"> applying agreed-upon rules for formal discussions assuming a variety of roles (e.g., facilitator, time keeper, leader, listener) <p>Will not be on the state assessment</p>	<p>3. Act as a leader in a group discussion (e.g., introduce the topic and keep participants on task)</p> <p>2. Act as a time keeper in a group discussion using a clock to watch the time (e.g., start the clock, stop the clock)</p> <p>1. Participate in a group discussion (e.g., express opinions and/or concerns about the topic)</p>

5. Standard Five. Students locate, select, and synthesize information from a variety of texts, media,

references, and technological sources to acquire and communicate knowledge.

Grades 7-8 English Language Arts			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
<p>ELA-5-M6: identifying and interpreting graphic organizers (e.g., flowcharts, timelines, tree diagrams)</p>	<p>46. Interpret information from a variety of graphic organizers including timelines, charts, schedules, tables, diagrams, and maps in grade-appropriate sources (ELA-5-M6)</p>	<p>ES-46/46: Locate and use information, including:</p> <ul style="list-style-type: none"> daily schedule calendar 	<p>3. Locate given information in a calendar (e.g., holidays, special events, birthdays, weather conditions)</p> <p>2. Recognize changes in daily schedule</p> <p>1. Refer to schedule for information about sequence of activities</p>

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§329. Ninth-Twelfth Grade Span

A. Focus. Extended standards for grades nine through twelve (only grades nine through eleven are assessed) focus on strengthening previously acquired reading, writing, and listening strategies and skills. At this level, students identify

and analyze elements within and across a variety of texts. Students broaden comprehension of a range of texts. In this grade span, students increase their reasons for writing. In speaking and listening, students follow instructions for increasingly complex procedures and routines and continue to participate in group activities. Students demonstrate an increased skill in accessing and applying information found in electronic and print sources.

B. Standards

1. Standard One. Students read, comprehend, and respond to a range of materials, using a variety of strategies

for different purposes.

Grades 9-12 English Language Arts			
Benchmarks	Grade-Level Expectations	Extended Standards	Complexity Levels
ELA-1-H1: using knowledge of word meaning and extending basic and technical vocabulary, employing a variety of strategies (e.g., contexts, connotations and denotations, word derivations, relationships, inferences)	<p>1. Extend basic and technical vocabulary using a variety of strategies, including:</p> <ul style="list-style-type: none"> ● use of context clues ● use of knowledge of Greek and Latin roots and affixes ● use of denotative and connotative meanings ● tracing etymology (ELA-1-H1) <p>1. Extend basic and technical vocabulary using a variety of strategies, including:</p> <ul style="list-style-type: none"> ● use of context clues ● use of knowledge of Greek and Latin roots and affixes ● use of denotative and connotative meanings ● tracing etymology (ELA-1-H1) 	<p>ES-1/1: Determine the meaning of base/root words with affixes that indicate negation and comparative/superlative, i.e.:</p> <ul style="list-style-type: none"> ● dis- ● -er ● -est 	<p>3. Given a word that indicates negation or comparative/superlative, determine its meaning from its root/base</p> <p>2. Identify a second word with the same affix that indicates negation or comparative/superlative</p> <p>1. Identify a word that indicates negation or comparative/ superlative</p>
ELA-1-H2: analyzing and evaluating the effects of complex elements and complex literary devices (e.g., irony, sarcasm, ambiguity) on the meaning and purpose of a selection	<p>2. Identify and explain story elements, including:</p> <ul style="list-style-type: none"> ● the author's use of direct and indirect characterization ● the author's pacing of action and use of plot development, subplots, parallel episodes, and climax to impact the reader ● the revelation of character through dialect, dialogue, dramatic monologues, and soliloquies (ELA-1-H2) <p>2. Analyze the development of story elements, including:</p> <ul style="list-style-type: none"> ● characterization ● plot and subplot(s) ● theme ● mood/atmosphere (ELA-1-H2) 	<p>ES-2/2: Identify story elements, including:</p> <ul style="list-style-type: none"> ● character ● character trait ● setting ● main idea 	<p>3. Identify the main idea in a selection</p> <p>2. Identify details/event/idea in a selection</p> <p>1. Describe the setting of a selection</p>

2. Standard Seven. Students apply reasoning and problem-solving skills to reading, writing, speaking, listening, viewing, and visually representing.

Grades 9-12 English Language Arts			
Benchmarks	Grade-Level Expectations	Extended Standards	Complexity Levels

**Grades 9-12
English Language Arts**

Benchmarks	Grade-Level Expectations	Extended Standards	Complexity Levels
<p>ELA-7-H1: using comprehension strategies (e.g., synthesizing, critiquing) to evaluate oral, written, and visual texts</p>	<p>11. Demonstrate understanding of information in grade-appropriate texts using a variety of strategies, including:</p> <ul style="list-style-type: none"> ● summarizing and paraphrasing information and story elements ● comparing and contrasting information in texts, including televised news, news magazines, documentaries, and online information ● comparing and contrasting complex literary elements, devices, and ideas within and across texts ● examining the sequence of information and procedures in order to critique the logic or development of ideas in texts ● making inferences and drawing conclusions ● making predictions and generalizations (ELA-7-H1) <p>11. Demonstrate understanding of information in grade-appropriate texts using a variety of reasoning strategies, including:</p> <ul style="list-style-type: none"> ● summarizing and paraphrasing information and story elements ● comparing and contrasting information in various texts, (e.g., televised news, news magazines, documentaries, online information) ● comparing and contrasting complex literary elements, devices, and ideas within and across texts ● examining the sequence of information and procedures in order to critique the logic 	<p>ES-11/11: Demonstrate understanding of information in texts, including:</p> <ul style="list-style-type: none"> ● summarizing information ● comparing and contrasting literary elements and ideas within and among texts ● sequencing events or procedures ● making inferences ● drawing conclusions ● making predictions about a story 	<p>3. Compare or contrast literary elements (e.g., character, character traits, setting) or ideas either within or among texts</p> <p>2. Draw a conclusion from information in texts</p> <p>1. Make an inference from texts</p>

Grades 9-12 English Language Arts			
Benchmarks	Grade-Level Expectations	Extended Standards	Complexity Levels
	<ul style="list-style-type: none"> or development of ideas in texts • making inferences and drawing conclusions • making predictions and generalizations (ELA-7-H1) 		
ELA-7-H4: using analytical reasoning skills in a variety of complex oral, written, and visual texts	<p>14. Analyze information within and across grade-appropriate texts using various reasoning skills, including:</p> <ul style="list-style-type: none"> • identifying cause-effect relationships • raising questions • reasoning inductively and deductively • generating a theory or hypothesis • distinguishing facts from opinions and probability (ELA-7-H4) <p>15. Analyze information within and across grade-appropriate texts using various reasoning skills, including:</p> <ul style="list-style-type: none"> • identifying cause-effect relationships • raising questions • reasoning inductively and deductively • generating a theory or hypothesis • distinguishing facts from opinions and probability (ELA-7-H4) 	<p>ES-14/15: Demonstrate understanding of texts by using reasoning skills, including:</p> <ul style="list-style-type: none"> • skimming and scanning • generating a theory or hypothesis • distinguishing fact from opinion • cause and effect 	<p>3. Differentiate fact from opinion in texts</p> <p>2. Identify an opinion in texts</p> <p>1. Locate a fact in texts</p>

3. Standard Two. Students write competently for a variety of purposes and audiences.

Grades 9-12 English Language Arts			
Benchmarks	Grade-Level Expectations	Extended Standards	Complexity Levels
ELA-2-H1: writing compositions (250–300 words) that employ specific organizational elements (e.g., spatial order, order of importance, ascending/descending order, chronological order) and clearly imply a central idea with supporting details in a logical, sequential order	<p>16. Develop multiparagraph compositions organized with the following:</p> <ul style="list-style-type: none"> • a clearly stated central idea or thesis statement • a clear, overall structure that includes an introduction, a body, and an appropriate conclusion • supporting paragraphs 	<p>ES-16/17: Write a composition that is organized with:</p> <ul style="list-style-type: none"> • a clearly stated central idea • a clear, overall structure that includes an introduction, a body with supporting details, and a conclusion • organizational patterns (e.g., logical spatial order, order of importance, ascending/descending order, chronological order) 	<p>3. Write a composition with a clear introduction, a body with supporting details, and a conclusion</p> <p>2. Write a composition with a central idea and supporting details</p> <p>1. Write a composition that clearly states a central idea</p>

Grades 9-12
English Language Arts

Benchmarks	Grade-Level Expectations	Extended Standards	Complexity Levels
	<p>appropriate to the topic organized in a logical sequence (e.g., spatial order, order of importance, ascending/descending order, chronological order, parallel construction)</p> <ul style="list-style-type: none"> ● transitional words and phrases that unify throughout (ELA-2-H1) <p>17. Develop multiparagraph compositions organized with the following:</p> <ul style="list-style-type: none"> ● a clearly stated central idea/thesis statement ● a clear, overall structure that includes an introduction, a body, and an appropriate conclusion ● supporting paragraphs appropriate to the topic organized in a logical sequence (e.g., spatial order, order of importance, ascending/descending order, chronological order, parallel construction) ● transitional words and phrases that unify throughout (ELA-2-H1) 	<ul style="list-style-type: none"> ● transitional words and phrases that unify throughout <p>Note that “write” may include drawing and dictating.</p>	
<p>ELA-2-H6: writing as a response to texts and life experiences (e.g., technical writing, résumés)</p>	<p>21. Write for various purposes, including:</p> <ul style="list-style-type: none"> ● formal and business letters, such as letters of complaint and requests for information ● letters to the editor ● job applications ● text-supported interpretations that connect life experiences to works of literature (ELA-2-H6) <p>24. Write for various purposes, including:</p> <ul style="list-style-type: none"> ● formal and business letters, such as letters of complaint and requests for information ● letters to the editor ● job applications ● text supported 	<p>ES-21/24: Write for various purposes, including:</p> <ul style="list-style-type: none"> ● informal letter ● list ● evaluation of media ● text-supported interpretation ● business letter ● job application <p>Note that “write” may include drawing and dictating.</p>	<p>3. Write a business letter including addresses, date, two sentences or phrases around a central idea, and closing (e.g., letter of complaint)</p> <p>2. Write a letter of request (e.g., to the principal)</p> <p>1. Complete a job application</p>

Grades 9-12 English Language Arts			
Benchmarks	Grade-Level Expectations	Extended Standards	Complexity Levels
	interpretations that connect life experiences to works of literature (ELA-2-H6)		

4. Standard Four. Students demonstrate competence in speaking and listening as tools for learning and communicating.

Grades 9-12 English Language Arts			
Benchmarks	Grade-Level Expectations	Extended Standards	Complexity Levels
ELA-4-H2: giving and following directions/procedures	<p>29. Listen to oral instructions and presentations, speeches, discussions, and carry out procedures, including:</p> <ul style="list-style-type: none"> ● taking accurate notes ● writing summaries or responses ● forming groups (ELA-4-H2) <p>32. Listen to detailed oral instructions and presentations and carry out complex procedures, including:</p> <ul style="list-style-type: none"> ● taking accurate notes ● writing summaries or responses ● forming groups (ELA-4-H2) 	ES-29/32: Follow instructions for complex procedures/routines	<p>3. Follow detailed instructions for a complex procedure/routine (e.g., a safety drill)</p> <p>2. Follow detailed instructions for an unfamiliar procedure/routine</p> <p>1. Follow detailed instructions for a familiar procedure/routine</p>

Grades 9-12 English Language Arts			
Benchmarks	Grade-Level Expectations	Extended Standards	Complexity Levels
ELA-4-H6: participating in a variety of roles in group discussion (e.g., mediator)	<p>35. Participate in group and panel discussions, including:</p> <ul style="list-style-type: none"> identifying the strengths and talents of other participants acting as facilitator, recorder, leader, listener, or mediator evaluating the effectiveness of participant's performance (ELA-4-H6) <p>38. Participate in group and panel discussions, including:</p> <ul style="list-style-type: none"> identifying the strengths and talents of other participants acting as facilitator, recorder, leader, listener, or mediator evaluating the effectiveness of participants' performances (ELA-4-H6) 	<p>ES-35/38: Participate in a group discussion, including:</p> <ul style="list-style-type: none"> acting as facilitator, time keeper, leader, listener, or mediator evaluating the effectiveness of participant's performance <p>Will not be on the state assessment</p>	<p>3. Act as a facilitator in a group discussion (e.g., point to person who has the next turn to speak)</p> <p>2. Act as a time keeper in a group discussion (e.g., using a watch, tell each student when to start and stop)</p> <p>1. Participate in a group discussion as a listener (e.g., turning toward or making eye-contact with each speaker)</p>

5. Standard Five. Students locate, select, and synthesize information from a variety of texts, media,

references, and technological sources to acquire and communicate knowledge.

Grades 9-12 English Language Arts			
Benchmarks	Grade-Level Expectations	Extended Standards	Complexity Levels
ELA-5-H6: analyzing and synthesizing graphic organizers (e.g., organizational charts, concept maps, comparative tables)	<p>43. Analyze information found in a variety of complex graphic organizers, including detailed maps, comparative charts, extended tables, graphs, diagrams, cutaways, overlays, and sidebars to determine usefulness for research (ELA-5-H6)</p> <p>46. Analyze information found in complex graphic organizers, including detailed maps, comparative charts, extended tables, graphs, diagrams, cutaways, overlays, and sidebars to determine usefulness for research (ELA-5-H6)</p>	<p>ES-43/46: Locate and use:</p> <ul style="list-style-type: none"> daily schedule calendar timeline 	<p>3. Choose appropriate graphic organizer (daily schedule, calendar, or timeline) to locate information</p> <p>2. Respond to a question regarding information found on a timeline</p> <p>1. Locate specified information on a timeline</p>

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

Chapter 5. Mathematics

Subchapter A. General

§501. Overview

A. GLEs are explicit recommendations for what students should know and be able to do as a result of each level of schooling from prekindergarten through grade 12. This degree of specificity is made with the expectation that all students in Louisiana have access to a high-quality instructional program in mathematics. Instructional programs must provide all students with a solid foundation in mathematics.

B. Extended Standards define what schools and teachers need to focus on in each year of instruction for students with significant cognitive disabilities.

C. GLEs appropriate for this population are extended to capture the essence of the GLEs students with significant cognitive disabilities must know and be able to do. Three levels of complexity provide students of varying abilities instructional access to grade-level academic content. Mastery of an ES is generally indicated by a student performing at level 3.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§503. Organizational Principles

A. There are six mathematics strands:

1. number and Number Relations;
2. algebra;
3. geometry;
4. measurement;
5. data analysis, probability, and discrete math; and
6. Patterns, Relations, and Functions.

B. GLEs, linked across the grade span and appropriate for academic instruction for students with significant cognitive disabilities, are the basis of the extended standards.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§505. Definitions

Combinations—sets containing a certain number of objects selected from another set. The combinations of three items from the set {a, b, c, d} are: {a, b, c}, {a, b, d}, {a, c, d}, {b, c, d}. {a, b, c} and {b, a, c} are considered to be the same set.

Computational Fluency—the level of skill reached when a person is able to execute an algorithm or procedure efficiently and correctly.

Coordinate Systems—systems used to locate points using lines or points.

Expanded Form—the form of a number written as a sum to show place value. For example, the expanded form of 367 is $300 + 60 + 7$.

Independent Events—events that have no influence on each other. For example, flipping “tails” with a coin and rolling a four with a die are independent events.

Manipulatives—concrete, physical objects used to help illustrate mathematical concepts.

Mental Math—computations and estimations performed without the aid of paper and pencil.

Model—simulation of a real object that has explanatory power but that typically differs in size, scale, and/or detail;

examples include plan, scheme, structure, or mathematical equation.

Mutually Exclusive Events—two or more events, each of which precludes all the others. For example, the people voting in a presidential election and the people who are celebrating their fifteenth birthday on that election day are mutually exclusive events.

Outcomes—results that are possible from an experiment or simulation. For example, the possible outcomes of rolling a six-sided number cube are rolls of 1, 2, 3, 4, 5, and 6.

Permutations—the ordered arrangements of the elements of a set. For example, the permutations of the list {A, B, C} are (1) {A, B, C}, (2) {A, C, B}, (3) {B, A, C}, (4) {B, C, A}, (5) {C, A, B}, and (6) {C, B, A}.

Pictograph—a visual representation of statistical data that uses pictures to indicate value or quantity.

Picture Graph—see pictograph.

Polynomial Expression—a mathematical expression that is the sum of terms, each of which is the product of a constant and a non-negative power of a variable or variables. For example, the expression $5x^7 + 11x^2 + 7x + (-3)$ is a polynomial expression.

Precision—the degree of specificity to which a measurement/value/quantity is determined. For example, “The measurement is precise to the nearest millimeter.”

Probability—a number between 0 and 1, inclusive, which indicates the likelihood of an event occurring. For example, the probability of rolling a 1 on a fair, six-sided number cube is $1/6$.

Range—the absolute difference between the greatest and least value in a set of data. For example, the range of the data set {7, 8, 12, 17, 23} is 16 (23-7).

Rational Number—any number that can be written as a fraction in which both the numerator is an integer and the denominator is a natural number. For example, $3/7$ is a rational number since it can be written as a fraction.

Scatter Plot—a two-dimensional graph of a collection of points.

Standard Form—the form in which numbers are traditionally written. For example, 367 is in standard form.

Symbolic Representation—a representation that uses symbols to model a situation or event. For example, the circumference of a circle is found by multiplying the diameter by pi. The symbolic representation that models this calculation is $C = \pi d$.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

Subchapter B. Standards/Benchmarks/GLEs/Extended Standards/Complexity Levels

NOTE: Codes identify standards, benchmarks, and grade clusters from the *Louisiana Mathematics Content Standards* (See Table 2). A GLE and its extended standard may apply to more than one benchmark; as a result, a GLE may have more than one code that also applies to the extended standards.

§515. Benchmark Codes, GLE Numbering, and Extended Standards

A. Benchmark Codes. Benchmark codes have three parts.

1. The first part in the benchmark code refers to the strand (e.g., Number and Number Relations).
2. The second part refers to the benchmark number.

3. The third part refers to the grade cluster (i.e., E, M, H).

Code	Explanation
N-1-E	Number and Number Relations, Benchmark 1, Elementary
G-5-M	Geometry, Benchmark 5, Middle School
A-3-H	Algebra, Benchmark 3, High School

B. Grade-level expectations are numbered consecutively in each grade level in a grade span and grouped by strand in the following order:

- N—number and number relations;
- A—algebra;
- M—measurement;
- G—geometry;
- D—data analysis, probability, discrete math;
- P—patterns, relations, and functions.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§517. Extended Standards

A. Extended standards are numbered using the GLE numbers from each related GLE in the grade span.

B. Extended Standard Numbering. ES indicates an extended standard, which is a further delineation of the GLEs. Extended standards refer to the specific GLEs that are

extended, one from each grade in the grade span. For example: In the benchmark coded N-9-E, GLE number 8 is from grade level 3; it is about solving real-life situations/problems. In that same benchmark, GLE number 14 is from grade level 4; it is also about solving real-life situations/problems. The extended standard, therefore, is coded ES-8/14 and refers to GLE 8 from grade 3 and GLE 14 from grade 4. (Refer to the following sample and key.)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§519. Complexity Levels

A. Three complexity levels (CLs) are described for each extended standard. CLs are coded from three (most complex) to one (least complex). CLs provide students of varying abilities instructional access to grade-level academic content. Mastery of an extended standard is generally indicated by a student performing at level 3.

B. Each GLE grade-span list opens with concise information about the emphases of that grade span. The emphases at each span and their careful articulation lead to growth in students’ abilities to learn and apply mathematics in their jobs, vocational and personal lives.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

Number and Number Relations: In problem-solving investigations, students demonstrate an understanding of the real number system and communicate the relationships within that system using a variety of techniques and tools.			
Benchmarks	Grade-Level Expectations	Extended Standards	Complexity Levels
N-9-E: demonstrating the connection of number and number relations to the other strands and to real-life situations	8. Recognize, select, connect, and use operations, operational words, and symbols (i.e., +, −, ×, ÷) to solve real-life situations (N-5-E) (N-6-E) (N-9-E) 14. Solve real-life problems, including those in which some information is not given (N-9-E)	ES-8/14: Add and subtract to solve real-life situations	3. Solve real-world problems using addition or subtraction 2. Identify simple addition and subtraction concepts within daily-living problems 1. Count to solve simple problems

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§521. Third-Fourth Grade Span

A. Focus

1. Grade 3 and grade 4 students, including those with significant cognitive disabilities, work with concrete models of numbers to help them recognize and identify numbers to a specific place value. Activities with number concepts in this grade span also provide work with number comparisons, concepts of money, and simple addition and subtraction in real-life problems.

2. In algebra, grade 3 and grade 4 students work with objects or pictures as representations of problems. They

work with measurement, which encompasses concepts of length, recognition and application of measurement units or tools used in daily-living activities, and identification of time. In geometry, the students work with two-dimensional shapes and concepts of position and direction.

3. Grade 3 and grade 4 students work with data to identify events and to predict outcomes. In pattern work, students are introduced to patterns, as well as asked to extend simple patterns.

B. Strands

1. Number and Number Relations. In problem-solving investigations, students demonstrate an understanding of the real number system and communicate the relationships with that system using a variety of techniques and tools.

Grades 3-4 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
N-1-E: constructing number meaning and demonstrating that a number can be expressed in many different forms (e.g., standard notation, number words, number lines, geometrical representation, fractions, and decimals)	1. Model, read, and write place value in word, standard, and expanded form for numbers through 9999 (N-1-E)	ES-1/1: Read and write place value in word and standard form	3. Read and/or write numbers to a specific place value 2. Identify numbers to a specific place value 1. Count objects to a given number
	1. Read and write place value in word, standard, and expanded form through 1,000,000 (N-1-E)		
N-9-E: demonstrating the connection of number and number relations to the other strands and to real-life situations	2. Read, write, compare, and order whole numbers through 9999 using symbols (i.e., <, =, >) and models (N-1-E) (N-3-E)	ES-2/2: Read, write, compare, and order whole numbers	3. Order sets of objects with “less than,” “more than,” “most,” and/or “least” 2. Identify a set of objects with “more” 1. Show that equal means “the same as”
	2. Read, write, compare, and order whole numbers using place value concepts, standard notation, and models through 1,000,000 (N-1-E) (N-3-E) (A-1-E)		
N-6-E: applying a knowledge of basic math facts and arithmetic operations to real-life situations	8. Recognize, select, connect, and use operations, operational words, and symbols (i.e., +, -, x, ÷) to solve real-life situations (N-5-E) (N-6-E) (N-9-E)	ES-8/14: Add and subtract to solve real-life situations	3. Solve real-world problems using addition or subtraction 2. Identify simple addition and subtraction concepts within daily-living problems 1. Count to solve simple problems
	14. Solve real-life problems, including those in which some information is not given (N-9-E)		
N-6-E: applying a knowledge of basic math facts and arithmetic operations to real-life situations	10. Calculate the value of a combination of bills and coins and make change up to \$5 (N-6-E) (M-1-E) (M-5-E)	ES-10/12: Identify and use concepts of money	3. Calculate the amount of money for a purchase or activity 2. Sort and/or identify coins and dollars for a purpose 1. Identify the exchange of money to make a purchase
	12. Count money, determine change, and solve simple word problems involving money amounts using decimal notation (N-6-E) (N-9-E) (M-1-E) (M-5-E)		

2. Algebra. In problem solving investigations, students demonstrate an understanding of concepts and processes that allows them to analyze, represent, and

describe relationships among variable quantities and to apply algebraic methods to real-world situations.

Grades 3-4 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
A-2-E: modeling and developing strategies for solving equations and inequalities A-1-E: demonstrating a conceptual understanding of variables, expressions, equations, and inequalities (e.g., use letters or boxes to represent values; understand =, ≠, <, and > symbols)	18. Use letters as variables in mathematical statements that represent real-life problems (e.g., $2 \times n = 8$) (A-2-E) 15. Write number sentences or formulas containing a variable to represent real-life problems (A-1-E)	ES-18/15: Model situations using pictures, objects, or letters	3. Use visual representations or objects to represent a problem 2. Identify a picture sequence that completes a routine task 1. Select pictures or symbols that show a pattern

3. Measurement. In problem-solving investigations, students demonstrate an understanding of the concepts, processes, and real-life applications of measurement.

Grades 3-4 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
M-1-E: applying (measure or solve measurement problem) the concepts of length (inches, feet, yards, miles, millimeters, centimeters, decimeters, meters, kilometers), area, volume, capacity (cups, liquid pints and quarts, gallons, milliliters, liters), weight (ounces, pounds, tons, grams, kilograms), mass, time (seconds, minutes, hours, days, weeks, months, years), money, and temperature (Celsius and Fahrenheit) to real-world experiences	19. Measure length to the nearest yard, meter, and half-inch (M-1-E) 20. Measure length to the nearest quarter-inch and mm (M-2-E) (M-1-E)	ES-19/20: Measure lengths of objects	3. Measure lengths of objects 2. Distinguish concept of long/short 1. Select objects of the same length
M-2-E: selecting and using appropriate standard and non-standard units of measure (e.g., paper clips and Cuisenaire rods) and tools for measuring length, area, capacity, weight/mass, and time for a given situation by considering the purpose and precision required for the task	25. Select and use the appropriate standard units of measure, abbreviations, and tools to measure length and perimeter (i.e., in., cm, ft., yd., m), area (square inch, square centimeter), capacity (i.e., cup, pint, quart, gallon, liter), and weight/mass (i.e., oz., lb., g, kg, ton) (M-2-E) 22. Select and use the appropriate standard units of measure, abbreviations, and tools to measure length and perimeter (i.e., in., cm, ft., yd., mile, m, km), area (i.e., square inch, square foot, square centimeter), capacity (i.e., fl. oz., cup, pt., qt., gal., l, ml), weight/mass (i.e., oz., lb., g, kg, ton), and volume (i.e., cubic cm, cubic in.) (M-2-E) (M-1-E)	ES-25/22: Select and use appropriate standard units of measure and measurement tools	3. Select appropriate measurement units and/or tools for a given situation 2. Use measurement tools for a specific activity 1. Identify basic measurement tools
M-5-E: demonstrating the connection of measurement to the other strands and to real-life situations	24. Find elapsed time involving hours and minutes, without regrouping, and tell time to the nearest minute (M-1-E) (M-5-E) 23. Set up, solve, and interpret elapsed time problems (M-2-E) (M-5-E)	ES-24/23: Tell time	3. Tell time 2. Use a clock to match times with activities (e.g., 9:00—music, 12:00—lunch) 1. Associate activities with various times of day

4. Geometry. In problem-solving investigations, students demonstrate an understanding of geometric concepts and applications involving one-, two-, and three-dimensional geometry, and justify their findings.

Grades 3-4 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
G-3-E: making predictions regarding combinations, subdivisions, and transformations (slides, flips, turns) of simple plane geometric shapes	32. Recognize and execute specified flips, turns, and slides of geometric figures using manipulatives and correct terminology (including clockwise and counterclockwise) (G-3-E) 30. Make and test predictions regarding transformations (i.e., slides, flips, turns) of plane geometric shapes (G-3-E)	ES-32/30: Recognize and apply positional concepts	3. Recognize and apply positional concepts (e.g., front, behind) 2. Follow simple spatial directions (e.g., left, right, up, down) 1. Identify simple directional concepts (e.g., up, down)

Grades 3-4 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
G-2-E: identifying, describing, comparing, constructing, and classifying two-dimensional and three-dimensional geometric shapes using a variety of materials	29. Classify and describe 2- and 3-dimensional objects according to given attributes (triangle vs. quadrilateral, parallelogram vs. prism) (G-2-E) (G-1-E) (G-4-E) 29. Identify, describe the properties of, and draw circles and polygons (triangle, quadrilateral, parallelogram, trapezoid, rectangle, square, rhombus, pentagon, hexagon, octagon, and decagon) (G-2-E)	ES-29/29: Construct and identify simple geometric shapes and classify according to properties	3. Construct simple two-dimensional shapes 2. Sort two-dimensional shapes and/or objects with common and/or different attributes 1. Identify two-dimensional shapes

5. Data Analysis, Probability, and Discrete Math. In problem solving investigations, students discover trends, formulate conjectures regarding cause-and-effect

relationships, and demonstrate critical-thinking skills in order to make informed decisions.

Grades 3-4 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
D-5-E: predicting outcomes based on probability (e.g., make predictions of same chance, more likely, or less likely; determine fair and unfair games)	44. Discuss chance situations in terms of certain/impossible and equally likely (D-5-E) 40. Determine the total number of possible outcomes for a given experiment using lists, tables, and tree diagrams (e.g., spinning a spinner, tossing 2 coins) (D-4-E) (D-5-E)	ES-44/40: Identify events and make predictions about outcomes	3. Make predictions about outcomes of daily events 2. Identify events as possible/impossible or likely/unlikely 1. Identify the next event in a routine

6. Patterns, Relations, and Functions. In problem-solving investigations, students demonstrate an

understanding of patterns, relations, and functions that represent and explain real-world situations.

Grades 3-4 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
P-1-E: recognizing, describing, extending, and creating a wide variety of numerical (e.g., skip counting of whole numbers), geometrical, and statistical patterns	47. Find patterns to complete tables, state the rule governing the shift between successive terms, and continue the pattern (including growing patterns) (P-1-E) (P-2-E) 43. Identify missing elements in a number pattern (P-1-E)	ES-47/43: Identify and extend patterns in real-life situations	3. Extend a simple pattern 2. Identify a simple pattern 1. Match a simple pattern

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§523. Fifth-Sixth Grade Span

A. Focus

1. Number and number-relations work at grades 5 and 6 introduces fractions and decimals (i.e., through the study of money). Students continue to work with whole numbers by comparing them and demonstrating addition and subtraction skills. Students also compare fractions. In addition, students are introduced to basic estimation strategies.

2. By grades 5 and 6, students measure using the U.S. system and recognize models of measurement. They compare and sort items based on weight, length, temperature, time, or capacity. In geometry, the study of

shapes now includes recognition of three-dimensional shapes. Students also find locations on maps or grids and paths between locations.

3. Students in grades 5 and 6 work with graphs, tables, and charts in the data strand. The study of algebra in grades 5 and 6 involves students in a continued study of modeling situations and mathematical problems with objects or pictures. Students also further their understanding of pattern concepts. Students with significant cognitive disabilities access much of the same information and work on many skills through the complexity levels.

B. Strands

1. Number and Number Relations. In problem-solving investigations, students demonstrate an understanding of the real number system and communicate the relationships within that system using a variety of techniques and tools.

Grades 5-6 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
N-1-M: demonstrating that a rational number can be expressed in many forms, and selecting an appropriate form for a given situation (e.g., fractions, decimals, and percents)	2. Recognize, explain, and compute equivalent fractions for common fractions (N-1-M) (N-3-M) 4. Recognize and compute equivalent representations of fractions and decimals (i.e., halves, thirds, fourths, fifths, eighths, tenths, hundredths) (N-1-M) (N-3-M)	ES-2/4: Recognize fractions	3. Identify the fraction associated with a given model 2. Match geometric models of fractions with real-life models of fractions (e.g., $\frac{1}{2}$ apple equals $\frac{1}{2}$ circle) 1. Identify the number of parts an object is divided into
N-5-M: applying an understanding of rational numbers and arithmetic operations to real-life situations	8. Use the whole number system (e.g., computational fluency, place value, etc.) to solve problems in real-life and other content areas (N-5-M) 9. Add and subtract fractions and decimals in real-life situations (N-5-M)	ES-8/9: Add and subtract numbers	3. Solve real-life problems using addition or subtraction 2. Identify simple addition and subtraction concepts found in real life 1. Count to solve simple problems
N-2-M: demonstrating number sense and estimation skills to describe, order, and compare rational numbers (e.g., magnitude, integers, fractions, decimals, and percents)	4. Compare positive fractions using number sense, symbols (i.e., $<$, $=$, $>$), and number lines (N-2-M) 6. Compare positive fractions, decimals, and positive and negative integers using symbols (i.e., $<$, $=$, $>$) and number lines (N-2-M)	ES-4/6: Compare and order numbers or fractions	3. Order using “less than,” “more than,” “most,” and/or “least” 2. Identify a set of objects with “more” 1. Show that equal means “the same as”
N-3-M: reading, writing, representing, and using rational numbers in a variety of forms (e.g., integers, mixed numbers, and improper fractions)	5. Read, explain, and write a numerical representation for positive improper fractions, mixed numbers, and decimals from a pictorial representation and vice versa (N-3-M) 7. Read and write numerals and words for decimals through thousandths (N-3-M)	ES-5/7: Read, write, and use decimals (e.g., money)	3. Determine a specific amount of bills or coins for a purchase 2. Identify and write/state money amounts 1. Sort and/or identify coins and dollars
N-6-M: constructing, using, and explaining procedures to compute and estimate with rational numbers employing mental math strategies	9. Use mental math and estimation strategies to predict the results of computations (i.e., whole numbers, addition and subtraction of fractions) and to test the reasonableness of solutions (N-6-M) (N-2-M) 10. Use and explain estimation strategies to predict computational results with positive fractions and decimals (N-6-M)	ES-9/10: Use basic estimation strategies	3. Determine if a given number is enough or not enough for a given situation 2. Use “next dollar” strategy to make a purchase 1. Identify a set of objects with “more”

2. Algebra. In problem-solving investigations, students demonstrate an understanding of concepts and processes that allows them to analyze, represent, and

describe relationships among variable quantities and to apply algebraic methods to real-world situations.

Grades 5-6 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
A-1-M: demonstrating a conceptual understanding of variables, expressions, equations, and inequalities (e.g., symbolically represent real-world problems as linear terms, equations, or inequalities)	13. Write a number sentence from a given physical model of an equation (e.g., balance scale) (A-2-M) (A-1-M) 15. Match algebraic equations and expressions with verbal statements and vice versa (A-1-M) (A-3-M) (A-5-M) (P-2-M)	ES-13/15: Model situations using pictures, objects, or letters	3. Use visual representations or objects to model a problem or situation 2. Match visual representations or objects to a given problem or situation 1. Identify a picture sequence that completes a routine task

3. Measurement. In problem-solving investigations, students demonstrate an understanding of the concepts, processes, and real-life applications of measurement.

Grades 5-6 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
M-1-M: applying the concepts of length, area, surface area, volume, capacity, weight, mass, money, time, temperature, and rate to real-world experiences	15. Model, measure, and use the names of all common units in the U.S. and metric systems (M-1-M) 20. Calculate, interpret, and compare rates such as \$/lb., mpg, and mph (M-1-M) (A-5-M)	ES-15/20: Apply measurement in real-life situations using the U.S. system	3. Measure in daily-living activities 2. Match models of measurement 1. Select objects of similar measurement
M-2-M: demonstrating an intuitive sense of measurement (e.g., estimating and determining reasonableness of measures)	19. Compare the relative sizes of common units for time, temperature, weight, mass, and length in real-life situations (M-2-M) (M-4-M) 21. Demonstrate an intuitive sense of relative sizes of common units for length and area of familiar objects in real-life problems (e.g., estimate the area of a desktop in square feet, the average adult is between 1.5 and 2 meters tall) (M-2-M) (G-1-M)	ES-19/21: Compare and order sizes of items in real-life situations	3. Order a minimum of three items according to weight, capacity, length, temperature, or time 2. Sort items according to weight, capacity, length, temperature, and/or time 1. Sort items according to one of the following: more/less, long/short, heavy/light, early/late, day/night, hot/cold

4. Geometry. In problem-solving investigations, students demonstrate an understanding of geometric

concepts and applications involving one-, two-, and three-dimensional geometry, and justify their findings.

Grades 5-6 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
G-2-M: identifying, describing, comparing, constructing, and classifying geometric figures and concepts	24. Use mathematical terms to classify and describe the properties of 2-dimensional shapes, including circles, triangles, and polygons (G-2-M) 24. Use mathematical terms to describe the basic properties of 3-dimensional objects (edges, vertices, faces, base, etc.) (G-2-M)	ES-24/24: Identify simple geometric shapes and classify according to properties of shapes	3. Sort shapes according to dimensions (two-dimensions vs. three-dimensions) 2. Sort two-dimensional shapes and/or objects with common and/or different attributes 1. Identify two-dimensional or three-dimensional shapes
G-6-M: demonstrating an understanding of the coordinate system (e.g., locate points, identify coordinates, and graph points in a coordinate plane to represent real-world situations)	27. Identify and plot points on a coordinate grid in the first quadrant (G-6-M) 28. Use a rectangular grid and ordered pairs to plot simple shapes and find horizontal and vertical lengths and area (G-6-M)	ES-27/28: Use and read a map/grid	3. Find the horizontal or vertical length of a path between two points on a grid 2. Select a model of a route from one specific point to another 1. Identify/recognize locations on a map or floor plan

5. Data Analysis, Probability, and Discrete Math. In problem-solving investigations, students discover trends, formulate conjectures regarding cause-and-effect

relationships, and demonstrate critical-thinking skills in order to make informed decisions.

Grades 5-6 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
D-2-M: analyzing, interpreting, evaluating, drawing inferences, and making estimations, predictions, decisions, and convincing arguments based on organized data (e.g., analyze data using concepts of mean, median, mode, range, random samples, sample size, bias, and data extremes)	28. Use various types of charts and graphs, including double bar graphs, to organize, display, and interpret data and discuss patterns verbally and in writing (D-1-M) (D-2-M) (P-3-M) (A-4-M) 30. Describe and analyze trends and patterns observed in graphic displays (D-2-M)	ES-28/30: Organize and interpret data in tables, charts, or graphs	3. Organize and display data using tables, charts, and/or graphs 2. Interpret tables, charts, and/or graphs about daily activities 1. Select pictures or symbols for a chart that represents information

6. Patterns, Relations, and Functions. In problem-solving investigations, students demonstrate an

understanding of patterns, relations, and functions that represent and explain real-world situations.

Grades 5-6 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
P-1-M: describing, extending, analyzing, and creating a wide variety of numerical, geometrical, and statistical patterns (e.g., skip counting of rational numbers and simple exponential number patterns)	33. Fill in missing elements in sequences of designs, number patterns, positioned figures, and quantities of objects (P-1-M) 37. Describe, complete, and apply a pattern of differences found in an input-output table (P-1-M) (P-2-M) (P-3-M)	ES-33/37: Fill in missing elements and extend a pattern	3. Find the missing element in a pattern 2. Extend a pattern 1. Identify a pattern

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§525. Seventh-Eighth Grade Span

A. Focus

1. Grade 7 and grade 8 students carry on their work with whole numbers, fractions, and decimals. This work includes identification and comparison of the different types of numbers. The students also work with manipulatives and concrete models to develop a basic understanding of multiplication.

2. In algebra, students continue their work with modeling situations using objects, pictures, and letters. The measurement strand has the students ordering or sorting items according to different units of measurement. Grade 7 and grade 8 students continue their work with maps and are

introduced to the concept of transformations (i.e., rotations) through the use of models.

3. Charts, tables, and graphs continue to be studied in grades 7 and 8; this includes comparisons of data and creation of graphs. Predictions of events are also revisited. The study of patterns includes the ability to reproduce a given pattern using different objects or symbols. Students with significant cognitive disabilities access much of the same information and work on many skills through the complexity levels.

B. Strands

1. Number and Number Relations. In problem-solving investigations, students demonstrate an understanding of the real number system and communicate the relationships within that system using a variety of techniques and tools.

Grades 7-8 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
N-1-M: demonstrating that a rational number can be expressed in many forms, and selecting an appropriate form for a given situation (e.g., fractions, decimals, and percents) N-3-M: reading, writing, representing, and using rational numbers in a variety of forms (e.g., integers, mixed numbers, and improper fractions)	1. Recognize and compute equivalent representations of fractions, decimals, and percents (i.e., halves, thirds, fourths, fifths, eighths, tenths, hundredths) (N-1-M) 4. Read and write numbers in scientific notation with positive exponents (N-3-M)	ES-1/4: Recognize numbers (i.e., whole numbers, fractions, decimals)	3. Identify decimals within the context of a daily-living situation 2. Identify fractions associated with a given model 1. Identify a number as a whole number, fraction, or decimal
N-2-M: demonstrating number sense and estimation skills to describe, order, and compare rational numbers (e.g., magnitude, integers, fractions, decimals, and percents)	2. Compare positive fractions, decimals, percents, and integers using symbols (i.e., $<$, \leq , $=$, \geq , $>$) and position on a number line (N-2-M) 1. Compare rational numbers using symbols (i.e., $<$, \leq , $=$, \geq , $>$) and position on a number line (N-1-M) (N-2-M)	ES-2/1: Compare and order numbers (i.e., whole numbers, fractions, decimals)	3. Order using “less than,” “more than,” “most,” and/or “least” 2. Identify a set of objects with “more” 1. Show that equal means “the same as”
N-4-M: demonstrating a conceptual understanding of the meaning of the basic arithmetic operations (add, subtract, multiply and divide) and their relationships to each other	3. Solve order of operations problems involving grouping symbols and multiple operations (N-4-M) 5. Simplify expressions involving operations on integers, grouping symbols, and whole number exponents using order of operations (N-4-M)	ES-3/5: Identify and solve simple computation problems	3. Identify a model of a given multiplication problem 2. Solve real-world problems using addition or subtraction 1. Count the objects in a group and the number of groups

2. Algebra. In problem-solving investigations, students demonstrate an understanding of concepts and processes that allows them to analyze, represent, and

describe relationships among variable quantities and to apply algebraic methods to real-world situations.

Grades 7-8 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
A-1-M: demonstrating a conceptual understanding of variables, expressions, equations, and inequalities (e.g., symbolically represent real-world problems as linear terms, equations, or inequalities)	14. Write a real-life meaning of a simple algebraic equation or inequality, and vice versa (A-1-M) (A-5-M) 10. Write real-life meanings of expressions and equations involving rational numbers and variables (A-1-M) (A-5-M)	ES-14/10: Model situations using pictures, objects, and letters	3. Use visual representations or objects to model a situation 2. Match visual representations or objects to a given situation 1. Identify a picture sequence that completes a routine task

3. Measurement. In problem-solving investigations, students demonstrate an understanding of the concepts, processes, and real-life applications of measurement.

Grades 7-8 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
M-4-M: using intuition and estimation skills to describe, order, and compare formal and informal measures (e.g., ordering cup, pint, quart, gallon; comparing a meter to a yard)	21. Compare and order measurements within and between the U.S. and metric systems in terms of common reference points (e.g., weight/mass and area) (M-4-M) (G-1-M) 21. Compare and estimate measurements of volume and capacity within and between the U.S. and metric systems (M-4-M) (G-1-M)	ES-21/21: Compare and order sizes of items in real-life situations	3. Order a minimum of three items according to weight, capacity, length, temperature, or time 2. Sort items according to weight, capacity, length, temperature, and/or time 1. Sort items according to one of the following: more/less, long/short, heavy/light, early/late, day/night, hot/cold

4. Geometry. In problem-solving investigations, students demonstrate an understanding of geometric

concepts and applications involving one-, two-, and three-dimensional geometry, and justify their findings.

Grades 7-8 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
G-3-M: making predictions regarding transformations of geometric figures (e.g., make predictions regarding translations, reflections, and rotations of common figures)	25. Draw the results of reflections and translations of geometric shapes on a coordinate grid (G-3-M) 25. Predict, draw, and discuss the resulting changes in lengths, orientation, angle measures, and coordinates when figures are translated, reflected across horizontal or vertical lines, and rotated on a grid (G-3-M) (G-6-M)	ES-25/25: Identify a simple transformation (i.e., turn) and apply positional concepts	3. Identify a model of a turn 2. Recognize and apply positional concepts (e.g., front, behind) 1. Follow simple spatial directions (e.g., left, right, up, down)
G-6-M: demonstrating an understanding of the coordinate system (e.g., locate points, identify coordinates, and graph points in a coordinate plane to represent real-world situations)	29. Plot points on a coordinate grid in all 4 quadrants and locate the coordinates of a missing vertex in a parallelogram (G-6-M) (A-5-M) 33. Graph solutions to real-life problems on the coordinate plane (G-6-M)	ES-29/33: Use and read a map/grid	3. Find the horizontal and vertical lengths of a path between two points on a grid 2. Select a model of a route from one specific point to another 1. Identify/recognize locations on a map and/or floor plan

5. Data Analysis, Probability, and Discrete Math. In problem-solving investigations, students discover trends, formulate conjectures regarding cause-and-effect

relationships, and demonstrate critical-thinking skills in order to make informed decisions.

Grades 7-8 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
D-2-M: analyzing, interpreting, evaluating, drawing inferences, and making estimations, predictions, decisions, and convincing arguments based on organized data (e.g., analyze data using concepts of mean, median, mode, range, random samples, sample size, bias, and data extremes) D-1-M: systematically collecting, organizing, describing, and displaying data in charts, tables, plots, graphs, and/or spreadsheets	31. Analyze and interpret circle graphs, and determine when a circle graph is the most appropriate type of graph to use (D-2-M) 36. Organize and display data using circle graphs (D-1-M)	ES-31/36: Organize, and interpret data in tables, charts, or graphs	3. Create a chart of information using pictures or symbols 2. Compare data in tables, charts, and/or graphs 1. Use tables, charts, and/or graphs to locate information in daily activities
D-5-M: comparing experimental probability results with theoretical probability (e.g., representing probabilities of concrete situations as common fractions, investigating single-event and multiple-event probability, using sample spaces, geometric figures, tables, and/or graphs)	37. Determine probability from experiments and from data displayed in tables and graphs (D-5-M) 44. Use experimental data presented in tables and graphs to make outcome predictions of independent events (D-5-M)	ES-37/44: Identify events and make predictions about outcomes	3. Make predictions about outcomes of daily events 2. Identify events as possible/impossible or likely/unlikely 1. Identify the next event in a routine

6. Patterns, Relations, and Functions. In problem-solving investigations, students demonstrate an

understanding of patterns, relations, and functions that represent and explain real-world situations.

Grades 7-8 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
P-1-M: describing, extending, analyzing, and creating a wide variety of numerical, geometrical, and statistical patterns (e.g., skip counting of rational numbers and simple exponential number patterns)	39. Analyze and describe simple exponential number patterns (e.g., 3, 9, 27 or 31, 32, 33) (P-1-M) 46. Distinguish between and explain when real-life numerical patterns are linear/arithmetical (i.e., grows by addition) or exponential/geometric (i.e., grows by multiplication) (P-1-M) (P-4-M)	ES-39/46: Analyze and extend a pattern	3. Reproduce a pattern 2. Find the missing element in a pattern 1. Extend a pattern

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

§527. Ninth-Twelfth Grade Span

A. Focus

1. In number and number relations, students in grades 9 through 12 (only grades 9 through 11 are assessed) continue to work with numbers to demonstrate computational fluency in addition and subtraction, while developing their understanding of multiplication and division by using manipulatives and concrete models. An introduction to basic concepts of proportional reasoning also occurs during this time.

2. Algebra continues to be a study of modeling using pictures, objects, and letters, as well as solving simple equations. Students in grades 9 through 12 use their knowledge in the measurement strand to study the concepts of area and perimeter in standard and non-standard units. They also continue to refine their skills in map reading and usage. A second type of transformation, a translation, is introduced to the students, in addition to continuing to apply positional concepts.

3. Work within the data strand uses students' knowledge of tables, charts, or graphs to make comparisons and interpret data. Students also maintain the skill of predicting outcomes of events. In patterns, the students continue to work with patterns by extending, as well as

reproducing patterns. Students with significant cognitive disabilities access much of the same information and work on many skills through the complexity levels.

B. Strands

1. Number and Number Relations. In problem-solving investigations, students demonstrate an understanding of the real number system and communicate the relationships within that system using a variety of techniques and tools.

Grades 9-12 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
N-5-H: selecting and using appropriate computational methods and tools for given situations (e.g., estimation, or exact computation using mental arithmetic, calculator, symbolic manipulator, or paper and pencil) N-2-H: demonstrating that a number can be expressed in many forms, and selecting an appropriate form for a given situation (e.g., fractions, decimals, percents, and scientific notation)	6. Simplify and perform basic operations on numerical expressions involving radicals (e.g., $2\sqrt{3} + 5\sqrt{3} = 7\sqrt{3}$) (N-5-H) 1. Simplify and determine the value of radical expressions (N-2-H) (N-7-H)	ES-6/1: Identify and solve simple computation problems	3. Identify a model of a given division problem 2. Identify a model of a given multiplication problem 1. Solve problems using addition or subtraction
N-6-H: applying ratios and proportional thinking in a variety of situations (e.g., finding a missing term of a proportion)	7. Use proportional reasoning to model and solve real-life problems involving direct and inverse variation (N-6-H) 4. Use ratios and proportional reasoning to solve a variety of real-life problems including similar figures and scale drawings (N-6-H) (M-4-H)	ES-7/4: Use basic concepts of proportional reasoning in real-life situations	3. Solve real-life problems using proportional reasoning 2. Determine the number of objects in two comparison groups 1. Identify a model of one-to-one correspondence

2. Algebra. In problem-solving investigations, students demonstrate an understanding of concepts and processes that allows them to analyze, represent, and

describe relationships among variable quantities and to apply algebraic methods to real-world situations.

Grades 9-12 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
A-1-H: demonstrating the ability to translate real-world situations (e.g., distance-versus-time relationships, population growth, growth functions for diseases, growth of minimum wage, auto insurance tables) into algebraic expressions, equations, and inequalities and vice versa A-4-H: solving algebraic equations and inequalities using a variety of techniques with the appropriate tools (e.g., hand-held manipulatives, graphing calculator, symbolic manipulator, or pencil and paper)	9. Model real-life situations using linear expressions, equations, and inequalities (A-1-H) (D-2-H) (P-5-H) 10. Model and solve problems involving quadratic, polynomial, exponential, logarithmic, step function, rational, and absolute value equations using technology (A-4-H)	ES-9/10: Model and solve equations using pictures, objects, and letters that relate to real-life relationships	3. Use visual representations or objects to solve an equation 2. Use visual representations or objects to model an equation 1. Identify a picture sequence to complete a routine task

3. Measurement. In problem-solving investigations, students demonstrate an understanding of the concepts,

processes, and real-life applications of measurement.

Grades 9-12 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
M-3-H: estimating, computing, and applying physical measurement using suitable units (e.g., calculate perimeter and area of plane figures, surface area and volume of solids presented in real-world situations)	21. Determine appropriate units and scales to use when solving measurement problems (M-2-H) (M-3-H) (M-1-H) 7. Find volume and surface area of pyramids, spheres, and cones (M-3-H) (M-4-H)	ES-21/7: Apply the concepts of area and perimeter to real-world situations	3. Determine the area or perimeter of an object using given standard units 2. Determine the area or perimeter of an object using non-standard units (e.g., to cover an object or to go around an object) 1. Distinguish between the concepts of area and perimeter

4. Geometry. In problem-solving investigations, students demonstrate an understanding of geometric

concepts and applications involving one-, two-, and three-dimensional geometry, and justify their findings.

Grades 9-12 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
G-3-H: solving problems using coordinate methods, as well as synthetic and transformational methods (e.g., transform on a coordinate plane a design found in real-life situations)	23. Use coordinate methods to solve and interpret problems (e.g., slope as rate of change, intercept as initial value, intersection as common solution, midpoint as equidistant) (G-2-H) (G-3-H) 16. Represent and solve problems involving distance on a number line or in the plane (G-3-H)	ES-23/16: Use and read a map/grid	3. Find the horizontal and vertical lengths of a path between two points on a grid 2. Select a model of a route from one specific point to another 1. Identify/recognize locations on a map and/or floor plan
	26. Perform translations and line reflections on the coordinate plane (G-3-H) 14. Develop and apply coordinate rules for translations and reflections of geometric figures (G-3-H)	ES-26/14: Identify a simple transformation (i.e., slide) and apply positional concepts	3. Identify a model of a translation (i.e., slide) 2. Recognize and apply positional concepts (e.g., front, behind) 1. Follow simple spatial directions (e.g., left, right, up, down)

5. Data Analysis, Probability, and Discrete Math. In problem-solving investigations, students discover trends, formulate conjectures regarding cause-and-effect

relationships, and demonstrate critical-thinking skills in order to make informed decisions.

Grades 9-12 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
D-7-H: making inferences from data that are organized in charts, tables, and graphs (e.g., pictograph; bar, line, or circle graph; stem-and-leaf plot or scatter plot)	28. Identify trends in data and support conclusions by using distribution characteristics such as patterns, clusters, and outliers (D-1-H) (D-6-H) (D-7-H) 22. Interpret and summarize a set of experimental data presented in a table, bar graph, line graph, scatter plot, matrix, or circle graph (D-7-H)	ES-28/22: Use data in real-life situations	3. Solve a problem or answer questions using data from a chart or graph 2. Compare data in tables, charts, and/or graphs 1. Use tables, charts, and/or graphs to locate information in daily activities
D-4-H: demonstrating an understanding of the calculation of finite probabilities using permutations, combinations, sample spaces, and geometric figures	32. Compute probabilities using geometric models and basic counting techniques such as combinations and permutations (D-4-H) 21. Determine the probability of conditional and multiple events, including mutually and non-mutually exclusive events (D-4-H) (D-5-H)	ES-32/21: Identify events and make predictions about outcomes	3. Make predictions about outcomes of daily events 2. Identify events as possible/impossible or likely/unlikely 1. Identify the next event in a routine

6. Patterns, Relations, and Functions. In problem-solving investigations, students demonstrate an

understanding of patterns, relations, and functions that represent and explain real-world situations.

Grades 9-12 Mathematics			
Benchmarks	Grade Level Expectations	Extended Standards	Complexity Levels
P-1-H: modeling the concepts of variables, functions, and relations as they occur in the real world and using the appropriate notation and terminology P-2-H: translating between tabular, symbolic, or graphic representations of functions	37. Analyze real-life relationships that can be modeled by linear functions (P-1-H) (P-5-H) 27. Translate among tabular, graphical, and symbolic representations of patterns in real-life situations, with and without technology (P-2-H) (P-3-H) (A-3-H)	ES-37/27: Analyze and extend a pattern	3. Reproduce a pattern 2. Find the missing element in a pattern 1. Extend a pattern

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Chapter 7. Science
Subchapter A. General

§701. Definitions

Celestial—of or related to the sky or universe, as the planets and stars.

Communicable Disease—disease that is transmittable between persons or species; contagious disease.

Data—numerical or descriptive, factual information, especially that which is derived from scientific observations or experiments, organized for analysis.

Habitat—specific environment or part of an ecosystem where an organism lives (e.g., woods, desert).

Hypothesis—

1. a rational explanation of a single event or phenomenon based upon what has been observed but not proven;

2. a tentative explanation for the cause of an observed phenomenon.

Inference—process of drawing a conclusion or making a logical judgment based on prior conclusions or evidence but without direct observation.

Inquiry—systematic process of using knowledge and skills to acquire and/or apply new knowledge and skills.

Metric System Units of Measurement—decimal system of weights and measurements that includes units of Standard International or SI units measurement

Model—simulation of a real object that has explanatory power but that typically differs in size, scale, and/or detail; examples include plan, scheme, structure, or mathematical equation.

Pollution—the contamination of soil, water, or the atmosphere by harmful substances.

Revolution—the motion of a body or object around another body or object, for example, the revolution of Earth around the Sun.

Rotation—the spinning of a planet such as Earth or other object on its axis.

Standard International (SI) Units of Measurement—more complete, coherent version of the metric system of International measurement; basic units of the SI system include the centimeter or meter, gram or kilogram, and second.

Standard Tools—instruments such as meter sticks, pan balances, graduated cylinders, or thermometers used for systematic measurement.

Testable Question—a query that can be answered through experimentation or research.

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§703. General Development Principles

A. Unlike English language arts and mathematics, the science extended standards are based on the science benchmarks and not the GLEs. This is done to be consistent with the design of the LEAP, GEE, and LAA 2 assessments for science. While the content described by the GLEs represents core content to be mastered by the end of a given grade, the benchmarks represent broader curriculum goals, applicable to grade spans that are to be mastered by the end of the grade span. Science content can be added and enriched as appropriate for a district program, school, or student. For mastery to be attained, most content must be introduced earlier than the grade identified for mastery. Once a particular skill has been identified as an extended standard, the skill should be reinforced in subsequent years, but may not be repeated in the list of expectations for subsequent years.

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§705. Elementary School—Prekindergarten – Grade Four

A. Students at the prekindergarten (PreK) through grade 4 levels, including students with significant cognitive disabilities, are learning to observe by using their senses, describing properties of substances, recognizing appropriate terminology, and comparing, sorting, classifying, and learning about the natural world. Science activities and investigations can be used to engage students in a variety of inquiry activities, such as questioning, observing, measuring, calculating, graphing, and communicating that are the essence of science. These skills and concepts are taught through the five strands of science:

1. science as inquiry;
2. physical science;
3. life science;

4. earth and space science; and
5. science and the environment.

Grade	Focus Area
PreK	All Strands
K	All Strands
1	All Strands
2	All Strands
3	All Strands
4	All Strands

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§707. Middle School—Grades Five - Eight

A. Students in middle school continue to expand their knowledge and understanding of general science, including science inquiry, physical science, life science, Earth and space science, and the environment as discrete or integrated studies.

B. To develop a deeper understanding of concepts, science content focus areas have been identified for grades 5-8. They are listed in Table 4.

Grade	Focus Area
5	General Science (All Strands)
6	Physical Science
7	Life Science
8	Earth and Space Science

C. In addition to the designated focus areas, the science as inquiry (SI) and science and the environment (SE) strands are integrated into each of the middle school grades. Other content may be integrated locally within school districts. While focus areas are stressed at different grades, the extended standards for grade 8 focus on integrated science, which is reinforced by more focused curriculum in grades 6–8.

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§709. High School—Grades Nine - Twelve

A. In high school, science instruction becomes more specialized and there are GLEs for six science courses, one each at ninth- and tenth-grade levels and four for the eleventh- and twelfth-grade levels, with the following recommendations in mind (see Table 5).

Strand	Course(s)	Recommended Grades
Physical Science	Physical Science	9
	Chemistry I	11–12
	Physics I	11–12
Life Science	Biology I	10
Earth and Space Science	Earth Science	11–12
Science and the Environment	Environmental Science	11–12

B. Personal preference and district course offerings affect which courses are taken and may determine the order in which courses are taken.

C. The grade 11 extended standards focus on science as inquiry, physical science, and life science. This is consistent with developing state high school assessment practices in Louisiana and reflects the content of the typical high school science courses completed by students by the time they reach the eleventh grade.

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Subchapter B. Standards/Benchmarks/Extended Standards

§719. Overview

A. The science Extended Standards (ESs) align with the *Louisiana Science Framework* (1997). The science ESs address benchmarks from all five content strands for grades 4 and 8 and three content strands for grade 11 as outlined in the framework document.

B. The five Louisiana science content standards are broad goals for what all students in Louisiana should know and be able to do in science. In the *Louisiana Science Framework*, standards are based on the five science strands. That is, each standard represents one of the five strands. The strands and their respective abbreviated codes are science as inquiry (SI), physical science (PS), life science (LS), earth and space science (ESS), and science and the environment (SE). There is one process strand, science as inquiry, and four content strands. This organization into strands does not imply that science must be taught in separate isolated units. In fact, teachers are encouraged to teach integrated, interdisciplinary units of study.

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§721. Benchmark Codes

A. The first term in the benchmark code refers to the strand (i.e., SI, PS, LS, ESS, SE). The second term refers to the grade cluster (i.e., E for elementary, M for middle school, H for high school). The third term refers to the category and benchmark number (e.g., A1, B2, C3).

B. For most grade clusters, strands are divided into categories or major topical areas. (The SE strand has no category at the PreK-4 and 5-8 grade levels.) Science GLEs have been developed and are organized based on this secondary breakdown. Categories are indicated by the letters in the benchmark code designations. (See Table 6.)

Code(s)	Explanation
SI-E-A5	SI Strand, Elementary Level, Category A, Benchmark 5
PS-M-B4	PS Strand, Middle School Level, Category B, Benchmark 4
SE-H-A6 LS-H-D1	SE Strand, High School Level, Category A, Benchmark 6 and LS Strand, High School Level, Category D, Benchmark 1

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§723. Extended Standard Numbering

A. ES indicates an extended standard, which is a further delineation of the benchmark. The second term refers to the specific category and benchmark that is extended. Extended standards numbering relates to each benchmark. (Refer to the following Sample and Key)

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§725. Complexity Levels

A. Three complexity levels (CLs) are described for each extended standard. CLs are coded from three (most complex) to one (least complex). CLs provide students of varying abilities instructional access to grade level academic content. Mastery of an extended standard is generally indicated by a student performing at level 3.

Sample Page and Key for Science		
Science as Inquiry: The students will do science by engaging in partial and full inquiries that are within their developmental capabilities.		
Benchmarks	Extended Standards	Complexity Levels
A. The Abilities Necessary to Do Scientific Inquiry		
SI-E-A1: asking appropriate questions about organisms and events in the environment	ES-A1: Ask appropriate questions about organisms and events in the environment	<ol style="list-style-type: none"> 3. Develop appropriate questions based on an organism or events in the environment 2. Select an appropriate question related to a single organism or event 1. Recognize part of an organism or event that is inconsistent with a group
SI-E-A3: communicating that observations are made with one's senses	ES-A3: Use the five senses to make observations	<ol style="list-style-type: none"> 3. Use appropriate sensory descriptions (i.e., see, hear, taste, touch, smell) to communicate about an observation during a simple scientific investigation 2. Select an appropriate sensory organ to be used for observations during a simple scientific investigation 1. Match sensory descriptions or pictures with the correct sensory organ

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§727. Science as Inquiry

A. The Science as Inquiry (SI) standard states: *The students will do science by engaging in partial and full inquiries that are within their developmental capabilities.* The benchmarks for the SI strand of the science framework are to be embedded in all science courses at every grade level and cannot be considered in isolation from the other strands. The processes and skills in the SI strand are to be integrated with the science content of the other four strands.

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§729. Conclusion

A. Each of the following benchmark and extended standard listings by grade opens with a summary describing the cumulative emphasis of the curriculum preceding and including that grade. These emphases serve to shape and mold the program for that individual grade level, and also indicate how students should be prepared during prior grades.

B. Extended standards are the product of careful considerations by content specialists and special education teachers to ensure that this content is appropriate for students with significant cognitive disabilities and is the essence of

the standard and benchmark. Complexity levels provide students of varying abilities instructional access to grade level academic content.

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§731. Fourth Grade

A. Focus. Fourth-grade students, including those with significant cognitive disabilities, evaluate the results of simple scientific investigations and organize information through classification. Students identify and ask questions that are the basis of scientific experimentation and make observations using their senses. They recognize or use common tools safely to accomplish these investigations. While observing their surroundings and their interactions with the world around them, they begin to make basic classifications of matter using physical properties and recognize that common everyday products are made from natural resources. Through these observations and investigations they recognize the connections between life and the physical environment and how conditions can change over time. For example, in the LS strand, students with significant cognitive disabilities match a common animal to its habitat type.

B. Strands

1. Science as Inquiry. The students will do science by engaging in partial and full inquiries that are within their developmental capabilities.

Grade 4 Science		
Benchmarks	Extended Standards	Complexity Levels
A. The Abilities Necessary to Do Scientific Inquiry		
SI-E-A1: asking appropriate questions about organisms and events in the environment	ES-A1: Ask appropriate questions about organisms and events in the environment	3. Develop appropriate questions based on an organism or events in the environment 2. Select an appropriate question related to a single organism or event 1. Recognize part of an organism or event that is inconsistent with a group
SI-E-A3: communicating that observations are made with one's senses	ES-A3: Use the five senses to make observations	3. Use appropriate sensory descriptions (i.e., see, hear, taste, touch, smell) to communicate about an observation during a simple scientific investigation 2. Select an appropriate sensory organ to be used for observations during a simple scientific investigation 1. Match descriptions or pictures with the correct sensory organ
SI-E-A4: employing equipment and tools to gather data and extend the sensory observations	ES-A4: Use appropriate tools (i.e., thermometer, scale, magnifying tool, measuring cup, ruler) to extend sensory observations	3. Use an appropriate tool to extend a sensory observation 2. Recognize the correct tool to use to extend a sensory observation 1. Recognize a tool
SI-E-A7: utilizing safety procedures during experiments	ES-A7: Identify or use appropriate safety equipment as needed or directed	3. Identify appropriate safety equipment needed in a specific event 2. Recognize the correct use of safety equipment 1. Recognize safety equipment

2. Physical Science. Students will develop an understanding of the characteristics and interrelationships of matter and energy in the physical world.

Grade 4 Science		
Benchmarks	Extended Standards	Complexity Levels
A. Properties of Objects and Materials		
PS-E-A1: observing, describing and classifying objects by properties (size, weight, shape, color, texture, and temperature)	ES-A1: Classify objects based on properties (i.e., size, weight, shape, color)	3. Identify a characteristic for sorting a set of objects 2. Sort objects based on a single characteristic 1. Recognize an object that has characteristics that are different from the group
PS-E-A3: observing and describing the objects by the properties of the materials from which they are made (paper, wood, metal)	ES-A3: Classify objects based on the materials from which they are made (i.e., paper, wood, metal)	3. Identify a material for sorting a set of objects 2. Sort objects based on a single material 1. Recognize an object that is made from a material that is different from the group
PS-E-A4: describing the properties of the different states of matter and identifying the conditions that cause matter to change states	ES-A4: Classify objects based on the different states of matter (i.e., solid, liquid, gas)	3. Identify a state of matter for sorting a set of objects 2. Sort objects based on a single state of matter 1. Recognize an object that is in a state of matter that is different from the group
B. Position and Motion of Objects		
PS-E-B2: exploring and recognizing that the position and motion of objects can be changed by pushing or pulling (force) over time	ES-B2: Change the position of objects using push or pull	3. Select "push" or "pull" to move an object to a specific location 2. Follow directions using "push" or "pull" to move objects 1. Imitate pushing or pulling an object
C. Forms of Energy		
PS-E-C7: exploring and describing the uses of energy at school, home, and play	ES-C7: Recognize common uses of energy (e.g., heating, lighting, transportation, communications) used at school, home, or play	3. Identify uses of energy in different settings (i.e., school, home, play) 2. Sort activities by common uses of energy 1. Recognize a use of energy

3. Life Science. The students will become aware of the characteristics and life cycles of organisms and

understand their relationships to each other and to their environment.

Grade 4 Science		
Benchmarks	Extended Standards	Complexity Levels
A. Characteristics of Organisms		
LS-E-A1: identifying the needs of plants and animals based on age-appropriate recorded observations	ES-A1: Identify the basic needs (i.e., food, air, water, shelter) of plants and animals	3. Select basic needs that are common to both plants and animals 2. Select more than one basic need of plants or animals 1. Select a basic need of plants or animals
LS-E-A3: locating and comparing major plant and animal structures and their functions	ES-A3: Identify basic structures and their functions in common plants (i.e., flowers, leaves, stems, roots)	3. Match plant parts to their functions 2. Identify the same plant part on different plants 1. Recognize a plant part

Grade 4 Science		
Benchmarks	Extended Standards	Complexity Levels
LS-E-A5: locating major human body organs and describing their functions	ES-A5: Identify basic structures and their functions of the human skeletal system	3. Match parts of the skeletal system to their functions 2. Match parts of the skeletal system to their location in the human body 1. Recognize a part of the human skeletal system
B. Life Cycles of Organisms		
LS-E-B1: observing and describing the life cycles of some plants and animals	ES-B1: Understand the life cycle of a bean plant	3. Sequence the stages of the life cycle of a bean plant 2. Recognize the correct sequence of the life cycle of a bean plant 1. Recognize a part of the life cycle of a bean plant
LS-E-B4: observing, recording, and graphing student growth over time using a variety of quantitative measures (height, weight, linear measure of feet and hands, etc.)	ES-B4: Describe students growth (i.e., height, weight) over time	3. Identify a typical human growth chart for the period from birth to adulthood 2. Recognize the general relationship between human growth and age 1. Recognize that persons of the same age grow at different rates
C. Organisms and Their Environments		
LS-E-C1: examining the habitats of plants and animals and determining how basic needs are met within each habitat	ES-C1: Match common animals to their habitat type (i.e., water, land)	3. Match common animals to different habitat types 2. Match more than one common animal to a habitat type 1. Match a common animal to a habitat type

4. Earth and Space Science. The students will develop an understanding of the properties of earth materials, the

structure of earth's system, Earth's history, and earth's place in the universe.

Grade 4 Science		
Benchmarks	Extended Standards	Complexity Levels
A. Properties of Earth Materials		
ESS-E-A4: investigating, observing, measuring and describing changes in daily weather patterns and phenomena	ES-A4: Identify basic weather conditions and identify appropriate clothing for specific weather conditions	3. Select appropriate clothing for a change in weather conditions 2. Sort appropriate clothing by basic weather conditions 1. Recognize a change in basic weather conditions
B. Objects in the Sky		
ESS-E-B4: modeling changes that occur because of the rotation of the Earth (alternation of night and day) and the revolution of the Earth around the Sun	ES-B4: Identify differences between times of day, day/night, and seasons of the year	3. Identify differences in representations of spring, summer, fall, and winter 2. Sequence representations of morning, noon, and night 1. Select representations of day time and night time

5. Science and the Environment. In learning environmental science, students will develop an appreciation of the natural environment, learn the importance of environmental quality, and acquire a sense of stewardship.

As consumers and citizens, they will be able to recognize how our personal, professional, and political actions affect the natural world.

Grade 4 Science		
Benchmarks	Extended Standards	Complexity Levels
SE-E-A4: understanding that the original sources of all material goods are natural resources and that the conserving and recycling of natural resources is a form of stewardship	ES-A4: Identify natural resources that are the original source of common products (i.e., paper, pencils, bricks, cotton cloth)	3. Match more than one human-made item with the natural resource from which they were made 2. Sort human-made items by the natural resources from which they are made 1. Recognize common items that are human-made among natural resources

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§733. Eighth Grade

A. Focus. The focus at the eighth-grade level is integrated science, building on the foundation developed during earlier grades. Physical (PS) and life (LS) sciences are again the focus with expanded studies in Earth and space science (ESS) concepts. Students develop additional inquiry skills through observations and investigations designed to expand comprehension of earth and space, as well as related

physical and environmental science topics. Earth and space science topics include exploring varying weather conditions and earth's place in the solar system. Students with significant cognitive disabilities access much of the same information and work on many skills through the complexity levels.

B. Strands

1. Science as Inquiry. The students will do science by engaging in partial and full inquiries that are within their developmental capabilities.

Grade 8 Science		
Benchmarks	Extended Standards	Complexity Levels
A. The Abilities Necessary to Do Scientific Inquiry		
SI-M-A2: designing and conducting a scientific investigation	ES-A2: Identify a process to solve a science problem	3. Select two or more steps in proper sequence to solve a science problem 2. Select two or more steps to solve a science problem 1. Recognize a step that helps solve a simple science problem
SI-M-A3: using mathematics and appropriate tools and techniques to gather, analyze, and interpret data	ES-A3: Identify significant differences in length, weight, and temperature using appropriate tools	3. Recognize the highest or lowest example of varying conditions (hot-cold, long-short, heavy-light) by using a measurement tool 2. Match correctly recorded measurements of length, weight, and/or temperature 1. Recognize appropriate measurement tools
SI-M-A4: developing descriptions, explanations, and graphs using data	ES-A4: Interpret simple situations using data	3. Identify a simple graph that represents a specific situation 2. Select a description supported by data 1. Recognize significant differences in data
SI-M-A5: developing models and predictions using the relationships between data and explanations	ES-A5: Predict patterns based on a given set of data	3. Sequence the steps of a pattern based on a scenario 2. Complete the next step in a pattern 1. Match similar patterns in a given dataset
SI-M-A8: utilizing safety procedures during scientific investigations	ES-A8: Perform common science tasks safely	3. Identify hazardous situations in a simulation 2. Select appropriate ways to complete science tasks safely 1. Recognize a safety procedure
B. Understanding Scientific Inquiry		
SI-M-B7: understanding that scientific development/ technology is driven by societal needs and funding	ES-B7: Use technology for daily living tasks	3. Match appropriate technology to common tasks 2. Recognize the appropriate use of technology 1. Recognize technology

2. Physical Science. Students will develop an understanding of the characteristics and interrelationship of matter and energy in the physical world.

Grade 8 Science		
Benchmarks	Extended Standards	Complexity Levels
A. Properties and Changes of Properties in Matter		
PS-M-A5: investigating the relationships among temperature, molecular motion, phase changes, and physical properties of matter	ES-A5: Identify how changes in temperature can effect the state of water (i.e., solid, liquid, gas)	3. Describe how the state of water changes under varying temperature conditions 2. Match water in solid, liquid, and gaseous states to different temperature conditions 1. Recognize that water has three states
B. Motions and Force		
PS-M-B5: understanding that unbalanced forces will cause changes in the speed or direction of an object's motion	ES-B5: Identify how to change the speed or direction of a moving or stationary object	3. Match different actions to corresponding changes in the motion of objects 2. Select an action that results in an increase in speed or change in direction of a moving object 1. Identify ways to stop or slow the motion of objects
C. Transformations of Energy		
PS-M-C5: investigating and describing the movement of heat and the effects of heat in objects and systems	ES-C5: Recognize that heat moves in different ways	3. Identify changes in an object's temperature as it is subjected to different temperatures 2. Recognize that heat can transfer from one object to another 1. Sort objects that are being heated or cooled

3. Life Science. The students will become aware of the characteristics and life cycles of organisms and

understand their relationships to each other and to their environment.

Grade 8 Science		
Benchmarks	Extended Standards	Complexity Levels
A. Structure and Function in Living Systems		
LS-M-A5: locating major human body organs and describing their functions	ES-A5: Identify basic structures (i.e., mouth, esophagus, stomach, intestines) and functions of the human digestive system	3. Sequence how food travels from one organ to another in the human digestive system 2. Locate where basic organs in the digestive system are found in the human body 1. Recognize a basic organ in the human digestive system
LS-M-A6: describing how the human body changes with age and listing factors that affect the length and quality of life	ES-A6: Identify various stages in the human life span (e.g., baby, child, teenager, adult)	3. Recognize individuals based on features that identify them as being in a specific stage of their life span (e.g., baby, child, teenager, or adult) 2. Recognize a correct sequence of stages in the human life span (i.e., baby, child, teenager, adult) 1. Sort individuals according to life-span stages

Grade 8 Science		
Benchmarks	Extended Standards	Complexity Levels
LS-M-A7: describing communicable and noncommunicable diseases	ES-A7: Identify and implement procedures to prevent common disease/germ transmission	3. Identify different ways to prevent disease transmission 2. Identify that germs may be transmitted directly (person to person) or indirectly (person to an object and then from that object to another person) 1. Recognize that common diseases are caused by germs
B. Reproduction and Heredity		
LS-M-B3: describing how heredity allows parents to pass certain traits to offspring	ES-B3: Recognize that offspring resemble their parents and parents' species	3. Identify familiar human traits that children and their parents may have in common (e.g., hair color, eye color, height) 2. Sort animals by common traits 1. Recognize an animal that has characteristics that differ from a group of the same kind of animal
C. Populations and Ecosystems		
LS-M-C3: investigating major ecosystems and recognizing physical properties and organisms within each	ES-C3: Recognize that different types of familiar animals are suited to different habitats (i.e., ocean, lake/river, forest, grassland, desert)	3. Identify examples of several animals that live in the same habitat (e.g., whales, sharks, and sea turtles live in the ocean) 2. Match familiar animals to their appropriate habitats 1. Recognize that different types of animals live in different types of places
D. Adaptations of Organisms		
LS-M-D1: describing the importance of plant and animal adaptation, including local examples	ES-D1: Identify adaptations that help plants or animals live in Louisiana	3. Identify an adaptation that helps a plant or animal live in a specific Louisiana habitat 2. Match adaptation (e.g., method of movement) to habitats 1. Recognize that animals have different physical adaptations (e.g., animals move in different ways using different body parts—wings, fins, bellies, legs)

4. Earth and Space Science. The students will develop an understanding of the properties of earth materials, the

structure of the earth system, the earth's history, and the earth's place in the universe.

Grade 8 Science		
Benchmarks	Extended Standards	Complexity Levels
A. Structure of Earth		
ESS-M-A12: predicting weather patterns through use of a weather map	ES-A12: Use basic weather symbols on maps or charts to demonstrate weather predictions	3. Modify an activity based on a changing sequence of weather symbols 2. Match weather symbols to descriptions of different weather conditions 1. Recognize that symbols are used to represent different weather conditions
C. Earth in the Solar System		
ESS-M-C2: comparing and contrasting the celestial bodies in our solar system	ES-C2: Identify basic parts of our solar system (i.e., Earth, Moon, Sun)	3. Identify basic characteristics of Earth, the Moon, and the Sun 2. Recognize that there are differences between Earth, the Moon, and the Sun 1. Recognize representations of Earth, the Moon, and the Sun

5. Science and the Environment. In learning environmental science, students will develop an appreciation of the natural environment, learn the importance of environmental quality, and acquire a sense of stewardship.

As consumers and citizens, they will be able to recognize how our personal, professional, and political actions affect the natural world.

Grade 8 Science		
Benchmarks	Extended Standards	Complexity Levels
SE-M-A3: defining the concept of pollutant and describing the effects of various pollutants on ecosystems	ES-A3: Identify air and water pollutants and how they harm the environment in different ways	3. Recognize the cause of a polluted area (i.e., air, water) 2. Sort polluted and unpolluted areas (i.e., air, water) 1. Recognize a polluted area (i.e., air, water)

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§735. Eleventh Grade

A. Focus. The focus in high school is physical science and life science reflecting the key science courses taken by most high school students by eleventh grade. Again, the foundations covered during earlier grades related to the properties of matter, forces and motion, and interactions of energy and matter are addressed using more complex

situations. In life science, the focus is on basic understandings related to heredity, food chains, and more complex biological systems compared to those explored during earlier grades. A key life science emphasis is on personal and community health and safety. Science inquiry continues to be the foundational mechanism used to integrate the science curriculum with a focus on scientific investigations, use of data, and the role technology can play in expanding human observations. Students with significant cognitive disabilities access much of the same information and work on many skills through the complexity levels.

B. Strands

1. Science as Inquiry. The students will do science by engaging in partial and full inquiries that are within their developmental capabilities.

Grade 11 Science		
Benchmarks	Extended Standards	Complexity Levels
A. The Abilities Necessary to Do Scientific Inquiry		
SI-H-A2: designing and conducting scientific investigations	ES-A2: Identify an appropriate process to complete a scientific investigation	3. Identify more than one procedure necessary to complete a given scientific investigation 2. Match a procedure with an appropriate scientific investigation 1. Recognize a scientific procedure
SI-H-A3: using technology and mathematics to improve investigations and communications	ES-A3: Interpret situations using data	3. Make an appropriate selection based on data 2. Compare situations using data 1. Match data to a specific situation
SI-H-A7: utilizing science safety procedures during scientific investigations	ES-A7: Perform simple multi-step scientific processes safely	3. Identify that performing processes in their proper order affects safety 2. Select safe ways to complete steps in a simple scientific investigation 1. Recognize safety procedures
B. Understanding Scientific Inquiry		
SI-H-B3: communicating that scientists rely on technology to enhance the gathering and manipulation of data	ES-B3: Identify how scientists use technology to improve information gathering	3. Identify how technology can improve information gathering 2. Sort technology by the kind of information that it can improve 1. Match a scientist to the kind of technology he/she uses (e.g., doctor—stethoscope)

2. Physical Science. Students will develop an understanding of the characteristics and interrelationship of matter and energy in the physical world.

Grade 11 Science		
Benchmarks	Extended Standards	Complexity Levels
C. The Structure and Properties of Matter		
PS-H-C1: distinguishing among elements, compounds, and/or mixtures	ES-C1: Identify that there are substances that can be put together and can't be returned to their original parts (compounds), while there are other substances that can be put together and returned to their original parts (mixtures)	3. Identify the difference between mixtures and compounds 2. Sort substances as mixtures or compounds 1. Recognize that some common substances are composed of different substances
PS-H-C4: separating mixtures based upon the physical properties of their components	ES-C4: Separate mixtures by using common physical properties of matter (i.e., magnetism, density, color, shape, size)	3. Identify how objects in a given mixture having similar properties of color, shape, and size can be easily separated by using their magnetic properties or relative densities (sink or float in water) 2. Sort objects in a mixture based on color, shape, or size 1. Recognize that an object can have different physical properties compared to a group of similar objects
E. Forces and Motion		
PS-H-E1: recognizing the characteristics and relative strengths of the forces of nature (gravitational, electrical, magnetic, nuclear)	ES-E1: Identify the impact of different forces in everyday situations (i.e., gravity, magnetic, friction)	3. Match how the motion of an object on a level surface changes as the surface texture varies due to the use of different common surface materials 2. Match how the motion of an object on a smooth incline changes as the angle of incline increases, decreases, or changes direction 1. Recognize two different ways that a magnet may move when another magnet is moved towards it
G. Interactions of Energy and Matter		
PS-H-G4: explaining the possible hazards of exposure to various forms and amounts of energy	ES-G4: Identify the presence of hazards from the exposure to or use of energy (i.e., light, heat, electrical)	3. Identify the presence of hazardous situations involving different uses of energy 2. Sort hazardous and non-hazardous exposures to heat, light, or electricity 1. Recognize that in certain circumstances light, heat, and electricity can be hazardous

3. Life Science. The students will become aware of the characteristics and life cycles of organisms and understand their relationships to each other and to their environment.

Grade 11 Science		
Benchmarks	Extended Standards	Complexity Levels
C. Biological Evolution		
LS-H-C6: comparing and contrasting life cycles of organisms	ES-C6: Compare the life cycles of common organisms (i.e., frogs, humans, other mammals)	3. Compare the life cycles of a frog and a given mammal 2. Compare the life cycles of a human and a given mammal 1. Recognize the life cycles of different common organisms
D. Interdependence of Organisms		
LS-H-D2: describing trophic levels and energy flows	ES-D2: Identify a basic food chain	3. Assemble a basic food chain 2. Recognize basic food chains 1. Recognize what different common animals eat
F. Systems and the Behavior of Organisms		
LS-H-F1: identifying the structure and functions of organ systems.	ES-F1: Identify basic structures and functions of the human circulatory system (e.g., heart, blood vessels, blood)	3. Identify structural relationships between the parts of the circulatory system and the functions of each part 2. Identify where parts of the circulatory system are located in the human body 1. Recognize parts of the human circulatory system
G. Personal and Community Health		
LS-H-G1: relating fitness and health to longevity	ES-G1: Identify how fitness activities improve health	3. Identify how fitness activities improve one's health 2. Match a fitness activity to a health improvement 1. Recognize fitness activities
LS-H-G3: explaining the role of the immune system in fighting disease	ES-G3: Identify that healthy human body systems assist the body in fighting diseases	3. Compare different healthy and unhealthy activities/diets to a person's susceptibility to becoming ill 2. Sort healthy and unhealthy activities and diets 1. Recognize that certain actions help the body, while others harm the body
LS-H-G4: exploring current research on the major diseases with regard to cause, symptoms, treatment, prevention, and cure	ES-G4: Identify physical conditions that may signal illness	3. Identify early warning symptoms of common illnesses that signal the need to get help 2. Match symptoms to common illnesses 1. Recognize that the body changes during an illness

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No

Interested persons may submit written comments until 4:30 p.m., September 8, 2008, to Nina Ford, State Board of

Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 127—LEAP Alternate Assessment, Level 1 (LAA 1) Extended Standards

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rule establishes Bulletin 127, which explains and lists extensions of the general grade- level expectations in English language arts, mathematics, and science used to guide instruction and assessment of students with significant cognitive disabilities. The proposed rule will have no implementation cost to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections at the state or local governmental levels.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There should be no effect on costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment.

Beth Scioneaux
Deputy Superintendent
0807#035

H.Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Agricultural Education (LAC 28:CXV.2373)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2373. Agricultural Education. The action is being proposed to up-date Career and Technical course offerings. In updating these course offerings our Career and Technical program of studies will be more aligned with national standards.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

**Chapter 23. Curriculum and Instruction
§2373. Agricultural Education**

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

Course Title(s)	Recommended Grade Level	Units
Exploratory Agriscience	7-8	-
Agribusiness	10-12	½-1
Agricultural Education Elective I, II	9-12	1/2-3
Agriscience I	9-12	1
Agriscience II	10-12	1
Agriscience III	11-12	1
Agriscience Elective I, II	9-12	½-3
Agriscience-Construction Technology	11-12	½-1
Agriscience-Leadership	9-12	½-1
Agriscience Power Equipment	11-12	½-1
Animal Science	11-12	1/2
Biotechnology in Agriscience	11-12	1
Canine Care and Training	9-12	½
Cooperative Agriscience Education I	11-12	3
Cooperative Agriscience Education II	12	3
Environmental Studies-in Agriscience	11-12	1
Equine Science	11-12	½-1
Floristry	11-12	1
Forestry	11-12	½-1
Horticulture	11-12	½-1
Landscape Design, Construction and Maintenance	10-12	1
Precision Instrumentation in Agriscience	10-12	½
Small Animal Care and Management	10-12	½-1
Veterinary Assistant	10-12	1
Industry-Based Certifications		

Course Title(s)	Recommended Grade Level	Units
ABC Welding Technology I Agriscience	11-12	1-3
ABC Carpentry in Agriscience	11-12	1-3
ABC Electrical I Agriscience	11-12	1-3
ABC Pipefitting in Agriscience	11-12	1-3

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 33:277 (February 2007), LR 33:2050 (October 2007), LR 34:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule effect the stability of the family? No.
2. Will the proposed Rule effect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule effect the functioning of the family? No.
4. Will the proposed Rule effect family earnings and family budget? No.
5. Will the proposed Rule effect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., September 8, 2008, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Agricultural Education**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revision will change Career and Technical course offerings. It is estimated that there will be no additional costs to state governmental units. It is unknown at this time if there are any costs to local governmental units. The LEA may choose to offer new courses to students that may require updating course offerings or other counseling brochures. LEAs choosing to offer the new courses may need to purchase items such as new textbooks, instructional materials or equipment. Each LEA will make its determination.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state/local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes are being requested to bring current Career and Technical course offerings in-line with industry demands. In aligning our course offerings with national standards, it will strengthen the link between secondary and postsecondary institutions. It will assist Career and Technical students in attaining vocational skills for the workplace.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Employers could have a larger, trained and qualified pool from which to select employees.

Elizabeth Scioneaux
Deputy Superintendent
0807#034

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation (LAC 28:XLIX.1101, 2101 and 2111)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation* (LAC 28:XLIX). Bulletin 1196 is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. It was developed as a result of the necessity to incorporate all state policy changes which have already been implemented by the sponsors. These revisions update state policies.

**Title 28
EDUCATION**

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

Chapter 11. Personnel

§1101. Child Nutrition Program Director/Supervisor

A. A Child Nutrition Program (CNP) Director or Supervisor is that member of the administrative staff of the school system who, under the general direction of the superintendent of schools or school business administrator, works with others in the developing, administering, and supervising of the school food service programs within the school system. The significance of good nutritional habits and food in relation to health and total educational performance makes it imperative that CNPs are based upon professional concepts. Therefore, the full-time services of a full-time certified director or supervisor are required for all school systems. Single private schools/charter schools and residential child care institutions are exempt from this requirement. A CNP Director or Supervisor would be considered full-time where services are contracted or shared between school systems.

B. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2163 (December 2001), amended LR 34:

Chapter 21. Civil Rights—Handling Complaints

§2101. Responsibilities of the SFA

A. - A.1. ...

a. the statement, "In accordance with federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (800) 795-3272 or (202) 720-6382 (TTY). USDA is an equal opportunity provider and employer";

b. the address indicating where a complaint may be filed:

USDA, Director, Office of Civil Rights
1400 Independence Avenue SW
Washington, DC 20250-9410

A.2. - A.4. ...

5. "In accordance with federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (800) 795-3272 or (202) 720-6382 (TTY). USDA is an equal opportunity provider and employer."

A.6. ...

7. The SFA may develop a complaint form, but the use of the form shall not be a prerequisite for the acceptance of the complaint. The prototype complaint form found on the Department of Education's Child Nutrition Program website may be used.

A.8 - B. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2197 (December 2001), amended LR 29:2034 (October 2003), LR 32:1430 (August 2006), LR 34:

§2111. Appendix

A. Sample: "...AND JUSTICE FOR ALL"

Appendix A. Sample "...AND JUSTICE FOR ALL"

...AND JUSTICE FOR ALL

In accordance with federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write USDA; Director, Office of Civil Rights; 1400 Independence Avenue, SW; Washington, D.C. 20250-9410 or (800) 795-3272 or (202) 720-6382 (TTY). USDA is an equal opportunity provider and employer.

Secretary of Agriculture

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2199 (December 2001), amended LR 34:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., September 8, 2008, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated costs (savings) to state or local governmental units. There will be no costs due to the fact the Bulletin will be on the website and can be downloaded.
The State Board of Elementary and Secondary Education estimated Cost for printing this policy change and first page of the fiscal and economic impact statement in the Louisiana Register is approximately \$68.00. Funds are currently budgeted for this purpose.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no estimated effect on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to directly affect persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Beth Scioneaux
Interim Deputy Superintendent
Management and Finance
0807#033

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities (LAC 28:XLIII.Chapter 9)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities*. The revision of Chapter 9, LEAP Alternate Assessments, is to meet federal requirements and establish guidelines for the participation of students with disabilities in alternate assessment who cannot participate in regular assessment. The criteria for alternate assessment are used in accountability, assessment, and pupil progression. Leap Alternate Assessment, Level 1 Participation Criteria has been revised to meet the requirements of the redesigned LEAP Alternate Assessment, Level 1.

Title 28 EDUCATION

Part XCVII. Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities

Chapter 9. LEAP Alternate Assessments

§901. Participation in Assessments

- A. All special education students must participate in statewide assessments.
- B. Students are to take the test that corresponds to the grade in which they are enrolled.
- C. The decision as to which test a student participates in is made on an annual basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3102 (December 2005), amended LR 34:

§903. Types of Alternate Assessments

A. LEAP Alternate Assessment, Level 1 (LAA 1) was developed for students with disabilities who are served under the Individuals with Disabilities Education Improvement Act (IDEA) for whom there is evidence that the student is functioning three or more standard deviations below the mean in cognitive functioning and/or adaptive behavior. Only students with the most significant cognitive disabilities are eligible to participate in LAA 1. A student with the exceptionality of Mental Disability—moderate, severe or profound; Multiple Disabilities; or another exceptionality that meets the criteria according to *Bulletin 1508—The Pupil Appraisal Handbook* may be considered to have a significant cognitive disability or functions like a student with a significant cognitive disability. LAA 1 is a performance based assessment designed for students whose instructional program is aligned with the Louisiana Extended Standards.

B. LEAP Alternate Assessment, Level 2 (LAA 2). The LAA 2 is a criterion-referenced test designed for students with persistent academic disabilities who are served under

the Individuals with Disabilities Education Improvement Act (IDEA) to participate in academic assessments that are sensitive to measuring progress in their learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3102 (December 2005), amended LR 34:

§905. Participation Criteria

A. LEAP Alternate Assessment, Level 1 (LAA1)

1. The student has a disability that significantly impacts cognitive function and/or adaptive behavior.

2. The student requires extensive modified instruction aligned with the Louisiana Extended Standards to acquire, maintain, and generalize skills.

3. The decision to include the student in LAA 1 is not solely based on the following:

- a. student's placement;
- b. excessive or extended absences;
- c. disruptive behavior;
- d. English language proficiency;
- e. student's reading level;
- f. student's disability according to Bulletin 1508;
- g. social, cultural, and/or economic differences;
- h. anticipated impact on school performance scores;
- i. administrative decision;
- j. expectation that the student will not perform well on the LEAP, iLEAP, GEE or LAA 2.

B. LEAP Alternate Assessment, Level 2 (LAA 2)

1. The student scored at the Unsatisfactory level in English language arts and/or mathematics on the previous year's LEAP/iLEAP/GEE or participated in the LAA 1 or LAA 2.

2. The student's IEP reflects a functioning grade level in English language arts (including reading) and/or mathematics at least three grade levels below the actual grade level in which he or she is enrolled.

3. The student's instructional program is predominately academic in nature, and may include application of academic content across environments to ensure generalization of skills.

4. The decision to test a student in LAA 2 is not based on a disability category.

5. The decision to test a student in LAA 2 is not based on placement setting.

6. The decision to test a student in LAA 2 is not determined administratively.

C. LAA 1 and LAA 2 Participation Criteria forms can be located in Bulletin 1530, Section 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3102 (December 2005), amended LR 33:434 (March 2007), LR 34:

§907. Test Accommodations

A. The assessment in which the student is to participate and any accommodations the student is to receive for instruction and assessment must be documented annually on the program/services page of the student's IEP.

B. Test accommodations cannot be different from or in addition to the accommodations indicated on the student's

IEP and provided in regular classroom instruction and assessment.

C. Test accommodations are described in Bulletin 118, Statewide Assessment Standards and Practices in Chapter 33.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3102 (December 2005), amended LR 34:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., September 8, 2008, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Department of Education is revising Louisiana's IEP Handbook for Students with Disabilities, Bulletin 1530, section 1 Chapter 9. LEAP Alternate Assessments, §901-§907. The only cost associated with this change is the preparation and printing of the document and that is projected to be approximately \$492.00. Publication can be accomplished via the Department's web site.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There will be no effect on competition or employment.

Elizabeth Scioneaux
Management and Finance
0807#032

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566—Pupil Progression Policies and Procedures
(LAC 28:28:XXXIX.503 and 1301)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1566—Pupil Progression Policies and Procedures* (LAC Part Number XXXIX). The revisions to *Bulletin 1566* reflect changes to the eighth grade promotion policy exceptions. The eighth grade waiver policy was modified to remove the restriction about when a student has to achieve their "approaching basic/approaching basic" combination in ELA and math to be eligible for the eighth grade policy waiver. The override policy was modified for 8th graders to include a "basic/unsatisfactory" consideration with additional criteria to be considered. Also included were some technical edits required by the Department's proofreader. The changes were necessary because BESE revised promotion policy exceptions related to eighth grade students.

**Title 28
EDUCATION**

**Part XXXIX. Bulletin 1566—Pupil Progression Policies
and Procedures**

Chapter 5. Placement Policies; State Requirements

§503. Regular Placement

A. - A.1.b.ii.(b). ...

c. Exceptions to this policy include:

i. Policy Override (Fourth and Eighth Grades)

(a). A given student scores at the "unsatisfactory" level in English Language Arts or Mathematics and scores at the "Mastery" or "Advanced" level in the other; and participates in the summer school and retest offered by the LEA. The decision to override is made in accordance with the local pupil progression plan, which may include referral to the School Building Level Committee (SBLC).

(b). (Eighth Grade Only). A given student scores at the "unsatisfactory" level in English language arts or mathematics and scores at the "basic" level in the other; participates in the summer school and retest offered by the LEA (in the "unsatisfactory" subject); scores "approaching basic" on the science and social studies components of LEAP; has an overall 2.5 grade point average on a 4.0 scale; and has a minimum 92 percent attendance during the school year. The decision to override is made in accordance with the local pupil progression plan, which may include referral to the School Building Level Committee (SBLC).

ii. - iii.(e). ...

(f). The principal and the School Building Level Committee (SBLC) must review student work samples and

attest that the student exhibits the ability to perform at or above the *basic* achievement level in the subject for which the appeal is being considered.

iv. - iv.(a). ...

(b). The student must retake the component(s) (English Language Arts and/or Mathematics) of the retest on which a score of "approaching basic" or below was attained on the spring test.

v. The student who has repeated the eighth grade may either be:

(a). retained again in the eighth grade;

(b). promoted to the ninth grade, provided that the student has scored at the "approaching basic" level on either the English language arts or mathematics component of LEAP, has attended the current year LEAP summer remediation program offered by the district in, at a minimum, the "unsatisfactory" subject, and has taken the summer retest administered at the conclusion of the summer program. If promoted with an "unsatisfactory" on the English language arts or mathematics component of LEAP, the student must enroll in and pass a high school remedial course in the "unsatisfactory" subject (English language arts or mathematics) before enrolling in or earning Carnegie credit for English or mathematics; or

v.(c). - x. ...

x. State-Granted Exceptions. A local school superintendent, a parent or guardian, or the State Department of Education may initiate a request for a State-granted waiver from the State Superintendent of Education on behalf of individual students who are not eligible for promotion because of LEA error or other unique situations not covered under extenuating circumstances. The Department of Education will provide information to the State Board of Elementary and Secondary Education detailing state-granted waivers. (Refer to Appendix B, Chapter 13.)

xi. In order to move students toward grade-level performance, LEAs shall design and implement additional instructional strategies for students in grades 3, 4, 7, and 8 who have been determined to be at risk of failing to achieve the "basic/approaching basic" combination on LEAP, and for fourth and eighth grade students being retained. The purpose of the additional instructional strategies is to move the students to grade-level proficiency by providing the following: focused intervention in the subject area(s) on which a student scored at the "approaching basic" and/or "unsatisfactory" level on the *i*LEAP; focused remediation in the subject area(s) on which they scored at the "approaching basic" and/or "unsatisfactory" level on LEAP; and ongoing instruction in the core subject areas using curricula based on State-level content standards and the Grade-Level Expectations.

xii. Summer remediation programs and end-of-summer retests must be offered by school systems at no cost to students who did not take the Spring LEAP tests or who failed to achieve the required level on LEAP. The LEA shall provide transportation to and from the assigned LEAP remediation summer site(s) from, at a minimum, a common pick-up point.

A.1.c.xii.(a). - D.1.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November

2000), amended LR 26:1433 (July 2000), LR 26:1576 (August 2000), LR 27:188 (February 2001), LR 27:1006 (July 2001), LR 27:1682 (October 2001), LR 29:123 (February 2003), LR 30:407 (March 2004), LR 31:1974 (August 2005), LR 31:3103 (December 2005), LR 33:2063 (October 2007), LR 34:

Chapter 13. Appendix B

§1301. LEAP High Stakes Testing Policy

A. - A.2. ...

3. LEAs shall offer a minimum of 50 hours per subject of summer remediation and retest opportunities in English language arts and mathematics at no cost to students who did not take the spring LEAP tests or who scored "approaching basic" and/or "unsatisfactory" on the English language arts and/or mathematics component(s) on the spring tests. The LEA shall provide transportation to and from the assigned LEAP remediation summer site(s) from, at a minimum, a common pick-up point.

a. A student who failed to achieve the "basic/approaching basic" combination is not required to attend the LEA-offered LEAP summer remediation program in order to be eligible for the summer retest.

b. All students with disabilities who participate in LEAP should receive services along with regular education students in summer remediation programs, with special supports provided as needed.

c. Students with disabilities who participate in LEAP Alternate Assessment, Level 1 (LAA1), are not eligible to attend the LEAP summer remediation programs.

d. Students with disabilities who participate in LEAP Alternate Assessment, Level 2 (LAA2), are eligible to attend LEAP summer remediation programs.

4. In order to move students toward grade level performance, LEAs shall design and implement additional instructional strategies for students in grades 3, 4, 7, and 8 who have been determined to be at risk of failing to achieve the "basic/approaching basic" combination on LEAP, and for fourth and eighth grade students being retained. The purpose of the additional instructional strategies is to move the students to grade-level proficiency by providing the following:

a. focused instruction in the subject area(s) on which a student scored at the "approaching basic" and/or "unsatisfactory" level on iLEAP;

b. focused remediation for those fourth and eighth grade students repeating the grade as a result of failing ELA and/or math on the LEAP;

c. ongoing instruction in the core subject areas using curricula based on state-level content standards and the grade-level expectations.

5. - 5.a.iii.(c). ...

(d). The student must have taken the LEAP retest given after the LEAP summer remediation program has been concluded.

(e). The student must have met state-mandated attendance regulations during the regular school year and any locally mandated regulations during the summer remediation program.

(f). The principal and the School Building Level Committee (SBLC) must review student work samples and attest that the student exhibits the ability to perform at or above the *basic* achievement level in the subject for which the appeal is being considered.

iv. LEAP Testing

(a). Students retained in the fourth grade shall retake all four components of LEAP.

b. Grade 8

i. A student may not be promoted to the ninth grade until he or she has scored at or above the "basic" achievement level on either the English language arts or mathematics component on the eighth grade LEAP and at the "approaching basic" achievement level on the other.

ii. After the summer retest, a school system, through its superintendent, may consider a waiver for an eighth grade student who has scored at the "approaching basic" level on both the English language arts and mathematics components of LEAP. The LEA may grant the waiver in accordance with the local pupil progression plan provided the following criteria are met.

(a). The student may be promoted to the ninth grade, provided that he or she has scored at the "approaching basic" level on both the English language arts and mathematics components of LEAP, has attended the LEAP summer remediation program offered by the district, and has taken the summer retest administered at the conclusion of the summer program.

(b). The student must retake the component(s) (English language arts and/or mathematics) of the retest on which a score of "approaching basic" or below was attained on the spring test.

iii. The student who has repeated the eighth grade may be either:

(a). retained again in the eighth grade;

(b). promoted to the ninth grade, provided that the student has scored at the "approaching basic" level on either the English language arts or mathematics component of LEAP, has attended the current year LEAP summer remediation program offered by the district in, at a minimum, the "unsatisfactory" subject, and has taken the summer retest administered at the conclusion of the summer program. If promoted with an "unsatisfactory" on the English language arts or mathematics component of LEAP, the student must enroll in and pass a high school remedial course in the "unsatisfactory" subject (English language arts or mathematics) before enrolling in or earning Carnegie credit for English or mathematics; or

(c). placed in the Pre-GED/Skills Options Program that shall be available to students who meet criteria as outlined in *Bulletin 741—Louisiana Handbook for School Administrators*, §2907.

iv. LEAP Testing

(a). Students repeating the eighth grade will retake all four components of LEAP.

(b). Students in the Pre-GED/Skills Options Program will take the ninth grade iLEAP.

6. Exceptions to the high stakes Testing policy:

a. Policy Override (Fourth and Eighth Grades)

i. The local school system (LEA) may override the state policy for students scoring at the "unsatisfactory" level in English language arts or mathematics, if the student scores at the "mastery" or "advanced" level in the other, provided that:

(a). the decision is made in accordance with the local pupil progression plan, which may include a referral to the School Building Level Committee (SBLC);

(b). the student has participated in both the spring and summer administrations of LEAP and has attended the summer remediation program offered by the LEA (the student shall participate in the summer retest only on the subject that he/she scored at the "unsatisfactory" achievement level during the spring test administration); and

(c). parental consent is granted.

ii. Policy Override (Eighth Grade only) The local school system (LEA) may override the state policy for eighth grade students scoring at the "unsatisfactory" level in English language arts or mathematics, if the student scores at the "basic" level in the other, provided that the following criteria are met:

(a). the student scored "approaching basic" or above on the science and social studies components of LEAP;

(b). the student had an overall 2.5 grade point average on a 4.0 scale;

(c). the student had a minimum 92 percent attendance during the school year;

(d). the decision is made in accordance with the local pupil progression plan, which may include a referral to the School Building Level Committee (SBLC);

(e). the student has participated in both the spring and summer administrations of LEAP and has attended the summer remediation program offered by the LEA (the student shall participate in the summer retest only on the subject that he/she scored at the "unsatisfactory" achievement level during the spring test administration); and

(f). parental consent is granted.

(g). If a student meets the criteria for this override, and is promoted with an "unsatisfactory," the student must enroll in and pass a high school remedial course in the "unsatisfactory" subject before enrolling in or earning Carnegie credit for English or mathematics.

b. - d.iii.(c).(ii). ...

(iii). are not eligible for a retest. These students may be eligible for the policy override, the fourth grade appeal, or the eighth grade waiver in accordance with the local Pupil Progression Plan;

(d). students who meet the criteria for extenuating circumstances under the *physical illness, chronic physical condition, or court-ordered custody category* related to LEAP; and

(e). who are unable to participate in the spring testing and/or summer remediation, including the provision of remediation through hospital/home bound instruction, are required to take the LEAP summer retest. These students may be eligible for the policy override, the fourth grade appeal, or the eighth grade waiver in accordance with the local pupil progression plan.

e. State-Granted Exception

i. A local school superintendent, a parent or guardian, or the State Department of Education may initiate a request for a State-granted waiver from the State Superintendent of Education on behalf of individual students who are not eligible for promotion because of LEA error or other unique situations not covered under extenuating circumstances.

ii. The Department of Education will provide a report to the State Board of Elementary and Secondary Education detailing State-granted waivers.

6.e.iii. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:1008 (July 2001), amended LR 27:1683 (October 2001), LR 28:1189 (June 2002), LR 29:123 (February 2003), LR 30:409 (March 2004), LR 31:1976 (August 2005), LR 31:3104 (December 2005), LR 33:2064 (October 2007), LR 34:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule?

Interested persons may submit written comments until 4:30 p.m., September 8, 2008, to: Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 1566—Pupil Progression Policies and Procedures**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The revisions to the policy relate to changes to the eighth grade promotion exceptions in the High Stakes Testing Policy approved by the State Board of Elementary and Secondary Education. The implementation of the revisions requires no cost or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
0807#031

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Disease Reporting Requirements, Reportable Diseases and
Conditions (LAC 51:II.101 and 105)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health pursuant to the authority in R.S. 40:5, proposes to amend Title 51, Part II, Chapter 1 providing for the control of diseases and disease reporting requirements. The proposed changes below represent upgrades to the present Sanitary Code to accommodate new diseases and conditions of public health concern. The proposed changes to the Sanitary Code include additions and amendments to the list of Reportable Diseases and Conditions.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part II. The Control of Diseases

Chapter 1. Disease Reporting Requirements

§101. Definitions

[formerly paragraph 2:001]

A. ...

Carbon Monoxide—carbon monoxide (CO) is a colorless, odorless, poisonous gas produced through incomplete combustion of carbon-based fuels, including gasoline, oil, and wood.

Case of Carbon Monoxide Exposure—any medical condition/visit resulting from carbon monoxide exposure as determined from the exposure history or patient statement and/or injury resulting from inhalation contact with carbon monoxide. Laboratory test results for carbon monoxide includes results of carboxyhemoglobin tests (blood samples), regardless of test result.

AUTHORITY NOTE: The first source of authority for promulgation of the sanitary code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the specific provisions of R.S. 40:4(A)(2) and R.S. 40:5(1)(2) and (10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:1050 (June 2006), LR 34:

§105. Reportable Diseases and Conditions

[formerly paragraph 2:003]

A. The following diseases or conditions are hereby declared reportable with reporting requirements by Class.

1. - 3.a.xxxiv.

4. Class D Special Reportable Diseases or Conditions Shall Require Reporting within Five Business Days.

a. This class shall include the diseases of significant public health concern. The following diseases/conditions shall be reported to the Office of Public Health by the end of the workweek after the existence of a case, suspected case, or a positive laboratory result is known:

- i. cancer;
- ii. monoxide exposure and / or poisoning;
- iii. complications of abortion;

- iv. congenital hypothyroidism³;
- v. galactosemia³;
- vi. heavy metal (arsenic, cadmium, mercury) exposure and/or poisoning (all ages);
- vii. hemophilia³;
- viii. lead exposure and/or poisoning (all ages)³;
- ix. pesticide-related illness or injury (all ages);
- x. phenylketonuria³;
- xi. Reye's Syndrome;
- xii. severe traumatic head injury;
- xiii. severe under nutrition (severe anemia, failure to thrive);
- xiv. sickle cell disease (newborns)³;
- xv. spinal cord injury;
- xvi. sudden infant death syndrome (SIDS).

B. Case reports not requiring special reporting instructions (see below) can be reported by confidential disease report forms (2430), facsimile, phone reports or through the Office of Public Health's electronic reportable disease database: <https://ophrdd.dhh.state.la.us>.

- 1. ¹Report on STD-43 form. Report cases of syphilis with active lesions by telephone.
- 2. ²Report on CDC72.5 (f.5.2431) card.
- 3. ³Report to the Louisiana Genetic Diseases Program and Louisiana Childhood Lead Poisoning Prevention Programs.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:1050 (June 2006), LR 34:

All interested persons are invited to submit written comments on the proposed regulations. Such comments must be received no later than August 22, 2008, at 4:30 p.m., and should be sent to Adrienne Katner, Dept. of Health and Hospitals, Office of Public Health, Section of Environmental Epidemiology and Toxicology, P.O. Box 60630, New Orleans, LA 70160, or by telephoning 504-219-4784 and facsimile 504-219-4582.

Alan Levine
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Disease Reporting Requirements,
Reportable Diseases and Conditions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The purpose of this rule is to amend Title 51, Part II, Chapter 1 of the Louisiana Public Health Sanitary code to add Carbon Monoxide Exposure and/or Poisoning to the list of reportable diseases and conditions.

To implement this rule change, the Department of Health and Hospitals, Office of Public Health will have to upgrade the online reporting system; however this will not result in any additional costs because OPH already has a contract in place for system upgrades. The only cost anticipated is \$328 for printing the Notice of Intent and the Rule in the *Louisiana Register*. The agency has sufficient funds to cover this cost.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state or local governments will not be affected by this proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes will increase the number of diseases/conditions that providers must report during their pre-established reporting systems; however, since reporting systems for health care providers are already in place, no additional costs are anticipated. This rule change is beneficial to the public because it enables public health officers to investigate cases of carbon monoxide poisoning, thus preventing on-going exposure and health care problems associated with these types of diseases.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment anticipated by this proposed rule change.

M. Rony Francois, MD, MSPH, PhD
Assistant Secretary
0807#089

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

**Lead Poisoning Prevention Program
(LAC 48:V.7005-7009)**

Under the authority of R.S. 40:5 and 40:1299.21, 22, 23 and in accordance with the Administrative Procedure Act, R.S. 49: 950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to amend LAC 48:V.7005, 7007 and 7009.

The proposed Rule extends the designation of the area high risk for childhood lead poisoning from Morehouse, Orleans, Tensas and West Carroll to all parishes in the state of Louisiana and it updates case reporting requirements for medical providers. This Rule was determined to be medically necessary pursuant to a review of surveillance data by the State Health Officer and representatives of Louisiana's medical schools. Reporting requirements for health care providers and laboratories are also amended to be consistent with changes occurring after Hurricane Katrina.

Title 48

PUBLIC HEALTH—GENERAL

Part V. Public Health Services

Subpart 19. Genetic Diseases Services

Chapter 70. Lead Poisoning Prevention Program

§7005. Mandatory Blood Lead Screening of Children in High Risk Geographical Areas

A. Based on surveillance data gathered by the State Childhood Lead Poisoning Prevention Program and review by the State Health Officer and representatives from medical schools in the state, all parishes are identified as high risk for lead poisoning.

B. Medical providers providing routine primary care services to children ages 6 months to 72 months residing or spending more than 10 hours per week in these parishes must have such children screened in accordance to practices consistent with current Center for Disease Control and

Prevention guidelines, which include the following specifications:

1. administration of a risk assessment questionnaire at every well baby visit;
2. use a blood lead test to screen all children at ages 12 months and at 24 months or at any time from ages 36 months to 72 months, if they have not been previously screened;
3. blood lead levels >15µg/dl obtained from finger stick samples will be confirmed using a venous blood sample.

C. Identified high-risk areas will be assessed annually and any additions or deletions will be provided through amendment of LAC 48:V.7005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., and under the authority of R.S. 40:5, 40:1299.21, 40:1299.22, 40:1299.23, and 40:1299.25.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 31:1588 (July 2005), amended LR 34:

§7007. Mandatory Case Reporting by Health Care Providers

A. Medical providers must report a lead case, which is indicated by a blood lead test result of >15µg/dl (micrograms per deciliter), to the Childhood Lead Poisoning Prevention Program, Office of Public Health within 24 working hours to ensure appropriate and timely follow-up. All health care providers shall assure that all the following information is submitted to the testing laboratory with all ordered blood lead samples for analysis and/or submitted with all lead case reports to the Lead Poisoning Prevention Program:

1. child's name;
2. parent's or the guardian's name;
3. child's street and mailing address, including the city state, parish, and zip code;
4. child's date of birth;
5. child's sex;
6. child's race;
7. child's national origin;
8. child's social security number;
9. phone number where child's parent(s) or guardian can be reached;
10. Medicaid number if child is an enrolled recipient;
11. type of sample (venous or capillary);
12. sample collection date
13. type of test: first, annual, or repeat test;
14. blood lead level results documented in micrograms per deciliter (µg/dl).

B. Lead cases, along with the specified information shall be reported within 24 business hours by fax to the Lead Poisoning Prevention Program, Office of Public Health at 504/219-4452 and the original lead case reporting form shall be mailed within five business days to the Louisiana Lead Poisoning Prevention Program Office at 3101 W. Napoleon Ave, Metairie, LA 70001.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., and under the authority of R.S. 40:5; 40:1299.21; 40:1299.22, 40:1299.23, and 40:1299.25.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 26:85, (January 2000); amended LR 27:52 (January 2001); LR 31:1588 (July 2005), LR 34:

§7009. Reporting Requirements of Blood Lead Levels by Laboratories and by Health Care Providers Performing Office-Based Blood Lead Analyses for Public Health Surveillance

A. Health care providers who conduct blood lead level screenings using a CLIA-waived blood lead analysis device to determine blood lead levels and clinical laboratories responsible for conducting analysis to determine blood lead levels for health care providers and/or for referring laboratories, shall also report all results to the Louisiana Lead Poisoning Prevention Program by electronic transmission in a format consistent with the CDC guidelines for uniform reporting of blood lead results to state and local health departments as available at <http://lcweb2.loc.gov/lasw/usa/1710299992p1106-310.pdf>.

B. The following information is required and essential for appropriate monitoring, screening and treatment of lead poisoning.

1. All results of blood lead testing for children under 72 months of age must be reported regardless of the test results

2. All laboratories responsible for directly conducting blood lead level analyses and laboratories responsible for referring the analysis to another laboratories must collect all the information specified in items under §7007.A.1-14.from the health care provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., and under the Authority of R.S. 40:5; 40:1299.21; 40:1299.22, 40:1299.23, and 40:1299.25.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 26:85, (January 2000); amended LR 27:52 (January 2001); LR 31:1588 (July 2005), LR 34:

Family Impact Statement

The proposed Rule should have an overall positive impact on the stability, authority, functioning, behavior and personal responsibility of the family unit in that the Rule would ensure that all Louisiana children at risk are screened for lead poisoning and provided timely care if needed. If detection and treatment are delayed, serious learning disabilities and seizures can result.

A public hearing will be held on August 27, 2008 at 10 a.m. in the 2nd Floor Conference Room of the Office of Public Health Laboratory Building located at 3101 W Napoleon in Metairie, LA 70001. Interested persons may submit written comments on the proposed Rule until August 22, 2008, to Colleen Clarke, Coordinator of the Louisiana Childhood Lead Poisoning Prevention Program (LACLPPP), Office of Public Health/DHH, by e-mail to cclarke@dhh.la.gov or by fax to 504/219-4452.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Lead Poisoning Prevention Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule extends the designation of high-risk areas for childhood lead poisoning from Morehouse, Orleans, Tensas and West Carroll to all parishes in the state of Louisiana to provide universal screening for all children who are one and two years old. The rule also updates case reporting requirements for medical providers. This rule was determined to be medically necessary pursuant to a review of surveillance data by the State Health Officer and representatives of Louisiana's medical schools.

The Department of Health and Hospitals, Office of Public Health (OPH) has determined that there are an additional 49,618 Medicaid-eligible children that would require the blood-lead screening test based on the 2006 Medicaid roster at a cost of \$14.22 per test; therefore, the total cost to implement this rule in FY 08-09 is \$706,224 (\$211,621 SGF/\$494,603 Title 19 Medicaid), which includes \$656 for publishing the Notice of Intent and Rule in the *Louisiana Register*. The cost in FY 2009-10 and 2010-11 is \$705,568 (\$210,965 SGF/\$494,603 Title 19 Medicaid). The agency has sufficient funding in the Medicaid program to cover this cost.

Although, it is anticipated that private providers will do the majority of the blood lead testing, OPH anticipates that there could be some minimum costs for testing done by OPH contracted labs for non-Medicaid eligible uninsured children. In addition, OPH may incur some minimum costs for provider education, enforcement, and surveillance activities that will be absorbed in the agency's FY 2008-09 budget.

The Office of Group Benefits (OGB) anticipates that this rule will increase testing for plan member populations but cannot determine if the impact will be minimal or significant because the cost will depend on the number of additional children that get tested. There are currently 4,079 plan members under the age of two. For FY 07-08 OGB paid approximately \$6,280 for 289 claims for lead poisoning tests on plan members in the zero to six-year old age group.

This Rule will also result in local costs to the City of New Orleans Health Units for the additional testing. The amount is indeterminable but the cost is expected to be minimal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Medicaid Program will draw down approximately \$494,603 of federal matching funds to cover the cost of additional tests. No other revenue collections are anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Parents, guardians, and medical insurance carriers of non-Medicaid children being screened for lead poisoning will probably incur the cost of the test ranging from \$16 to \$25. However, early screening with timely follow-up will prevent the neurological, behavioral and cognitive problems associated with childhood lead poisoning and the high long-term costs of special services to address these problems.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated by this proposed rule.

M. Rony Francois, MD, MSPH, PhD
Assistant Secretary
0807#089

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Adult Residential Care Providers—Minimum Licensing Standards (LAC 48:I.Chapter 68)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 48:I.Chapter 68 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2163.1-2163.8, and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

Act 433 of the 2006 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals to adopt provisions governing licensing standards and the facility need review process for adult residential care providers (ARCP). In compliance with the directives of Act 433, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt provisions governing the minimum licensing standards for ARCP.

Title 48

PUBLIC HEALTH—GENERAL

Part 1. General Administration

Subpart 3. Licensing and Certification

Chapter 68. Adult Residential Care Providers Licensing Standards

Subchapter A. General Provisions

§6801. Introduction

A. These rules and regulations contain the minimum licensure standards for Adult Residential Care Providers, pursuant to R.S. 40:2163.1 - 2163.8.

B. An adult residential care provider (ARCP) serves individuals in a congregate setting in their own apartments. An ARCP is operational 24 hours per day, seven days per week.

C. An ARCP provides adult residential care for two or more adults who are unrelated to the licensee or the operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6803. Definitions

Abuse—the infliction of physical or mental injury or the causing of the deterioration of a resident by means including, but not limited to, sexual abuse, exploitation, or extortion of funds or other things of value to such an extent that the resident's health, moral, or emotional well-being is endangered.

Activities of Daily Living—Activities of daily living include, but are not limited to, ambulating, transferring, grooming, bathing, dressing, eating and toileting.

Administrator—the person who is in charge of the daily operation of the facility.

Adult Residential Care Service Plan—a written description of the functional capabilities of an individual, the

individual's need for personal assistance and the services to be provided to meet the individual's needs.

Adult Residential Care Provider (ARCP)—any facility, agency, institution, society, corporation, partnership, company, entity, residence, person or persons, or any other group, whether public or private, that provides residential living units and provides adult residential care services for compensation to two or more adults who are unrelated to the facility owner or director.

1. An ARCP shall be licensed by the Louisiana Department of Health and Hospitals to provide all services required of an adult residential care provider.

Adult Residential Care Services—a coordinated array of supportive personal services, 24-hour supervision and assistance, both scheduled and unscheduled assistance, activities, and health related services designed to accommodate an individual resident's changing needs and preference.

Aging in Place—allowing residents to receive necessary support services in response to changing needs and circumstances without having to move from one's present residence, provided such services are within the parameters of these licensing standards.

Alzheimer's Special Care Unit (ASCU)—a separate and distinct unit within an ARCP or other long term care facility that segregates and provides a special program for residents who have a diagnosis of probable Alzheimer's disease or related dementia, and that advertises, markets or otherwise promotes the facility as providing specialized Alzheimer's or related dementia care services.

Chemical Restraint—a psychopharmacologic drug that is not used for discipline or convenience and not required to treat medical symptoms.

Common Area (Space)—the interior congregate space(s) made available for the free and informal use by residents or the guests of the ARCP. Common areas may include dining rooms, activity rooms, library, and other areas exclusive of resident's rooms and bathrooms.

Department—the Louisiana Department of Health and Hospitals.

Direct Care Staff—any staff acting on behalf of, employed by, or contracted by the ARCP facility, to provide direct care services or assistance to residents. This includes activities of daily living and tasks related to medication administration or assistance. Direct care staff may include, but is not limited to a:

1. registered nurse;
2. licensed practical nurse;
3. certified nursing assistant; and
4. direct service worker.

Health Care Services—any service provided to a resident by an ARCP or third-party provider and required to be provided or delegated by a licensed, registered or certified health care professional. Any other service, whether or not ordered by a physician, that is not required to be provided by a licensed, registered or certified health care professional is not to be considered a health care service.

House Rules—any written and posted statements addressing house activities in an ARCP that must be in compliance with ARCP regulations or other Louisiana regulatory authority, but are specific to the ARCP dwelling

(e.g. pet policy, non-smoking policy). Residents should be made aware of these rules prior to admission to the ARCP.

Incident—any occurrence, situation or circumstance affecting the health, safety or well-being of a resident or residents.

Instrumental Activities of Daily Living (IADLs)—instrumental, essential activities for persons, but are not usually considered as basis or vital activities of daily living, and may not be daily activities. Such activities would include, but are not limited to:

1. socialization;
2. managing personal affairs;
3. financial management;
4. shopping;
5. housekeeping;
6. appropriate transportation;
7. correspondence; and
8. behavior and health management.

Intermittent nursing care—care that is provided episodically, irregularly or for a limited period of time by licensed nursing staff. Examples include:

1. episodic—dressing changes and treatment for a recurring leg ulcer for a diabetic resident;
2. irregularly—monitoring blood sugar levels by finger stick when a change in the resident's mental status is noted; and
3. limited time period—blood pressure checks daily or weekly for two weeks.

Neglect—the failure to provide the proper or necessary medical care, nutrition, or other care necessary for a resident's well-being.

Negotiated Risk—the process of balancing resident choice and independence with the health and safety of the resident or other persons in the facility or program.

Personal Care Services—services that directly help a resident with certain activities of daily living such as:

1. assistance with mobility and transfers;
2. assistance with meal consumption;
3. grooming;
4. shaving;
5. trimming or shaping fingernails and toenails;
6. bathing;
7. dressing;
8. personal hygiene;
9. bladder and bowel requirements, including incontinence; or
10. self-assistance with medication to the extent permitted by law or regulation.

Personal Representative—a person who represents the interests of the applicant who is not capable of self-direction. The function of the personal representative is to accompany, assist, and represent the applicant in the program evaluation process, and to aid in obtaining all necessary documentation for the agency's evaluation for services.

Physical Restraint—any physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the individual cannot remove easily, and which restricts freedom of movement or normal access to one's body and is not used as an assistive device.

Renovation—cosmetic changes to the existing facility including, but not limited to:

1. painting;
2. replacement or repair of carpet, tile or linoleum; and
3. minor repairs.

Residential Living Unit—a separate apartment or unit providing a private residential area, which includes living space, sleeping space, kitchen area, bathroom, and adequate storage areas.

Substantial Rehabilitation—any rehabilitation that involves structural changes in which hard costs are equal to or exceed the per unit cost for substantial rehabilitation as defined by the Louisiana Housing Finance Agency.

Visually and Functionally Distinct Area—a space that can be distinguished by sight from other areas within the apartment. A visually and functionally distinct area need not be a separate room. To create a visually distinct area, one or more of the following methods must be employed:

1. change in ceiling height;
2. separation by ceiling soffit(s) or wall returns;
3. change in flooring color;
4. partial height partitions or counters;
5. use of alcoves; or
6. use of permanent screening devices such as columns or fixed screens.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6805. Licensure Requirements

A. All ARCP facilities shall be licensed by the Department of Health and Hospitals (DHH). DHH is the only licensing authority for ARCP facilities in the State of Louisiana. It shall be unlawful to operate an ARCP facility without possessing a current, valid license issued by DHH. The license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the ARCP facility to which it is issued and only for the specific geographic address of that facility;
3. be valid for one year from the date of issuance, unless revoked, suspended, modified, or terminated prior to that date, or unless a provisional license is issued;
4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the ARCP;
5. not be subject to sale, assignment, donation, or other transfer, whether voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

B. In order for the ARCP facility to be considered operational and retain licensed status, the facility shall meet the following conditions.

1. The ARCP shall always have at least one employee on duty at the business location 24 hours per day, seven days per week.
2. There shall be staff employed and available to be assigned to provide care and services to residents at all times.

3. The ARCP shall have admitted at least two residents in the preceding 12 months prior to their licensure renewal survey.

C. The licensed ARCP shall abide by and adhere to any state law, rules, policy, procedure, manual, or memorandums pertaining to ARCP facilities.

D. A separately licensed ARCP shall not use a name which is substantially the same as the name of another ARCP licensed by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6807. Initial Licensure Application Process

A. An initial application for licensing as an ARCP shall be obtained from the department. A completed initial license application packet for an ARCP shall be submitted to and approved by DHH prior to an applicant providing ARCP services. An applicant shall submit a completed initial licensing packet to DHH, which shall include:

1. a completed ARCP licensure application and the non-refundable licensing fee as established by statute;
2. a copy of the approval letter of the architectural facility plans from the DHH Department of Engineering and Architectural Services and the Office of the State Fire Marshal;
3. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal;
4. a copy of the health inspection report with approval of occupancy from the Office of Public Health;
5. a copy of criminal background checks on all owners;
6. proof of financial viability entails:
 - a. verification of sufficient assets equal to \$100,000 or the cost of three months of operation, whichever is less; or
 - b. a letter of credit equal to \$100,000 or the cost of three months of operation, whichever is less.
7. proof of general and professional liability insurance of at least \$300,000;
8. proof of worker's compensation insurance;
9. if applicable, Clinical Laboratory Improvement Amendments (CLIA) certificate or CLIA certificate of waiver;
10. a completed disclosure of ownership and control information form;
11. a floor sketch or drawing of the premises to be licensed;
12. the days and hours of operation; and
13. any other documentation or information required by the department for licensure.

B. If the initial licensing packet is incomplete, the applicant will be notified of the missing information and will have 90 days to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ARCP provider shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

C. Once the initial licensing application packet has been approved by DHH, the ARCP applicant shall notify DHH of readiness for an initial licensing survey within 90 days. If an applicant fails to notify DHH of readiness for an initial licensing survey within 90 days, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ARCP provider shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

D. Applicants must be in compliance with all appropriate federal, state, departmental, or local statutes, laws, ordinances, rules, regulations and fees before the ARCP will be issued an initial license to operate by DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6809. Initial Licensing Surveys

A. Prior to the initial license being issued to the ARCP provider, an initial licensing survey shall be conducted on-site at the ARCP facility to assure compliance with ARCP licensing standards. No resident shall be provided services by the ARCP until the initial licensing survey has been performed, the ARCP found in compliance and the initial license issued to the ARCP by DHH.

B. In the event that the initial licensing survey finds that the ARCP facility is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

C. In the event that the initial licensing survey finds that the ARCP facility is noncompliant with any licensing laws or regulations that present a potential threat to the health, safety, or welfare of the participants, the department shall deny the initial license.

D. In the event that the initial licensing survey finds that the ARCP facility is noncompliant with any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety, or welfare of the participants, the department shall deny the initial license.

E. In the event that the initial licensing survey finds that the ARCP facility is noncompliant with any licensing laws or regulations, but the department in its sole discretion determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the department may issue a provisional initial license for a period not to exceed six months. The provider shall submit a plan of correction to DHH for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, then a full license will be issued. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional license will expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

F. In the event that the initial licensing survey finds that the ARCP facility is noncompliant with any required

statutes, laws, ordinances, rules or regulations, but the department in its sole discretion determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the department may issue a provisional initial license for a period not to exceed six months. The provider shall submit a plan of correction to DHH for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, then a full license will be issued. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional license will expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

G. When issued, the initial ARCP license shall specify the maximum number of beds and units that are licensed to the ARCP.

H. The initial licensing survey of an ARCP provider shall be an announced survey. Follow-up surveys to the initial licensing surveys are not announced surveys.

I. Once an ARCP has been issued an initial license, the department shall conduct licensing and other surveys at intervals deemed necessary by DHH to determine compliance with licensing standards and regulations, as well as other required statutes, laws, ordinances, rules, regulations, and fees; these surveys shall be unannounced.

1. A plan of correction will be required from an ARCP for any survey where deficiencies have been cited. Such plan of correction shall be approved by DHH.

2. A follow-up survey shall be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

3. The department may issue appropriate sanctions, including, but not limited to:

- a. civil monetary penalties;
- b. directed plans of correction; and
- c. license revocations for deficiencies and noncompliance with any licensing survey.

J. DHH surveyors and staff shall be given access to all areas of the facility and all relevant files during any licensing or other survey. DHH surveyors and staff shall be allowed to interview any provider staff or participant as necessary to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6811. Types of Licenses and Expiration Dates

A. The department shall have the authority to issue the following types of licenses:

1. In the event that the initial licensing survey finds that the ARCP is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

2. In the event that the initial licensing survey finds that the ARCP is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances,

rules, regulations or fees, the department is authorized to issue a provisional initial license pursuant to the requirements and provisions of these regulations.

3. The department may issue a full renewal license to an existing licensed ARCP provider who is in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

4. The department, in its sole discretion, may issue a provisional license to an existing licensed ARCP provider for a period not to exceed six months, for the following reasons:

- a. the existing ARCP provider has more than five deficient practices or deficiencies cited during any one survey
- b. the existing ARCP provider has more than three validated complaints in one licensed year period;
- c. the existing ARCP provider has been issued a deficiency that involved placing a participant at risk for serious harm or death;
- d. the existing ARCP provider has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey; or
- e. the existing ARCP provider is not in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules regulations and fees at the time of renewal of the license.

5. When the department issues a provisional license to an existing licensed ARCP provider, the department shall conduct an on-site follow-up survey at the ARCP provider prior to the expiration of the provisional license. If that on-site follow-up survey determines that the ARCP provider has corrected the deficient practices and has maintained compliance during the period of the provisional license, then the department may issue a full license for the remainder of the year until the anniversary date of the ARCP license. If that on-site follow-up survey determines that the ARCP has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional license shall expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

B. If an existing licensed ARCP provider has been issued a notice of license revocation, suspension, or termination, and the provider's license is due for annual renewal, the department shall deny the license renewal application.

1. If a timely administrative appeal has been filed by the provider regarding the license revocation, suspension, or termination, the administrative appeal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the administrative tribunal or department issues a decision on the license revocation, suspension, or termination.

2. If the secretary of the department determines that the violations of the facility pose an imminent or immediate threat to the health, welfare, or safety of a participant, the imposition of such action may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the facility will be notified in writing.

3. The denial of the license renewal application does not affect in any manner the license revocation, suspension, or termination.

C. The renewal of a license does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the provider.

D. The license for an ARCP shall be valid for one year from the date of issuance, unless revoked, suspended, modified, or terminated prior to that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6813. Changes in Licensee Information or Personnel

A. An ARCP license shall be valid only for the person or entity named in the license application and only for the specific geographic address listed on the license application.

B. Any change regarding the ARCP's entity name, doing business as name, geographical address, mailing address, phone number, or any combination thereof, shall be reported in writing to DHH five days prior to the change.

C. Any change regarding the ARCP's key administrative personnel shall be reported in writing to DHH within 10 days of the change.

1. Key administrative personnel include the:

- a. administrator;
- b. assistant administrator;
- c. manager; and
- d. clinical director of nursing.

2. The facility's notice to DHH shall include the individual's:

- a. name;
- b. address;
- c. hire date; and
- d. qualifications.

D. A change of ownership (CHOW) of the ARCP shall be reported in writing to the department within five days of the change of ownership. The license of an ARCP is not transferable or assignable; the license of an ARCP cannot be sold. The new owner shall submit the legal CHOW document, all documents required for a new license, and the applicable licensing fee. Once all application requirements are completed and approved by DHH, a new license shall be issued to the new owner.

E. If the ARCP changes its name without a change in ownership, the ARCP shall report such change to DHH in writing five days prior to the change. The change in the ARCP name requires a change in the ARCP license. There is a \$25 fee for a name change and license.

F. Any request for a duplicate license shall be accompanied by a \$10 fee.

G. An ARCP that will be holding medications for residents and not stocking controlled dangerous substances will not be required to make application for a controlled dangerous substance (CDS) license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6815. Renewal of License

A. License Renewal Application. The ARCP provider shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. The license renewal application packet shall include:

1. the license renewal application;
2. the days and hours of operation;
3. a current fire inspection report;
4. a current health inspection report;
5. the license renewal fee; and
6. any other documentation required by the department.

B. The Department may perform an on-site survey and inspection upon annual renewal of a license.

C. Failure to submit to DHH a completed license renewal application packet prior to the expiration of the current license will result in the voluntary non-renewal of the ARCP license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6817. Denial of License, Revocation of License, Denial of License Renewal

A. The department may deny an application for a license, may deny a license renewal or may revoke a license in accordance with the provisions of the Administrative Procedure Act.

B. Denial of a Initial License

1. The department shall deny an initial license in the event that the initial licensing survey finds that the ARCP is noncompliant with any licensing laws or regulations that present a potential threat to the health, safety, or welfare of the residents.

2. The department shall deny an initial license in the event that the initial licensing survey finds that the ARCP is noncompliant with any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety, or welfare of the residents.

3. The department shall deny an initial license for any of the reasons in this §6817.D that a license may be revoked or non-renewed.

C. Voluntary Non-Renewal of a License

1. If a provider fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the provider.

D. Revocation of License or Denial of License Renewal. An ARCP license may be revoked or may be denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the ARCP licensing laws, rules and regulations;
2. failure to be in substantial compliance with other required statutes, laws, ordinances, rules, or regulations;
3. failure to comply with the terms and provisions of a settlement agreement or education letter;

4. failure to uphold resident rights whereby deficient practices may result in harm, injury, or death of a resident;

5. failure to protect a resident from a harmful act of an employee or other resident including, but not limited to:

- a. abuse, neglect, exploitation, or extortion;
- b. any action posing a threat to a resident's health and safety;
- c. coercion;
- d. threat or intimidation; or
- e. harassment;

6. failure to notify the proper authorities of all suspected cases of neglect, criminal activity, mental or physical abuse, or any combination thereof;

7. knowingly making a false statement in any of the following areas, including but not limited to:

- a. application for initial license or renewal of license;
- b. data forms;
- c. clinical records, resident records, or provider records;
- d. matters under investigation by the department or the Office of the Attorney General; or
- e. information submitted for reimbursement from any payment source;

8. knowingly making a false statement or providing false, forged, or altered information or documentation to DHH employees or to law enforcement agencies;

9. the use of false, fraudulent or misleading advertising;

10. fraudulent operation of an ARCP by the owner, administrator or manager;

11. an owner, officer, member, manager, administrator or person designated to manage or supervise participant care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court.

a. For purposes of this paragraph, conviction of a felony means a felony relating to the violence, abuse, or negligence of a person, or a felony relating to the misappropriation of property belonging to another person.

12. failure to comply with all reporting requirements in a timely manner as required by the department;

13. failure to allow or refusal to allow the department to conduct an investigation or survey or to interview provider staff or participants;

14. failure to allow or refusal to allow access to authorized departmental personnel to record;

15. bribery, harassment, or intimidation of any participant designed to cause that participant to use the services of any particular ARCP provider; or

16. cessation of business or non-operational status;

E. In the event an ARCP license is revoked or renewal is denied, (other than for cessation of business or non-operational status) any owner, officer, member, manager, director or administrator of such ARCP is prohibited from owning, managing, directing or operating another ARCP for a period of two years from the date of the final disposition of the revocation or denial action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6819. Notice and Appeal of License Denial, License Revocation and License Non-Renewal

A. Notice of a license denial, license revocation or license non-renewal shall be given to the provider in writing.

B. The ARCP provider has a right to an informal reconsideration of the license denial, license revocation, or license non-renewal. There is no right to an informal reconsideration of a voluntary non-renewal or surrender of a license by the provider.

1. The ARCP provider shall request the informal reconsideration within 15 days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for informal reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section.

2. The request for informal reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an informal reconsideration is received by the Health Standards Section, an informal reconsideration shall be scheduled and the provider will receive written notification.

4. The provider shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the denial, revocation or non-renewal, shall not be a basis for reconsideration.

6. The informal reconsideration process is not in lieu of the administrative appeals process.

7. The provider will be notified in writing of the results of the informal reconsideration.

C. The ARCP provider has a right to an administrative appeal of the license denial, license revocation, or license non-renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the provider.

1. The ARCP provider shall request the administrative appeal within 30 days of the receipt of the results of the informal reconsideration. The ARCP may forego its rights to an informal reconsideration, and if so, the ARCP shall request the administration appeal within 30 days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for administrative appeal shall be in writing and shall be submitted to the DHH Bureau of Appeals.

2. The request for administrative appeal shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the Bureau of Appeals, the administrative appeal of the license revocation or license non-renewal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

a. If the secretary of the department determines that the violations of the facility pose an imminent or immediate threat to the health, welfare, or safety of a participant, the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the

department makes such a determination, the facility will be notified in writing.

4. Correction of a violation or a deficiency which is the basis for the denial, revocation, or non-renewal, shall not be a basis for the administrative appeal.

D. If an existing licensed ARCP provider has been issued a notice of license revocation and the provider's license is due for annual renewal, the department shall deny the license renewal application. The denial of the license renewal application does not affect in any manner the license revocation.

E. If a timely administrative appeal has been filed by the provider on a license denial, license non-renewal, or license revocation, the administrative tribunal shall conduct the hearing within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the administrative tribunal if good cause is shown.

1. If the final agency decision is to reverse the license denial, the license non-renewal, or the license revocation, the provider's license will be re-instated or granted upon the payment of any licensing or other fees due to the department.

F. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional initial license to a new ARCP provider. An existing provider who has been issued a provisional license remains licensed and operational and also has no right to an informal reconsideration or an administrative appeal. The issuance of a provisional license to an existing ARCP provider is not considered to be a denial of license, a denial of license renewal, or a license revocation.

1. A follow-up survey shall be conducted prior to the expiration of a provisional initial license to a new ARCP provider or the expiration of a provisional license to an existing provider.

2. A new provider that is issued a provisional initial license or an existing provider that is issued a provisional license shall be required to correct all noncompliance or deficiencies at the time the follow-up survey is conducted.

3. If all noncompliance or deficiencies have not been corrected at the time of the follow-up survey, or if new deficiencies that are a threat to the health, safety, or welfare of residents are cited on the follow-up survey, the provisional initial license or provisional license shall expire on its face.

4. The department shall issue written notice to the provider of the results of the follow-up survey.

5. A provider with a provisional initial license or an existing provider with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up survey, shall have the right to an informal reconsideration and the right to an administrative appeal.

a. The correction of a violation, noncompliance, or deficiency after the follow-up survey shall not be the basis for the informal reconsideration or for the administrative appeal.

b. The informal reconsideration and the administrative appeal are limited to whether the deficiencies were properly cited at the follow-up survey.

c. The provider must request the informal reconsideration within five days of the notice of the results of the follow-up survey from the department.

d. The provider must request the administrative appeal within 15 days of the notice of the results of the follow-up survey from the department.

e. A provider with a provisional initial license or an existing provider with a provisional license that expires under the provisions of this section shall cease providing services unless the administrative tribunal issues a stay of the expiration. The stay may be granted by the administrative tribunal upon application by the provider at the time the administrative appeal is filed and only after a contradictory hearing, and only upon a showing that there is no potential harm to the residents being served by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6821. Complaint Surveys

A. The department shall conduct complaint surveys in accordance with R.S. 40:2009.13, et seq.

B. Complaint surveys shall be unannounced surveys.

C. An acceptable plan of correction shall be submitted to the department for any complaint survey where deficiencies have been cited.

D. A follow-up survey shall be conducted for any complaint survey where deficiencies have been cited to ensure correction of the deficient practices.

E. The department may issue appropriate sanctions, including but not limited to, civil monetary penalties, directed plans of correction, and license revocations for deficiencies and non-compliance with any complaint survey.

F. DHH surveyors and staff shall be given access to all areas of the facility and all relevant files during any complaint survey. DHH surveyors and staff shall be allowed to interview any provider staff, participant, or resident as necessary or required to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6823. Statement of Deficiencies

A. Any statement of deficiencies issued by the department to the ARCP provider shall be posted in a conspicuous place on the licensed premises.

B. Any statement of deficiencies issued by the department to an ARCP provider shall be available for disclosure to the public 30 days after the provider submits an acceptable plan of correction to the deficiencies or 90 days after the statement of deficiencies is issued to the provider, whichever occurs first.

C. Unless otherwise provided in statute or in this licensing rule, a provider shall have the right to an informal reconsideration of any deficiencies cited as a result of a survey or investigation.

1. Correction of the violation, noncompliance or deficiency shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be requested in writing within 15 days of receipt of the statement of deficiencies.

3. The request for informal reconsideration of the deficiencies shall be made to the department's Health Standard Section.

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.11, et seq., and as provided for license denials, revocations, and non-renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

5. The provider shall be notified in writing of the results of the informal reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter B. Administration and Organization

§6827. Governing Body

A. Each ARCP must have an owner or identifiable governing body with responsibility for, and authority over, the policies and activities of the ARCP and ultimate authority for:

1. the overall operation of the facility;
2. the adequacy and quality of care;
3. the financial solvency of the facility and the appropriate use of its funds;
4. the implementation of the standards set forth in these regulations; and
5. the adoption, implementation and maintenance, in accordance with the requirement of state and federal laws and regulations and these licensing standards, of adult residential care and administrative policies governing the operation of the facility.

B. The ARCP shall have documents identifying the following information regarding the governing body:

1. names and addresses of all members;
2. terms of membership;
3. officers of the governing body; and
4. terms of office of any officers.

C. When the governing body of an ARCP is comprised of more than one person, the governing body shall hold formal meetings at least twice a year. There shall be written minutes of all formal meetings and bylaws specifying frequency of meetings and quorum requirements.

D. When the governing body is composed of only one person, this person shall assume all responsibilities of the governing body.

E. Responsibilities of a Governing Body. The governing body of an ARCP shall:

1. ensure the ARCP's compliance and conformity with the provider's charter or other organizational documents;
2. ensure the ARCP's continual compliance and conformity with all relevant federal, state, local, and municipal laws and regulations;
3. ensure that the ARCP is adequately funded and fiscally sound;
4. review and approve the ARCP's annual budget;
5. designate a person to act as administrator and delegate sufficient authority to this person to manage the facility;

a. a sole owner may be the administrator;

6. formulate and annually review, in consultation with the administrator, written policies concerning the provider's philosophy, goals, current services, personnel practices, job descriptions and fiscal management;

7. annually evaluate the administrator's performance (if a sole owner is not acting as administrator);

8. have the authority to dismiss the administrator (if a sole owner is not acting as administrator);

9. meet with designated representatives of the department whenever required to do so; and

10. inform designated representatives of the department prior to initiating any substantial changes in the services provided by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6829. Policy and Procedures

A. An ARCP shall provide continuous 24-hour supervision and services that:

1. conform to department rules and regulations;
2. meet the needs of the residents of the facility;
3. provide for the full protection of residents' rights; and
4. promote the social, physical, and mental well being of residents.

B. An ARCP shall make any required information or records and any information reasonably related to assessment of compliance with these requirements available to the department.

C. An ARCP shall allow designated representatives of the department in performance of their mandated duties to:

1. inspect all aspects of an ARCP's operations which directly or indirectly impact residents; and
2. conduct interviews with any staff member or resident of the facility.

D. An ARCP shall, upon request by the department, make available the legal ownership documents.

E. The ARCP shall have written policies and procedures approved by the owner or governing body that address at a minimum the following:

1. confidentiality and security of files;
2. publicity and marketing;
3. personnel;
4. resident's rights;
5. grievance procedures;
6. resident's funds;
7. emergency preparedness planning procedures to include plans for evacuation and sheltering in place;
8. abuse and neglect;
9. Incidents and accidents;
10. admissions and discharge procedures;
11. medication management; and
12. pet policy.

F. Personnel Policies. An ARCP shall have written personnel policies that include:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members;

2. written job descriptions for each staff position including volunteers;

3. policies which provide for staff, upon offer of employment, to have a health assessment as defined by the provider and in accordance with Office of Public Health guidelines;

4. an employee grievance procedure;

5. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment whether that abuse or mistreatment is done by another staff member, a family member, a resident, or any other person; and

6. a written policy to prevent discrimination.

G. The ARCP shall be fully operational for the business of providing ARCP services on a 24-hour basis, seven days per week and have required staff on duty at all times of operation.

H. An ARCP shall maintain in force at all times, at minimum, general and professional liability insurance policies and worker's compensation insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter C. Admission and Discharge Criteria

§6833. Admission

A. Pre-admission/Screening. The ARCP shall provide applicant information on admission, services, cost, and policies/procedures.

1. This written information shall include, but is not limited to the following:

- a. the application process and the possible reasons for rejection of an application;
- b. types of residents suitable to the facility;
- c. services offered and allowed in the facility;
- d. facility's house rules;
- e. fee structure; and
- f. discharge criteria

2. The ARC shall complete and maintain a comprehensive assessment of the applicant prior to admission. This initial screening shall assess the applicant's needs and appropriateness for admissions and shall include the following:

- a. the resident's physical and mental status;
- b. the resident's need for personal services;
- c. the resident's need for assistance with instrumental activities of daily living; and
- d. the resident's ability to evacuate the facility in the event of an emergency.

3. The pre-admission assessment shall be completed and dated before the contract/admissions agreement is signed.

B. Residents considered for admission may include those who need, or wish to have available for themselves or their spouse, room, board, personal care and supervision due to age, infirmity, physical disability or social dependency. The facility shall have a clear and specific written description of admission policies and procedures.

C. Prohibited Health Conditions. There are individuals who are not eligible for the ARCP program because their conditions and care needs are beyond the scope of the program's capacity to deliver nursing services and ensure

health, safety, and welfare. ARCPs may not accept residents with such conditions. These prohibited health conditions include:

1. stage 3 or stage 4 pressure sores (pressure ulcers);
2. nasogastric tubes;
3. ventilator dependency;
4. BiPap dependency without the ability to self-administer at all times (BiPap is a non-invasive form of mechanical ventilation);
5. coma;
6. continuous IV/TPN therapy (TPN - Total Parental Nutrition is an intravenous form of complete nutritional sustenance);
7. wound vac therapy (A system that uses controlled negative pressure, vacuum therapy, to help promote wound healing.);
8. active communicable tuberculosis;
9. diagnosis of psychotic condition with history of violent behavior; or
10. restraints except as permitted in these standards.

D. Time Limited Residency. ARCP residents with a prohibited condition may remain in residence on a time limited basis under the following conditions:

1. a licensed medical practitioner has certified that the condition is time limited and not permanent; and
 - a. the ARCP is prepared to deliver the additional services or coordinate, collaborate or contract with providers who may enter the ARCP to meet time limited needs.
2. Time limited is defined as 90 days, except in the case of a resident approved for or currently receiving hospice services.

E. Admission Agreement. The ARCP shall complete and maintain individual written admission agreements with all persons admitted to the facility or with their legally responsible person or persons.

1. The facility contract/admissions agreement shall specify the following:
 - a. clear and specific occupancy criteria and procedures (admission, transfer, and discharge);
 - b. basic services provided;
 - c. optional services;
 - d. payment provisions for both basic and optional services, including the following:
 - i. service packages and "a' la carte" services;
 - ii. regular and extra fees;
 - iii. payer; and
 - iv. due date;
 - e. procedures for the modification of the admission agreement, including provision of at least 30 days prior written notice to the resident of any basic rate change;
 - f. refund policy;
 - g. general facility policies which are for the purpose of making it possible for residents to live together, including policies and rules regarding third-party providers arranged by the resident (the use of private duty nurses or assistants);
 - h. division of responsibility between the facility, the resident, family, or others (e.g., arranging for or overseeing medical care, purchase of essential or desired supplies, emergencies, monitoring of health, handling of finances);
 - i. residents' rights; and
 - j. grievance procedure process.

2. The ARCP shall allow review of the contract/admissions agreement by an attorney or other representative chosen by the resident.

3. The admissions agreement shall be signed by the administrator and by the resident or personal representative.

4. The admissions agreement shall conform to all relevant federal, state and local laws and requirements.

F. At the time of admission the ARCP shall:

1. obtain from the resident or the resident's legal representative or legal guardian, their plan for both routine and emergency medical care which shall include:

a. the name of physician(s); and

b. provisions and authorization for emergency medical care;

2. provide the resident with a copy of the facility's emergency and evacuation procedures; and

3. provide the resident with a copy of the house rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6835. Negotiated Risk Agreements

A. An ARCP may have a strategy to manage risks to the participants' health, safety and welfare. For ARCP providers, negotiated risk means the process of balancing resident choice and independence with the health and safety of the resident and other persons in the facility or program. If a resident's preference or decision places the resident or others at risk or is likely to lead to adverse consequences, such risks or consequences are discussed with the resident and with a resident representative upon consent of the resident. A formal plan to avoid or reduce negative or adverse outcomes shall be developed.

B. Negotiated risk agreements may not be necessary for residents who develop prohibited health conditions that are time limited; although providers may enter into negotiated risk agreements with these residents at their discretion.

C. Key elements of ARCP negotiated risk agreements are elements that identify conflicts between the ARCP and the participant. The key elements should include:

1. a statement of the consumer or legal representative's preference with respect to the identified risk issue;

2. a statement of the provider's perspective on the issue including a description of the provider policies, practices, and professional recommendations that conflict with the consumer's preferences; and

3. a statement of the perspective of the consumer's support team that participated in the development of the service plan.

a. This area must precisely define the conflict and source (i.e., licensure concern, etc.).

D. The document should frame a discussion for the risks and alternatives by providing:

1. an overview of possible risks of the participant or legal guardian's preferred action;

2. description of alternative actions that the ARC is more comfortable with;

3. documentation that the participant or legal guardian understands the risks and alternatives; and

4. language that the participant and/or legal representative has the right and opportunity to seek

professional advice from legal counsel or medical professionals before signing the risk agreement.

E. The document should provide for implementation of the agreed upon actions to minimize risks by providing:

1. clear easily understood language mapping out the agreement between the participant and the ARCP including terms, conditions, expectations, and responsibilities framing the participant's behavior once he or she moves into the ARCP; and

2. the participant or legal guardian's release of any claim against the ARCP for any participant injuries related to behaviors mapped out in the agreement.

F. Risk agreements must be reviewed with the resident at least every six months or more frequently as issues arise. Long-term care ombudsmen offices may be involved as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6837. Discharge

A. Voluntary Discharge

1. The resident shall give 30 days written calendar notice to the facility of their intent to vacate the facility.

2. If the resident vacates the facility prior to the stated exit date, rent is not due back to the individual.

B. Involuntary Transfer/Discharge and Emergency Transfer

1. The resident has the right to remain in the facility and not be transferred or discharged unless one of the following occurs:

a. the resident's mental or physical condition deteriorates to a level requiring services that cannot be provided in an ARCP;

b. the resident's needs cannot be met by the facility and the transfer or discharge is necessary for the resident's welfare;

c. the resident's health has improved sufficiently so that he no longer needs the services provided by the facility;

d. the safety of other residents or staff in the facility is endangered;

e. the health of other residents or staff in the facility would otherwise be endangered;

f. the resident has a prohibited condition as defined in these provisions, unless the condition is time limited or the resident is approved for an currently receiving hospice services;

i. a resident with such a prohibited condition shall not be permitted to remain in an ARCP, regardless of whether the resident is willing to execute a negotiated risk agreement relieving the ARCP of the responsibility attendant to the resident's continued placement;

g. the resident or his legal representative refuses to enter into a negotiated risk agreement, refuses to revise the agreement when there is a documented medical reason for the need of a managed risk agreement or revision thereto, or refuses to comply with the terms of the negotiated risk agreement;

h. the resident or his legal representative refuses to cooperate in an examination by the physician or advance practice nurse or licensed psychologist of his own choosing to determine the resident's health or mental status for the

purpose of establishing appropriateness for continuation of residency or discharge.

i. the resident has failed, after 30 days written notice, to pay or have paid for a stay at the facility; or

j. the facility ceases to operate.

2. The resident and his legal representative, and interested family member if such is known and available, shall be notified in writing of the discharge or transfer.

a. The written notice shall be in a language and in a manner that the resident and his legal representative and interested family member understand.

b. The written notice of the transfer or discharge must be given no less than 30 days in advance of the proposed transfer or discharge. However, notice may be given as soon as practicable if an emergency condition exists whereby the continued stay of the resident will constitute a direct threat of serious harm, serious injury or death to the resident, another resident, or staff.

c. In facilities not certified to provide services under Title XVIII or Title XIX of the Social Security Act, the advance notice period may be shortened to 15 days for nonpayment of a bill for a stay at the facility.

3. The resident, his legal representative or interested family member, if known and available, shall have the right to appeal any transfer or discharge to the department, which shall provide a fair hearing in all such appeals.

4. The ARCP shall ensure that the transfer or discharge is effectuated in a safe and orderly manner.

5. The resident and his legal representative, and interested family member(s) shall be consulted in the discharge or transfer planning, and shall be consulted in choosing another facility if facility placement is required.

a. The ARCP shall provide a written discharge plan describing how it will assist in the relocation of the resident or in securing another provider to meet the resident's needs.

6. If an emergency condition exists whereby the continued stay of the resident will constitute a direct threat of serious harm, serious injury or death to the resident, another resident, or staff, the ARCP may immediately transfer the resident to a setting appropriate to the resident's medical needs.

a. Under no circumstance shall a resident be transferred to a setting that does not meet the needs of that resident.

b. An emergency transfer does not necessarily constitute discharge. Required notice shall be provided if the resident will be discharged.

c. If the facility effects an emergency transfer, the facility shall document the nature of the emergency and the need for the transfer.

d. If the facility effects an emergency transfer, the facility shall contact the resident's legal representative and shall contact the resident's interested family member(s), if known and available. Contact shall be made before the transfer if possible, and shall be made as soon as possible after the transfer if prior contact is not possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter D. ARCP Services

§6839. General Provisions

A. Adult residential care services are a coordinated array of supportive personal services, 24-hour supervision and assistance, both scheduled and unscheduled assistance, activities, and health related services designed to accommodate an individual resident's changing needs and preference. Adult residential care includes, but is not limited to the following services:

1. lodging;
2. meals;
3. medication administration;
4. intermittent nursing services;
5. assistance with personal hygiene;
6. assistance with transfers and ambulation;
7. assistance with dressing;
8. assistance with transportation;
9. housekeeping;
10. laundry;
11. social activities;
12. direct care services;
13. health care services; and
14. twenty-four hour supervision and care.

B. An admission assessment shall be completed within three business days of admission to determine the service needs and preferences of the resident. This assessment shall be kept in the resident's record.

C. Within seven days after admission, the ARCP provider with input from the resident and/or his/her personal representative shall develop a service plan using information from the admission assessment. The service plan shall include:

1. the services required to meet the resident's needs;
2. the scope, frequency, and duration of services;
3. monitoring that will be provided; and
4. who is responsible for providing the services, including contract or arranged services.

D. The service plan shall be monitored on an ongoing basis to determine its continued appropriateness and to identify when a resident's condition or preferences have changed.

1. A documented review of the service plan shall be made at least every quarter. However, changes to the plan may be made at any time, as necessary.

E. All plans, reviews and updates shall be signed by the resident, facility staff, and the legal representative, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6841. Personal and Supportive Services

A. An ARCP shall provide, make available, coordinate, or contract for services to meet a resident's personal and health care needs as identified in his/her service plan, to meet unscheduled care needs, and to make emergency assistance available 24 hours a day. These services must be provided in a manner that does not pose an undue hardship on residents.

1. An ARCP shall respond to changes in residents' needs for services by revising the service plan and, if necessary, by adjusting its staffing plan or contracting for services from other providers.

2. The facility shall provide adequate services and oversight/supervision including adequate security measures, around the clock as needed for any resident.

B. The facility shall provide or coordinate, to the extent needed or desired by residents, the following services:

1. assistance with all activities of daily living and instrumental activities of daily living;

2. at a minimum, three varied, appetizing meals a day, seven days a week that take into account the residents' preferences and needs;

3. basic personal laundry services;

a. Each ARCP provider shall offer laundry facilities or services to its residents. For those residents who are not able to launder their own personal items, the facility shall include this service as part of the service package.

b. The facility may provide this service for free or for an additional fee and shall be indicated as such in the occupancy admission agreement.

4. opportunities for individual and group socialization and to utilize community resources to create a normal and realistic environment for community interaction within and outside of the ARCP (i.e. barber/beauty services, social/recreational opportunities);

5. services for residents who have behavior problems requiring ongoing staff support, intervention, and supervision to ensure no danger or infringement of the rights of other residents or individuals;

6. transportation either provided or arranged by the ARCP;

7. household services essential for the health and comfort of the resident (i.e. floor cleaning, dusting, bed making, etc.);

8. assistance with self-administration of medication by appropriately trained unlicensed staff and administration of medications as necessary by licensed nursing staff;

9. a program of recreational activities;

10. assistance with cognitive orientation and behavioral management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6843. Medication Administration

A. The ARCP shall have clear written policies and procedures on medication administration to include staff administration and self-administration, including appropriate documentation regarding both practices.

B. The ARCP shall assist residents in the self-administration of prescriptions and non-prescription medication as agreed to in their contract or service plan and as allowed by state laws and regulations.

C. Assistance with self-administration of medication shall be limited to the following.

1. The resident may be reminded to take his/her medication.

2. The medication regimen, as indicated on the container, may be read to the resident.

3. The dosage may be checked according to the container label.

4. Staff may open the medicine container (i.e. bottle, mediset, blister pack, etc.) if the resident lacks the ability to open the container.

5. The resident may be physically assisted in pouring or otherwise taking medications, so long as the resident is cognitive of what the medication is, what it is for, and the need for the medication.

a. If the resident does not meet this standard for cognitive awareness, any assistance with respect to the resident's medication regimen (outside of a medication reminder) must be delivered by licensing nursing personnel.

D. If desired by the resident, the resident's family, other relatives, or the resident's personal representative may transfer medication from the original container to a medication reminder container (pill organizer box).

E. An employee that provides assistance with the self-administration of medications to a resident shall have documented training on the policies and procedures for medication assistance including the limitations of this assistance. Documentation shall include the signature of the employee. This training shall be repeated at least annually.

F. Medications may be stored in the resident's own living unit/room or in a secure central location.

1. Residents who do not require assistance with self-administration of medications shall be allowed to keep prescription and non-prescription medications in their living unit/room as long as they keep them secured from other residents.

2. If a resident requires assistance with self-administration of medication and the medication is kept in a secure central area, the facility shall:

a. handle the medication in the same manner as if it were kept in the resident's living unit/room; and

b. assure that medications shall be delivered to the individual resident at the appropriate time regardless of where the resident may be in the facility.

i. Residents shall not be required to come to a "medication" area to receive medications.

G. If a resident requires medication administration by staff, medication must be administered by a licensed nurse, either an RN or LPN.

1. Intravenous (IV) medications are permitted only on a time limited basis and must be administered by an RN.

H. Registered nurses will review medication regimens and administration charting bi-weekly, at a minimum, as part of the adult residential care benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6845. Health Related Services

A. Each resident shall have the right to control his/her receipt of health related services including, but not limited to:

1. the right to retain the services of his/her own personal physician, dentist or other health care provider;

2. the right to confidentiality and privacy concerning his/her medical and dental condition and treatment; and

3. the right to select the pharmacy or pharmacist of their choice.

B. The ARCP shall plan or arrange, in conjunction with the resident, the resident's family and/or representative, for the following:

1. health assessment;
2. assistance with health tasks as needed or requested by the resident; and
3. healthcare monitoring.

a. Healthcare monitoring consists of a regularly occurring process designed by the facility to identify changes in a resident's healthcare status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6847. Transportation

A. The provider shall provide or arrange transportation for:

1. all medical services, including ancillary services for medically-related care (e.g. physician, pharmacist, therapist, podiatrist);
2. personal services, including barber/beauty services;
3. personal errands; and
4. social/recreational opportunities.

B. Transportation shall be provided for or arranged on a routine basis for reasonable transportation for personal services, errands and social/recreational opportunities. For non-routine transportation, the resident may be charged additional fees provided that the resident is notified in writing in advance and agrees to such charges.

C. The ARCP shall ensure and document that any vehicle used in transporting residents, whether such vehicles are operated by a staff member or any other person acting on behalf of the provider, is inspected and licensed in accordance with state law. The ARCP shall also have current commercial liability insurance in an amount sufficient to ensure payment of any resident losses resulting from that transportation, including uninsured motorist coverage.

D. When transportation services are provided by the facility, whether directly or by third party contract, the provider shall document and ensure that drivers have a valid Louisiana driver's license, and that they are trained/experienced in assisting residents.

E. Vehicles need to be handicapped accessible or so equipped to meet the needs of residents served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6849. Food and Nutrition

A. The facility shall prepare, at a minimum, 3 meals each day.

B. The ARCP shall make reasonable accommodations, as stated in the resident's service plan for the residents to:

1. meet dietary requirements;
2. meet religious and ethnic preferences;
3. meet the temporary need for meals delivered to the resident's room;

4. meet residents' temporary schedule changes as well as residents' preferences (e.g. to skip a meal or prepare a simple late breakfast); and

5. make snacks, fruits and beverages available to residents daily.

C. The facility's menus, at a minimum, shall be reviewed and approved by a nutritionist or dietician to assure their nutritional appropriateness for the setting's residents.

1. Menus shall be planned and written at least one week in advance and dated as served. The current week's menu shall be posted in one or more prominent place(s) in the facility.

2. The ARCP shall furnish medically prescribed diets to all residents for which it is designated in the service plan.

3. The menus shall be planned or approved by a registered licensed dietician.

4. Records of all menus as serviced shall be kept on file for at least 30 days.

5. All substitutions made on the master menu shall be recorded in writing.

D. All food in the facility shall be safe for human consumption. Grade "A" pasteurized fluid milk and fluid milk products shall be used or served. Dry milk products may not be used, except for cooking purposes.

E. All food preparation areas (excluding areas in residents units) shall be maintained in accordance with state and local sanitation and safe food handling standards. Pets are not allowed in food preparation and serving areas.

1. If food is prepared in a central kitchen and delivered to separate facilities, provision shall be made and approved by the Department of Health and Hospitals, Office of Public Health for proper maintenance of food temperatures and a sanitary mode of transportation.

2. Foods shall be prepared and served in a way that assures that they are appetizing, attractive, and nutritional and that promotes socialization among the residents.

3. Foods shall be prepared by methods that conserve the nutritive value, flavor and appearance. It shall be palatable, properly prepared and sufficient in quantity and quality.

F. The facility's refrigerator(s) shall be maintained at a temperature of 45 degrees Fahrenheit or below. Thermometers shall be provided for all refrigerators and freezers. Food stored in the refrigerator shall be covered.

G. The water supply shall be adequate, of a safe sanitary quality and from an approved source. Clean sanitary drinking water shall be available and accessible in adequate amounts at all times. Disposable cups, if used, shall be stored in such a way as to prevent contamination.

H. The ice scoop for ice machines shall be maintained in a sanitary manner with the handle at no time coming in contact with the ice.

I. Poisonous and toxic materials shall be identified and placed in cabinets which are used for no other purpose.

J. Staff shall be available in the dining area to serve the food and to give individual attention as needed.

K. Specific times for serving meals shall be established and posted.

L. Written reports of inspections by the Department of Health and Hospitals, Office of Public Health shall be kept on file in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6851. Alzheimer Special Care Units

A. Scope and Purpose

1. Adult Residential Care providers may establish separate and distinct units to meet the needs of residents with Alzheimer's disease or related dementias. Such programs shall provide individualized care based upon assessment of the cognitive and functional abilities of Alzheimer's and dementia residents who have been admitted to the program.

B. Alzheimer's/Dementia Program Policies and Procedures

1. An ARCP that advertises or markets itself as an Alzheimer's Special Care Unit (ASCU) shall have written policies and procedures for the Alzheimer's/dementia program that are retained by the administrative staff and available to all staff and to members of the public, including those participating in the program.

2. The ARCP shall have established criteria for admission to the program and criteria for discharge from the program when the resident's needs can no longer be met, based upon a registered professional nurse's assessment of the resident's cognitive and functional status.

C. Staff Training for alzheimer's/dementia Program. In an ARCP that advertises or markets itself as an ASCU, training in specialized care of residents who are diagnosed by a physician as having alzheimer's/dementia shall be provided to all licensed and unlicensed staff who provide direct care to such residents.

D. Services for Residents with Alzheimer's/Dementia. An ARCP that advertises or markets itself as an ASCU shall provide a member of the public seeking placement of a person diagnosed with alzheimer's and/or related disorders in the facility with a clear and concise written list that includes:

1. The activities that are specifically directed toward residents diagnosed with alzheimer's and related disorders, including, but not limited to, those designed to maintain the resident's dignity and personal identity, enhance socialization and success, and accommodate the cognitive and functional ability of the resident;

2. The frequency of the activities that will be provided to such residents; and

3. The safety policies and procedures and any security monitoring system that is specific to residents diagnosed with alzheimer's and related disorders.

E. An ARCP that advertises or markets itself as an ASCU shall provide a secured exterior area for residents to enjoy the outdoors in a secure manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter E. Resident Protection

§6855. Resident Rights

A. A provider shall have a written policy on residents' civil rights and shall post and distribute a copy of those civil rights. The practices of the provider shall assure that:

1. no resident of an ARCP facility shall be deprived of civil or legal rights, benefits or privileges guaranteed by the Constitution of the United States or the Constitution of the State of Louisiana solely by reason of status as a resident of an ARCP facility;

2. no resident shall be denied admission, segregated or otherwise subjected to discrimination on the basis of race, sex, handicap, religion, creed, national background or ancestry;

3. a religious organization may not limit admissions to its own adherents; and

4. residents shall live within the least restrictive environment possible in order to retain their individuality and personal freedom.

B. In addition to being entitled to the basic rights enjoyed by other adults, the ARCP's written policy on rights shall assure that residents have the right to:

1. be treated as individuals and with dignity, be assured choice and privacy and the opportunity to act autonomously, take risks to enhance independence and share responsibility for decisions;

2. participate and have family participate, if desired, in the planning of activities and services;

3. receive care and services that are adequate, appropriate, and in compliance with conditions of residency, relevant federal and state laws, rules and regulations and the right to refuse such care and services;

4. receive upon admission, and during his or her stay, a written statement of the services provided by the facility and the charges for these services;

5. be free from mental, emotional, and physical abuse and neglect and be free from chemical or physical restraints used for the purposes of convenience or discipline;

6. have records and other information about the resident kept confidential and released only with a resident's expressed written consent or as required by law;

7. expect and receive responsiveness regarding requests (service, information, etc.) from the administrator and/or staff;

8. to contract to a third-party provider for ancillary services for medically related care (e.g., physician, pharmacist, therapy, podiatry, hospice, and barber or beauty services) and other services necessary as long as the resident remains in compliance with the conditions of residency;

9. have visitors of their choice without restrictions, as long as the rights of others are not infringed upon;

10. have access to private telephone communication;

11. send and receive mail promptly and confidentially;

12. furnish their own rooms and use and maintain personal clothing and possessions as space permits;

13. manage his or her personal funds unless such authority has been delegated to another;

14. are notified in writing by the provider when the ARCP's license status is modified, suspended, revoked or denied renewal, and to be informed of the basis of the action;

a. the resident's legal representative must also be notified;

15. have freedom to participate by choice in community activities and in social, political, medical, and religious activities and to have freedom to refuse such participation;

16. arrange for third-party services at their own expense, that are not required to be provided by the facility, as long as the resident remains in compliance with the conditions of residency;

17. share a room with a spouse or other consenting adult upon their request;

18. residents shall be encouraged and assisted to exercise rights as a citizen; to voice grievances and suggest changes in policies and services to either staff, ombudsman or outside representative without fear of restraint, interference, coercion, discrimination, or reprisal;

19. be given written notice of not less than 30 days prior to discharge from the facility, except when an emergency condition exists whereby the continued stay of the resident will constitute a direct threat of serious harm, serious injury or death to the resident, another resident or staff;

20. remain in their room/living unit unless a change in room/unit is related to resident preference or to transfer conditions stipulated in their contract that relate to the need for higher levels of service;

21. be fully informed of all resident rights and all rules governing resident conduct and responsibilities;

22. consult freely with counsel of their choice;

23. live in a physical environment which ensures their physical and emotional security and well-being;

24. bring pets or service animals into the living units if allowed by the ARCP;

25. contact their advocates as provided by law;

26. voice grievances without discrimination or reprisal; and

a. Such grievances include those with respect to treatment that has been furnished as well as that which has not been furnished (The ARCP must make prompt efforts to resolve grievances the resident may have, including those with respect to the behavior of other residents).

C. **Publicity.** An ARCP shall have written policies and procedures regarding the photographing and audio or audiovisual recordings of residents. No resident shall be photographed or recorded without the resident's prior informed, written consent.

1. Such consent cannot be made a condition for admission into, remaining in, or participating fully in the activities of the facility.

2. Consent agreements must clearly notify the resident of his/her rights under this regulation, must specify precisely what use is to be made of the photograph or recordings, and are valid for a maximum of one year from the date of execution. Residents are free to revoke such agreements at any time, either orally or in writing.

3. All photographs and recordings shall be used in a way that respects the dignity and confidentiality of the resident.

D. Each resident shall be fully informed of these rights and of all rules and regulations governing residents' conduct and responsibilities, as evidenced by written acknowledgment, prior to or at the time of admission and when changes occur. Each resident's file shall contain a copy of the written acknowledgment, which shall be signed and dated by the administrator and the resident and/or his or her personal representative.

E. A copy of these rights shall be posted in a prominent location within the common areas of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6857. Restraints

A. The agency must develop and implement written policies and procedures that govern the management of inappropriate behavior of persons receiving services. The policies and procedures must specify that any restraints used to manage inappropriate behavior ensures that the dignity of the individual is considered and that the intervention is the least restrictive method that can be used to effectively prevent injury to self or others.

1. Restraints are strictly prohibited for discipline or convenience of staff.

2. Interventions to manage inappropriate behavior must be employed with sufficient safeguards and supervision to ensure that safety, welfare and civil and human rights are protected.

B. Restraints used to manage inappropriate behavior must be part of a behavior support plan which is incorporated into the individual's ARCP service plan. The plan shall be based on a comprehensive functional assessment by a qualified professional. The plan shall include strategies to decrease or eliminate the interventions. Plans should include protocols to address emergency situations that include immediately contacting the resident's physician.

C. Prior to the use of any restraint on a resident, staff shall demonstrate competence in implementation and documentation.

D. Chemical restraints are used only with a physician's order.

E. If physical restraints or chemical restraints are used, the provider shall write a critical incident report and follow appropriate reporting procedures.

F. The resident and his/her personal representative shall be contacted within 24 hours of the initiation of the restrictive intervention.

G. The agency shall track and trend the use of restraints on each resident. This shall be done yearly at a minimum or if there is a significant change in an individual's condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6859. Resident Representation and Grievance Procedures

A. **Resident Association.** The provider shall provide a formal process and structure by which residents, in representative groups and/or as a whole, are given the opportunity to advise the administrator regarding resident services and life at the facility. Any resident association requests, concerns or suggestions presented through this process will be addressed by the administrator within a reasonable time frame, as necessitated by the concern, request or suggestion.

B. Grievance Procedure. A provider shall establish and have written grievance procedures to include, but not limited to:

1. a formal process to present grievances;
2. a formal appeals process for grievances; and
3. a process to respond to residents and resident association requests and written grievances in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6861. Resident Personal Property

A. Personal Possessions. The ARCP may, at its discretion, offer to residents the services of safekeeping of valuable possessions. The ARCP shall have a written statement of its policy.

1. If the ARCP offers such a service, a copy of the written policy and procedures shall be given to a resident at the time of his/her admission.

2. The ARCP shall give the resident a receipt listing each item that the ARCP is holding in trust for the resident. A copy of the receipt shall be placed in the resident's record.

B. Resident Funds

1. If an ARCP offers the service of safekeeping of residents' personal funds, the facility's admission agreement shall include the resident's rights regarding personal funds and list the services offered and charges, if any.

2. If an ARCP offers the service of safekeeping, and if a resident wishes to entrust funds, the ARCP:

a. shall obtain written authorization from the resident and/or his/her personal representative as to safekeeping of funds;

b. shall provide each resident with a receipt listing the amount of money the ARCP is holding in trust for the resident; and

c. shall maintain a current balance sheet containing all financial transactions to include the signatures of staff and the resident for each transaction.

3. The resident shall have the right to examine the account during business hours.

4. The resident shall have access through quarterly statements and, upon request, financial records if the ARCP has been delegated the responsibility for handling their financial affairs.

5. Once the ARCP receives the written authorization from the resident, it must safeguard and account for such personal funds under a system established and maintained by the ARCP. The ARCP shall have written policies and procedures to protect funds.

6. The ARCP must deposit any amount of personal funds in excess of \$50, with respect to the resident, in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts, and credit all interest earned on such separate account to such account.

7. The facility shall purchase a surety bond to assure the security of all personal funds of residents deposited with the facility.

C. Unless otherwise provided by state law, upon the death of a resident, the ARCP shall provide the executor or administrator of the resident's estate, or the representative of the resident, as agreed upon in the admission agreement with

a complete accounting of all the resident's funds and personal property being held by the ARCP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter F. Provider Responsibilities

§6863. General Provisions

A. The ARCP shall have qualified staff sufficient in number to meet the scheduled and unscheduled needs of residents and respond in emergency situations. Sufficient support staff shall be employed or contracted to ensure provision of personal care services as required by care plans.

B. Additional staff shall be employed as necessary to perform office work, cooking, house cleaning, laundering, and maintenance of buildings, equipment and grounds.

1. The department may require any facility to provide additional staff whenever it determines that the needs of the particular residents, the extent of services provided, or the physical arrangements of the facility require such additional staff, or the provision of adequate services requires additional staff.

C. A staff member on each shift shall be trained in the use of cardio pulmonary resuscitation (CPR) and first aid.

D. Staff shall have sufficient communication and language skills to enable them to perform their duties and interact effectively with residents and staff.

E. The ARCP shall maintain a current work schedule for all employees, including relief workers, showing actual coverage for each 24-hour day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6865. Staffing Requirements

A. At a minimum the following staff positions are required; however, one person may occupy more than one position in the ARCP but shall not be in this position on the same shift/same day:

1. Administrator. Each facility shall have a qualified Administrator who is an on-site employee and is responsible for the day-to-day management, supervision, and operation of the facility.

a. If the ARCP is located at the same geographical site as a nursing home, the nursing home administrator may also serve as administrator for the ARCP, provided that individual is the administrator of record solely of that nursing facility.

b. One or more assistant administrators may be required, based upon the licensed capacity of the ARCP and the nursing home. The department may make a determination that one or more assistant administrators are necessary based upon one or both facilities' compliance histories.

c. During periods of temporary absence of the administrator, there shall be a responsible staff person designated to be in charge that has the knowledge and responsibility to handle any situation that may occur.

d. The administrator shall be at least 21 years of age and have the responsibility and authority to carry out the policies of the provider.

2. Administrator Qualifications

a. The administrator shall meet one of the following criteria upon date of hire:

i. a bachelor's degree plus two years of administrative experience in the fields of health, social services, or geriatrics; or

ii. in lieu of a degree, six years of administrative experience in health, social services, or geriatrics, or a combination of undergraduate education and experience for a total of six years; or

iii. a master's degree in geriatrics, health care administration, or in a human service related field; or

iv. be a licensed nursing facility administrator; and

b. Additionally, the administrator shall have successfully completed an administrator certification program consisting of 40 hours of training that has been approved by any one of the following organizations:

i. Louisiana Board of Examiners of Nursing Facility Administrators;

ii. Louisiana Assisted Living Association (LALA);

iii. Gulf States Association of Homes and Services for the Aging (GSASHA);

iv. Louisiana Nursing Home Association (LNHA);

or
v. any of the national assisted living associations, including the:

(a). American Association of Homes and Services for the Aging (AAHSA);

(b). National Center for Assisted Living (NCAL); or

(c). Assisted Living Federation of America (ALFA).

c. Training must be started within six months and completed within 12 months of being appointed administrator.

d. Two years of experience as an assisted living administrator may be substituted in lieu of the certification requirements.

e. Documentation of the administrator's qualifications shall be maintained on file at the facility.

B. Nursing Service Personnel. The facility shall provide a sufficient number of nursing service personnel consisting of registered nurses and licensed practical nurses to provide nursing care to all residents in accordance with resident service plans 24 hours per day.

1. Registered Nurse (RN). The facility shall employ or contract with at least one RN. The ARCP RN need not be physically present at all times at the facility but must be on call and readily accessible to the facility 24 hours a day.

a. The ARCP RN, in conjunction with the resident's physician, shall be responsible for the preparation, coordination and implementation of the health care services section of the resident's service plan.

b. The ARCP RN shall review and oversee all licensed practical nurses (LPNs), certified nursing assistants (CNAs) and direct care personnel.

c. The RN must be licensed by, and in good standing with, the state of Louisiana, and must comply with all requirements, including continuing education requirements, as established by law or regulation. No individual who is unlicensed may be employed as an RN.

2. Licensed Practical Nurses (LPN). The facility shall employ or contract with LPNs to meet the nursing needs of the clients.

a. LPNs may administer medication and deliver nursing services as provided by Louisiana law or applicable regulation.

b. All LPNs must be licensed by, and in good standing with, the state of Louisiana, and must comply with all requirements, including continuing education, as established by law or regulation. No individual who is unlicensed may be employed as an LPN.

3. The ARCP must have available a sufficient number of nursing service personnel consisting of a registered nurse and licensed practical nurses to provide nursing care to all residents in accordance with resident care to meet scheduled and unscheduled needs.

C. Essential Personnel

1. In general, an ARCP must ensure an adequate number of trained staff to meet the needs of the clients, including licensing nursing staff as necessary to meet the nursing needs of the clients.

2. Designated Recreational/Activity Staff. There shall be an individual designated to organize and oversee the recreational and social programs of the facility.

3. Direct Care Staff. Direct care staff may include nurses, certified nursing assistants, direct care workers, social workers, activities personnel, or other staff who clearly provide direct care services to residents on a regular basis. A direct care staff person who is not in the facility, but who is on call, shall not be included as direct care staff on any shift.

a. The ARCP shall demonstrate that sufficient direct care staff is scheduled and available (working) to meet the 24-hour scheduled and unscheduled needs of the residents.

b. Staff cannot fill two staff positions on the same shift at different licensed facilities.

c. The ARCP shall maintain a current work schedule for all employees, including relief workers, showing adequate coverage for each day and night.

4. Billing/Office Personnel. If the ARCP facility is part of a campus, billing and accounting office personnel may be shared among the separate facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6867. Staff Training

A. All administrators must maintain 12 continuing education units per year. Topics shall include, but shall not be limited to:

1. geriatrics;

2. assisted living concepts;

3. specialty training in the population served; and/or

4. supervisory/management techniques.

B. All staff shall receive the necessary training to assure that they are competent to perform the duties that are assigned to them. All staff shall receive any specialized training as required by law.

C. An ARCP shall ensure that all direct care staff complete face-to-face training to ensure continuing competence. The training must be relevant to the population served and address areas of weakness as determined by the

workers' performance reviews, and may address the special needs of residents.

1. Orientation and normal supervision shall not be considered for meeting this requirement on an annual basis.

D. Orientation for direct care staff shall include an additional five days of supervised training.

1. Training, at a minimum, shall include the following:

a. training on resident care services (ADLs & IADLs) provided by the facility;

b. infection control to include blood borne pathogens;

c. any specialized training to meet residents' needs; and

d. any specialized training required by law.

2. A new employee shall not be given sole responsibility for the implementation of a client's program plan until this training is completed.

3. All direct care staff shall receive certification in adult first aid and CPR within the first 30 days of employment.

4. The employee shall sign a statement of understanding certifying that such training has occurred.

E. Annual Training

1. A provider shall ensure that each direct care worker participates in in-service training each year. The training shall be relevant to the population served and address areas of weakness as determined by the worker's performance reviews and may address the special needs of residents.

a. Normal supervision shall not be considered for meeting this requirement.

2. The provider shall document that direct care staff receive training on an annual basis in:

a. the facility's policies and procedures;

b. emergency and evacuation procedures;

c. resident's rights;

d. procedures and legal requirements concerning the reporting of abuse and critical incidents;

e. resident care services (ADLs & IADLs);

f. infection control to include blood borne pathogens; and

g. any specialized training to meet residents' needs.

3. All direct care staff shall have documentation of current certification in first aid and CPR.

4. The staff member shall sign a statement certifying that such training has occurred.

5. Orientation and five days of supervised training may qualify as the first year's annual training requirements.

F. All staff and facility contracted providers having direct contact with residents, as well as all food service personnel, shall receive orientation and training on the following topics within seven calendar days of hire:

1. building safety and emergency measures, including safe operation of fire extinguishers and evacuation of residents from the building;

2. emergency preparedness procedures;

3. sanitation and food safety;

4. resident health and related problems;

5. general overview of the job's specific requirements;

6. philosophy and principles of independent living in an adult residential care residence.

7. residents' Bill of Rights;

8. restraint policies and procedures; and

9. abuse and neglect reporting;

G. Third-Party Providers

1. A general facility orientation and review of house rules is required to be provided for third-party providers entering the building to serve residents.

H. General Emergency Preparedness Training

1. All employees shall be trained in procedures to be followed in the event of any emergency situations. All employees shall be instructed in the use of fire-fighting equipment and resident evacuation as part of their initial orientation and at least annually thereafter. The ARCP shall instruct all employees on the emergency evacuation procedures. The ARCP shall review the procedures with existing staff at least once in each 12-month period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6869. Record Keeping

A. Administrative Records. The ARCP shall have an administrative record that includes:

1. the articles of incorporation or certified copies thereof, if incorporated, bylaws, operating agreements, or partnership documents, if applicable;

2. the written policies and procedures approved by the owner/governing body that address the requirements listed in this Subchapter;

3. the minutes of formal governing body meetings;

4. the organizational chart of the ARCP;

5. all leases, contracts, and purchase of service agreements to which the ARCP is a party, which includes all appropriate credentials;

6. insurance policies; and

7. copies of incident/accident reports.

B. Personnel Records. An ARCP shall maintain a personnel record for each employee. At a minimum, this file shall contain the following:

1. the application for employment, including the resume of education, training, and experience, if applicable;

2. a criminal history check, prior to an offer of employment, in accordance with state law;

3. evidence of applicable professional or paraprofessional credentials/certifications according to state law;

4. documentation of any state or federally required medical examinations or medical testing;

5. employee's hire and termination dates;

6. documentation of orientation and annual training of staff;

7. documentation of driver's license (if driving or transporting residents);

8. documentation of reference checks; and

9. annual performance evaluations.

a. An employee's annual performance evaluation shall include his/her interaction with residents, family, and other providers.

C. Resident Case Records. An ARCP shall maintain a separate record for each resident. Such record shall be current and complete and shall be maintained in the facility in which the resident resides and readily available to facility

staff and department staff. Each record shall contain at least the following information:

1. resident's name, marital status, date of birth, sex, Social Security number, and previous home address;
2. dates of admission and discharge;
3. names, addresses, and telephone numbers of personal representative to be notified in case of accident, death, or other emergency;
4. name, address, and telephone number of a physician and dentist to be called in an emergency;
5. ambulatory status;
6. resident's plan/authorization for routine and emergency medical care;
7. the pre-admission appraisal and admission agreement;
8. reports of assessment and of any special problems or precautions;
9. individual service plan, updates, and quarterly reviews;
10. continuing record of any illness, injury, or medical or dental care when it impacts the resident's ability to function or impacts the services he or she needs;
11. a record of all personal property and funds which the resident has entrusted to the facility;
12. reports of any resident complaints or grievances and the conclusion or disposition of these reports;
13. written acknowledgment that the resident has received clear verbal explanation and copies of his/her rights, the house rules, written procedures for safekeeping of his/her valuable personal possessions, written statement explaining the his/her rights regarding personal funds, and the right to examine his/her record; and
14. the following discharge information:
 - a. date of discharge;
 - b. destination; and
 - c. reason(s) for discharge.

D. Maintenance and Storage of Records. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of in accordance with state laws. An ARCP shall have sufficient space, facilities, and supplies for providing effective storage of records. The facility must maintain the resident's records in the following manner.

1. Each resident shall have the right to inspect his or her records during normal business hours in accordance with state and federal law.
2. The facility must not disclose any resident records maintained by the facility to any person or agency other than the facility personnel, law enforcement, the department, or the attorney general's office, except upon expressed written consent of the resident or his or her legal representative, or when disclosure is required by state or federal law or regulations.
3. The facility must maintain the original records in an accessible manner for a period of five years following the death or discharge of a resident.
4. The original resident records, while the resident lives at the facility, shall be kept on the facility premises at all times, unless removed pursuant to subpoena.
5. In the event of a change of ownership, the resident records shall remain with the facility.

6. If the facility closes, the owner of the facility within the state of Louisiana shall store the resident records for five years.

7. The facility shall take reasonable actions to protect the resident records from destruction, loss, or unauthorized use.

E. Confidentiality and Security of Records

1. The ARCP shall have written procedures for the maintenance and security of records specifying:
 - a. who shall supervise the maintenance of records;
 - b. who shall have custody of records; and
 - c. to whom records may be released.
2. The facility shall safeguard clinical record information against loss, destruction, or unauthorized use.
3. The ARCP shall ensure the confidentiality of all resident records, including information in a computerized record system, except when release is required by transfer to another health care institution, law, third-party payment contractor, or the resident. Information from, or copies of, records may be released only to authorized individuals, and the ARCP must ensure that unauthorized individuals cannot gain access to or alter resident records.
4. Employees of the facility shall not disclose or knowingly permit the disclosure of any information concerning the resident or his/her family, directly or indirectly, to any unauthorized person.
5. The ARCP shall obtain the resident's, and personal representative's written, informed permission prior to releasing any information from which the resident or his/her family might be identified, except to the department. Identification information may be given to appropriate authorities in case of an emergency.

6. The ARCP may use material from records for teaching and research purposes if names are deleted and other identifying information is disguised or deleted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6871. Incident and Accident Reports

A. An ARCP shall have written procedures for the reporting and documentation of accidents, incidents and other situations or circumstances affecting the health, safety or well-being of a resident or residents.

B. An ARCP shall report to the department any incidents suspected of involving:

1. abuse;
2. neglect;
3. misappropriation of personal property; or
4. injuries of unknown origin.
 - a. Injuries of unknown origin are defined as:

i. the source of the injury was not observed by any person or the source of the injury could not be explained by the resident; and/or

ii. the injury is suspicious because of the extent of the injury or the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma)

C. The initial report of the incident or accident is due within 24 hours of occurrence or discovery of the incident.

D. After submission of the 24-hour report, if additional time is needed to complete the investigation, a final report

must be submitted within five working days regardless of the outcome.

E. Incident/Accident Report. When and if an incident occurs, a detailed report of the incident shall be made. As a minimum, the incident report shall contain the following:

1. circumstances under which the incident occurred;
2. date and time the incident occurred;
3. where the incident occurred (bathroom, unit, room, street, lawn, etc);
4. immediate treatment and follow-up care;
5. name and address of witnesses;
6. date and time family or representative was notified;
7. symptoms of pain and injury discussed with the physician; and
8. signatures of the staff completing the report and Administrator.

F. When an incident results in death of a resident, involves abuse or neglect of a resident, or entails any serious threat to the resident's health, safety or well-being, an ARC administrator or designee shall:

1. immediately report verbally to the Administrator and submit a preliminary written report within 24 hours of the incident to the department;
2. immediately notify DHH-Adult Protection Services, DHH/HSS, and other appropriate authorities, according to state law, in addition submit a written notification to the above agencies within twenty-four hours of the suspected incident;
3. immediately notify the family or representative of the resident, in addition, submit a written notification within 24 hours;
4. immediately notify the appropriate law enforcement authority in accordance with state law;
5. take appropriate corrective action to prevent future incidents and provide follow-up written report to all the above persons and agencies; and
6. the ARCP shall document its compliance with all of the above procedures for each incident, and shall keep such documentation (including any written reports or notifications) in the resident's file. A separate copy of all such documentation shall be kept in the provider's administrative file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6873. Compliance with Alzheimer's Special Care Disclosure Law

A. Any ARCP which offers to provide a special program for persons with alzheimer's disease or a related disorder by means of an alzheimer's special care unit shall disclose the form of care or treatment provided that distinguishes it as being especially applicable to or suitable for such persons.

1. Disclosing shall be made to the department and to any person seeking ASCU placement on behalf of a person with alzheimer's disease or a related disorder.
2. Information disclosed shall explain additional care provided in each of the following areas:
 - a. philosophy and mission;
 - b. pre-admission criteria;
 - c. admission and discharge criteria;
 - d. assessment;

- e. care planning and implementation;
- f. staffing patterns and training;
- g. physical environment;
- h. resident activities;
- i. family role in care; and
- j. program fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter G. Emergency Preparedness §6875. Emergency Preparedness Plan

A. The ARCP shall have an emergency preparedness plan designed to manage the consequences of medical emergencies, power failures, fire, natural disasters, declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its emergency preparedness plan in the event or occurrence of a disaster or emergency.

B. Upon the department's request, a facility shall present its emergency preparedness plan for review. At a minimum, the emergency preparedness plan shall include and address the following:

1. The emergency preparedness plan shall be individualized and site specific. All information contained in the plan shall be current and correct. The plan shall be made available to representatives of the Office of the State Fire Marshal and the Office of Public Health upon request of either of these offices. The facility's plan shall follow all current applicable laws, standards, rules or regulations.

2. The facility's plan shall be submitted to the parish or local Office of Homeland Security and Emergency Preparedness (OHSEP) yearly and verification of this submittal maintained in the plan. Any recommendations by the parish or local OHSEP regarding the facility's plan shall be documented and addressed by the ARCP.

3. The facility's plan shall contain census information, including transportation requirements for the ARCP residents as to the need for:

- a. wheelchair accessible or para-transit vehicle transport; or

- b. the numbers of ARCP residents that do not have any special transport needs

4. The plan shall contain a clearly labeled and legible master floor plan(s) that indicate the following:

- a. the areas in the facility, either in the resident's individual unit or apartment or the ARCP facility, that is to be used by residents as shelter or safe zones during emergencies;

- b. the location of emergency power outlets (if none are powered or all are powered, this shall be stated on the plan);

- c. the locations of posted, accessible, emergency information;

- d. the plan shall provide for floor plans or diagrams to be posted in each resident's room and shall clearly indicate that specific room or apartment's location, the fire exits, the fire evacuation routes, locations of alarm boxes and fire extinguishers, and written fire evacuation procedures shall be included on one plan; and

i. A separate floor plan or diagram with safe zones or sheltering areas for non fire emergencies shall indicate areas of building, apartments, or rooms that are designated as safe or sheltering areas;

e. the detail of what will be powered by emergency generator(s), if applicable.

C. The facility's plan shall be viable and promote the health, safety and welfare of the facility's residents. If the plan is found to be deficient the facility shall, within 10 days of notification, respond with an acceptable plan of correction to amend its emergency preparedness plan.

D. The facility will work in concert with the local OHSEP or Office of Emergency Preparedness (OEP) in developing plans.

E. The facility shall provide a plan for monitoring weather warnings and watches and evacuation orders from local and state emergency preparedness officials. This plan will include:

1. who will monitor;
2. what equipment will be used; and
3. procedures for notifying the administrator or responsible persons.

F. The plan shall provide for the delivery of essential care and services to residents during emergencies, who are housed in the facility or by the facility at another location, during an emergency.

G. The plan shall contain information about staffing when the ARCP is sheltering in place or when there is an evacuation of the ARCP. Planning shall include documentation of staff that have agreed to work during an emergency and contact information for such staff. The plan shall include provisions for adequate, qualified staff as well as provisions for the assignment of responsibilities and duties to staff.

H. The facility shall have transportation or arrangements for transportation for evacuation, hospitalization, or any other services which are appropriate. Transportation or arrangements for transportation shall be adequate for the current census and meet the ambulatory needs of the residents.

I. The plan shall include procedures to notify the resident's family or responsible representative whether the facility is sheltering in place or evacuating to another site. The plan shall include which staff is responsible for providing this notification. If the facility evacuates, notification shall include:

1. the date and approximate time that the facility is evacuating;
2. the place or location to which the facility is evacuating, including the:
 - a. name;
 - b. address; and
 - c. telephone number;

J. The plan shall include the procedure or method whereby each facility resident has a manner of identification attached to his person which remains with him at all times in the event of sheltering in place or evacuation, and whose duty and responsibility this will be. The following minimum information shall be included with the resident:

1. current and active diagnosis;
2. medications, including dosage and times administered;

3. allergies;
4. special dietary needs or restrictions; and
5. next of kin or responsible person and contact information.

K. The plan shall include an evaluation of the building and necessary systems to determine the ability to withstand wind, flood, and other local hazards that may affect the facility. If applicable, the plan shall also include an evaluation of each generator's fuel source(s), including refueling plans and fuel consumption.

L. The plan shall include an evaluation of the facility's surroundings to determine lay-down hazards, objects that could fall on the facility, and hazardous materials in or around the facility, such as:

1. trees;
2. towers;
3. storage tanks;
4. other buildings;
5. pipe lines;
6. chemicals;
7. fuels; or
8. biologics

M. For ARCPs that are geographically located south of Interstate 10 or Interstate 12, the plan shall include the determinations of when the facility will shelter in place and when the facility will evacuate for a hurricane and the conditions that guide these determinations.

1. A facility is considered to be sheltering in place for a storm if the facility elects to stay in place rather than evacuate when located in the projected path of an approaching storm of tropical storm strength or a stronger storm.

NOTE: Tropical storm strength shall be defined as a tropical cyclone in which the maximum sustained surface windspeed (using the U.S. 1 minute average standard) ranges from 34 kt (39 mph, 17.5 m/s) to 63 kt (73 mph, 32.5 m/s).

2. If sheltering in place, the facility has elected to take this action after reviewing all available and required information on the storm, the facility, the facility's surroundings, and consultation with the local or parish OHSEP.

3. The facility accepts all responsibility for the health and well-being of all residents that shelter with the facility before, during, and after the storm. In making the decision to shelter in place or evacuate, the facility shall consider the following:

- a. what conditions will the facility shelter for;
- b. what conditions will the facility close or evacuate for; and
- c. when will these decisions be made.

4. If the facility shelters in place, the facility's plan shall include provisions for seven days of necessary supplies to be provided by the facility prior to the emergency event, to include:

- a. drinking water or fluids; and
- b. non-perishable food.

N. The facility's emergency plan shall include a posted communications plan for contacting emergency services and monitoring emergency broadcasts and whose duty and responsibility this will be.

O. The facility's plan shall include how the ARCP will notify OHSEP and DHH when the decision is made to

shelter in place and whose responsibility it is to provide this notification.

P. The facility shall have a plan for an on-going safety program to include:

1. continuous inspection of the facility for possible hazards;
2. continuous monitoring of safety equipment and maintenance or repair when needed;
3. investigation and documentation of all accidents or emergencies;
4. fire control and evacuation planning with documentation of all emergency drills;
 - a. residents can be informed of emergency drills;
5. all aspects of the facility's plan, planning, and drills shall meet the current requirements of the office of the State Fire Marshal, and the Life Safety Code National Fire Protection Association (NFPA) 101; and
6. the facility shall inform the resident and/or responsible party of the facility's emergency plan and the actions to be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6877. Emergency Plan Activation, Review and Summary

A. The facility's emergency plan(s) shall be activated at least annually, either in response to an emergency or in a planned drill. All staff shall be trained and have knowledge of the emergency plan.

B. ARCPs must conduct a minimum of 12 fire drills annually with at least one every three months on each shift. In addition to drills for emergencies due to fire, the facility shall conduct at least one drill per year for emergencies due to a disaster other than fire, such as storm, flood, and other natural disasters.

1. All staff shall participate in at least one drill annually. Residents shall be encouraged to participate, but the provider may not infringe upon the right of the resident to refuse to participate.

2. The facility shall test at least one manual pull alarm each month of the year and maintain documentation of test dates, location of each manual pull alarm tested, persons testing the alarm, and its condition.

3. Fire extinguishers shall be conspicuously hung, kept easily accessible, shall be visually examined monthly and the examination shall be recorded on a tag which is attached to the fire extinguisher. Fire extinguishers shall also be inspected and maintained in accordance with manufacturers' and applicable NFPA requirements. Each fire extinguisher shall be labeled to show the date of such inspection and maintenance.

C. The facility's performance during the activation of the plan shall be evaluated annually by the facility and the findings shall be documented in the plan.

D. The plan shall be revised if indicated by the facility's performance during the emergency event or the planned drill.

1. Updates, amendments, modifications, or changes that are required or found days. Clearly mark, remove, make note of, or delete parts of the plan that are outdated or no longer in use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6879. Notification

A. Emergency preparedness procedures shall specify the following:

1. persons to be notified;
2. process of notification;
3. verification of notification;
4. locations of emergency equipment and alarm signals;
5. evacuation routes;
6. procedures for evacuating residents;
7. procedures for re-entry and recovery;
8. frequency of fire drills;
9. tasks and responsibilities assigned to all personnel; and

10. medications and records to be taken from the facility upon evacuation and to be returned following the emergency.

B. An ARCP shall immediately notify the department and other appropriate agencies of any fire, disaster or other emergency that may present a danger to residents or require their evacuation from the facility.

C. In the event that an ARCP evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state, local or parish OHSEP, the ARCP must immediately give notice to the Health Standards Section and OHSEP by facsimile or email of the following:

1. the date and approximate time of the evacuation; and
2. the locations of where the residents have been placed, whether this location is a host site for one or more of the ARCP residents.

D. In the event that an ARCP evacuates, temporarily relocates or temporarily ceases operations at its licensed location for any reason other than an evacuation order, the ARCP must immediately give notice to the Health Standards Section by facsimile or email of the following:

1. the date and approximate time of the evacuation; and
2. the locations of where the residents have been placed, whether this location is a host site for one or more of the ARCP residents.

E. If there are any deviations or changes made to the locations of the residents that was given to the Health Standards Section and OHSEP, then both Health Standards and OHSEP shall be notified of the changes within 48 hours of their occurrence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6881. Authority to Re-open After an Evacuation, Temporary Relocation or Temporary Cessation of Operation

A. In the event that an ARCP evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the

state, local, or parish OHSEP, due to a declared disaster or other emergency, and that facility sustains damages due to wind, flooding, precipitation, fire, power outages or other causes, the facility shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Health Standards Section, and the facility has received a letter of approval from the department for reopening the facility.

1. The purpose of these surveys is to assure that the facility is in compliance with the licensing standards including, but not limited to, the structural soundness of the building, the sanitation code, staffing requirements and the execution of emergency plans.

B. If an ARCP evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the state or parish OHSEP, due to a declared disaster or other emergency, and the facility does not sustain damages due to wind, flooding, precipitation, fire, power outages or other causes, the facility may be reopened without the necessity of the required surveys.

1. Prior to reopening, the facility shall notify the Health Standards Section in writing that the facility is reopening.

C. The facility shall submit a written initial summary report to the department's Health Standards Section. This report shall be submitted within 14 days from the date of the emergency event which led to the facility having to evacuate, temporarily relocate or temporarily cease operations. The report shall indicate how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

1. pertinent plan provisions and how the plan was followed and executed;
2. plan provisions that were not followed;
3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
4. contingency arrangements made for those plan provisions not followed; and
5. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of the injuries and deaths.

D. If a facility shelters in place at its licensed location during a declared disaster or other emergency, the facility shall submit a written initial summary report to the department's Health Standards Section. This report shall be submitted within 14 days from the date of the emergency event which led to the facility having to shelter in place. The report shall indicate how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

1. pertinent plan provisions and how the plan was followed and executed;
2. plan provisions that were not followed;
3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
4. contingency arrangements made for those plan provisions not followed; and
5. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths.

E. Upon request by the department's Health Standards Section, a report that is more specific and detailed regarding the facility's execution of their emergency plan shall be submitted to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter H. Physical Environment

§6885. General Requirements and Authority

A. The standards in this subchapter shall apply to newly constructed ARCPs or alterations, additions or renovations to an existing ARCP or to an existing building to create an ARCP.

B. An ARCP shall submit architectural plans to DHH-Division of Engineering and Architectural Services and the Office of the State Fire Marshal. The regulations and codes governing new facilities also apply if and when the facility proposes to begin operation in a building not previously and continuously used as a facility licensed under these regulations.

C. Construction documents (plans and specifications) are required to be submitted and approved by both the Louisiana State Fire Marshal and the department as a part of the licensing procedure and prior to obtaining a license.

1. Procedures for submission of construction documents are as follows.

a. One set of the final construction documents shall be submitted to the Louisiana State Fire Marshal for approval. The Fire Marshal's letter of approval and final inspection shall be sent to DHH Division of Engineering & Architectural Services.

b. One set of the final construction documents (plans and specifications) shall be submitted to the Louisiana Department of Health and Hospitals, Division of Engineering and Architectural Services, along with the appropriate review fee, and a "plan review application form" for approval.

2. Applicable Projects. Construction documents (plans and specifications) are required to be approved for the following type projects:

- a. new construction of an ARCP;
- b. renovation of an existing building to be licensed as an ARCPs; and
- c. major alterations or additions to an existing ARCP

3. Design Criteria. The project shall be designed in accordance with the following criteria:

- a. The Guidelines for Design and Construction of Health Care Facilities, current edition, published by the American Institute of Architects;
- b. the current edition of NFPA 101—Life Safety Code; and
- c. the current edition of the Standard Plumbing Code;
- d. the Americans with Disabilities Act—Accessibility Guidelines for Buildings and Facilities (ADAAG), September 1998 edition;
- e. the current Louisiana Department of Health and Hospitals licensing regulations for adult residential care providers.

4. Preparation of Construction Documents

a. Construction documents (plans and specifications) for submission to the department shall be prepared only by a Louisiana Licensed Architect or qualified licensed engineer as governed by the Licensing Laws of the State of Louisiana for the type of work to be performed.

b. Construction documents submitted shall be of an architectural or engineering nature, and thoroughly illustrate the project through accurately drawn, dimensioned, and noted plans, details, schedules, and specifications. At a minimum the following shall be submitted:

- i. site plan(s);
- ii. floor plan(s) including architectural, mechanical, plumbing, electrical, fire protection, and if required by code, sprinkler, and fire alarm plans;
- iii. building elevations;
- iv. room finish, door, & window schedules;
- v. details pertaining to ADA requirements;
- vi. specifications for materials; and
- vii. an additional set of basic preliminary type, legible site plan and floor plans in either 8 1/2" x 11"; 8 1/2" x 14" or 11" x 17" format. (These are for use by DHH in doing the final inspection of the facility and should include legible room names).

c. In the event that submitted materials do not appear to satisfactorily comply with the "Design Criteria" as outlined above, the DHH Division of Engineering and Architectural Services shall furnish a letter to the party submitting the application for review, which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.

D. Waivers. The secretary of the department may, within his sole discretion, grant waivers to building and construction guidelines. The secretary, in exercising his discretion, must at a minimum, require the applicant to comply with the edition of the building and construction guidelines which immediately preceded the most current edition of the Guidelines for Design and Construction of Health Care Facilities. Requests for waivers are considered on the following basis.

1. The facility shall demonstrate how resident safety and the maintenance of a homelike environment is not compromised.

2. No waiver shall be approved that results in an ARCP that is not physically distinct from any residential care facility, nursing home or hospital to which it is attached or of which it is a part.

3. No waiver shall be approved which results in living units that do not provide all required physical features and/or does not provide sufficient space to permit residents to carry out, with or without assistance, all the functions necessary for independent living within the provisions of the residential living unit guidelines.

4. The facility must demonstrate their ability to completely fulfill all other requirements of the service.

5. The department will make a written determination of the request.

6. Waivers are not transferable in an ownership change and are subject to review or revocation upon any change in circumstances to the waiver.

E. All facilities licensed under these regulations shall be designed and constructed to substantially comply with

pertinent local and state laws, codes, ordinances and standards. All new construction shall be in accordance with Louisiana Uniform Construction Code in effect at the time of original licensure, except that:

1. All exit corridors shall be no less than six feet wide, and shall be clear of obstructions;

2. Exit doors from patient or resident rooms shall be no less than 36 inches wide; and

3. Doors shall, at a minimum, meet or exceed the fire ratings specified for I-2 Group construction under the International Building Code (IBC) 2000. The approved fire rating of the door constructed in accordance with IBC requirements, and not door construction types, such as hollow or solid-core shall determine compliance with this requirement.

F. The facility shall develop and shall comply with a written evacuation plan approved by the state and local fire marshal.

G. In addition to compliance with the Louisiana Uniform Construction Code, all construction shall comply with the requirements of the American Disability Act (ADA).

H. Mixed-use occupancy shall not be permitted in buildings classified as industrial, commercial/retail, high hazard, or other type of restricted use.

I. Practices that create an increased risk of fire are prohibited. This includes, but is not limited to:

1. space heaters; (In cases of emergency, such as extended power loss during periods of cold weather, space heaters are permitted upon the approval of the department.);

2. the accumulation or storage within the facility of combustible materials such as rags, paper items, gasoline, kerosene, paint or paint thinners;

3. the use of candles, oil lamps, incense or open-flamed items;

4. the use of extension cords or multi-plug adapters for electrical outlets.

a. Facilities may utilize transient voltage surge protectors or surge suppressors with microprocessor electronic equipment such as computers or CD/DVD recorders or players. Any transient voltage surge protectors or surge suppressors must have a maximum UL rating of 330v and must have a functioning protection indicator light.

b. Facilities may not use transient voltage surge protectors or surge suppressors that do not function completely or the protection indicator light does not work.

J. Safety Standards

1. Facilities may elect to prohibit smoking in the facility or on the grounds or both. If a facility elects to permit smoking in the facility or on the grounds, the facility shall include the following minimal provisions, and the facility shall ensure that:

a. In facilities equipped with sprinkler systems, the facility may designate a smoking area or areas within the facility. The designated area or areas shall have a ventilation system that is separate from the ventilation system for non-smoking areas of the facility. Facilities lacking a sprinkler system are prohibited from designating smoking areas within the facility.

b. Smoking shall be prohibited in any room or compartment where flammable liquids, combustible gases or oxygen is used or stored and in other hazardous location and any general use/common areas of the adult residential care

provider facility. Such areas shall be posted with "no smoking" signs.

c. Smoking by residents classified as not capable of doing so without assistance shall be prohibited unless the resident is under direct supervision.

d. Ashtrays of noncombustible material and safe design shall be placed in all areas where smoking is permitted.

e. Metal containers with self-closing cover devices into which ashtrays may be emptied shall be placed in all areas where smoking is permitted.

K. Kitchen/Food Service

1. The facility shall have appropriately furnished dining room(s) that can accommodate residents in a comfortable dining environment. Dining room(s) may be sized to accommodate residents in either one or two settings.

a. The facility shall have a central or a warming kitchen.

b. The kitchen and food preparation area shall be well lighted, ventilated, and located apart from other areas, which could occasion food contamination.

c. All kitchens and dining facilities shall be adequate to serve the number of residents residing in the facility and shall meet all applicable sanitation and safety standards.

d. Each facility shall comply with all applicable regulations relating to food service for sanitation, safety, and health as set forth by state, county, and local health departments.

e. An adequate supply of eating utensils (e.g., cups, saucers, plates, glasses, bowls, and flatware) will be maintained in the facility's kitchen to meet the needs of the communal dining program. An adequate number of pots and pans shall be provided for preparing meals. Eating utensils shall be free of chips or cracks.

f. Each ARCP shall have adequate refrigeration and storage space. An adequately sized storage room shall be provided with adequate shelving. The storage room shall be constructed to prevent the invasion of rodents, insects, sewage, water leakage or any other contamination. The bottom shelf shall be of sufficient height from the floor to allow cleaning of the area underneath the bottom shelf.

g. All newly constructed adult residential care providers will have a commercial grade kitchen.

h. All converted adult residential care providers can opt out of having a commercial grade kitchen as part of the licensed facility in order to have meals prepared in an offsite location or within the facility if the facility is converting a separate and distinct wing. Facilities opting out must have a kitchen area to hold, warm and serve food if food is prepared at an off-site location. This kitchen area must meet the Louisiana Sanitary Code requirements for food safety and handling. Meals and snacks provided by the ARCP but not prepared on site shall be obtained from or provided by an entity that meets the standards of state and local health regulations concerning the preparation and serving of food. This requirement does not exempt facilities from meeting dining room space that is separate and distinct as referenced above in physical separation standards.

i. In facilities that have commercial kitchens with automatic extinguishers in the range hood, the portable five pound fire extinguisher must be compatible with the

chemicals used in the range hood extinguisher. The manufacturer recommendations shall be followed.

j. Food scraps shall be placed in garbage cans with airtight fitting lids and bag liners. Garbage cans shall be emptied as necessary, as but no less than daily.

L. Laundry/Housekeeping

1. Each ARCP shall have laundering facilities unless commercial laundries are used. The laundry shall be located in a specifically designed area that is physically separate and distinct from residents' rooms and from areas used for dining and food preparation and service. There shall be adequate rooms and spaces for sorting, processing and storage of soiled material. Laundry rooms shall not open directly into resident care area or food service area.

2. Domestic washers and dryers for the use by residents may be provided in resident areas provided they are installed in such a manner that they do not cause a sanitation problem or offensive odors.

3. Laundry dryers shall be properly vented to the outside.

4. The laundry room shall be well lighted and vented to the outside by either power vents, gravity vents or by outside windows.

5. Supplies and equipment used for housekeeping will be stored in a separate locked room. All hazardous chemicals will be stored in compliance with OPH.

M. Lighting

1. Sufficient lighting shall be provided for general lighting and reading in residential units and common areas.

2. Night-lights for corridors, emergency situations and the exterior shall be provided as needed for security and safety.

N. HVAC/Ventilation

1. The facility shall provide safe HVAC systems sufficient to maintain comfortable temperatures with a minimum of 65 degrees and maximum 80 degrees Fahrenheit in all indoor public and private areas in all seasons of the year. During warm weather conditions, the temperature within the facility shall not exceed 80 degrees Fahrenheit.

2. All gas-heating units must bear the stamp of approval of the American Gas Association Testing Laboratories, Inc. or other nationally recognized testing agency for enclosed, vented heaters for the type of fuel used.

3. All gas heating units and water heaters must be vented adequately to carry the products of combustion to the outside atmosphere. Vents must be constructed and maintained to provide a continuous draft to the outside atmosphere in accordance with the American Gas Association recommended procedures.

4. All heating units must be provided with a sufficient supply of outside air so as to support combustion without depletion of the air in the occupied room.

5. The use of portable heaters by the facility and residents is strictly prohibited.

6. The facility shall provide for and operate adequate ventilation in all areas used by residents. In new facilities licensed after the effective date of these regulations, the facility must provide each apartment or unit with an individual thermostat controlling the temperature in that apartment or unit. In addition, the facility must provide a heating, ventilating and air conditioning (HVAC) system(s)

for the apartments or units and common areas capable of maintaining any temperature between 68 and 80 degrees at any time throughout the year.

7. Filters for heaters and air conditioners shall be provided as needed and maintained in accordance with manufacturer's specifications.

O. Water Supply

1. An adequate supply of water, under pressure, must be provided at all times.

2. When a public water system is available, a connection must be made thereto. If water from a source other than a public water supply is used, the supply must meet the requirements set forth under rules and regulations of the Office of Public Health (OPH).

3. A contract to supply potable water shall be implemented with a third party not associated with the operation of the adult residential care provider facility in the event the facility's water supply should be interrupted.

P. Sewage

1. All sewage must be disposed of by means of either:

a. a public system where one is accessible within 300 feet; or

b. an approved sewage disposal system that is constructed and operated in conformance with the standards established for such systems by the OPH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6887. Physical Appearance and Conditions

A. An ARCP shall ensure that all structures of the grounds of the facility shall be accessible to residents are maintained in good repair and are free from any excessive hazard to health and safety.

B. The site shall be adequate to accommodate roads and walks within the lot lines to at least the main entrance, ambulance entrance, and service entrance. An accessible outdoor recreation area is required and must be made available to all residents and include walkways suitable for walking and benches for resting. Lighting must be equal to a minimum of five foot-candles. All facility sites shall contain enough exterior square footage equal to at least half of the common area square footage as contained in the building for walks, drives and lawn space.

C. Facilities must have an entry and exit drive to and from the main building entrance that will allow for picking up and dropping off residents and for mail deliveries. There should be a covered area at the entrance to the building to afford residents protection from the weather.

D. A provider shall maintain the grounds of the facility in an acceptable manner and shall ensure that the grounds are free from any hazard to health or safety.

E. Areas determined to be unsafe, including but not limited to steep grades, cliffs, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced off or have natural barriers to protect residents.

F. Fences shall be in good repair.

G. If facility chooses to store generator within the exterior space, it shall be fenced off or have natural barriers to protect residents.

H. Waste Removal and Pest Control

1. Garbage and rubbish that is stored outside shall be stored securely in covered containers and shall be removed on a regular basis.

2. Trash collection receptacles and incinerators shall be separate from outdoor recreational space and located as to avoid being a nuisance to neighbors.

3. The ARCP shall have an effective pest control program through a pest control contract.

I. Signage

1. The facility's address and name shall be displayed so as to be easily visible from the street.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6889. Resident General Use/Common Areas

A. Residents of the ARCP shall have access to the outdoors for recreational use. The parking lot shall not double as recreational space.

1. If a provider accepts residents that have dementia or other conditions that may cause them to leave or walk away from the home/facility, an enclosed area shall be provided adjacent to the home/facility so that the residents may go outside safely. This area shall allow for at least 60 square feet per resident.

B. Distinct Part Facilities

1. Physical and Programmatic Separation. An ARCP shall be both physically and programmatically distinct from any nursing home or hospital to which it is attached or of which it is a part. ARCPs shall comply with R.S. 40:2007 with reference to facilities within facilities.

2. Physical separation. If more than one business occupies the same building, premises, or physical location, the ARCP shall have its own entrance. This separate entrance shall not be accessed solely through another business or health care provider. This separate entrance shall have appropriate signage and shall be clearly identifiable as belonging to the ARCP.

C. Each ARCP shall meet the following requirements for resident general use/common areas.

1. Each facility shall have dining room and living room space easily accessible to all residents.

2. Common dining rooms and living rooms shall not be used as bedrooms.

3. Dining rooms shall be furnished with enough dining tables and chairs to permit all residents to be seated, or to permit one-half of the resident census to be seated at one time and allowing facilities to provide dining schedules that allow two settings per meal.

4. Dining rooms and living rooms shall be available for use by residents at appropriate times to provide periods of social diversion and individual or group activities.

5. The facility shall provide public restrooms of sufficient number and located in close proximity to common and leisure areas to meet the needs of residents, staff and visitors to the facility and shall be located in areas other than the resident's apartment or unit.

6. All resident areas shall be painted and appropriately furnished.

7. Facilities in buildings constructed after the effective date of these regulations shall be constructed with hallways/corridors a minimum of six feet wide to allow two wheelchairs to pass each other.

8. Facilities in existing buildings that have not undergone substantial renovation since the effective date of these regulations shall have corridors large enough to meet current egress requirements mandated by applicable codes.

9. A minimum of one phone jack or equivalent technology (i.e. wireless internet or cable) shall be available in each resident's apartment or unit for the resident to establish private phone service in his or her name. In addition, there shall be, at a minimum, one dedicated facility phone and phone line for every 40 residents in common areas. The phone shall allow unlimited local calling without charge. Long distance calling shall be possible at the expense of the resident or personal representative via personal calling card, pre-paid phone card, or similar methods. Residents shall be able to make phone calls in private. *Private* can be defined as placing the phone in an area that is secluded and away from frequently used areas.

10. Facility's laundry services area(s) shall meet the requirements outlined in these provisions.

11. Facility's medication storage area(s) shall meet the requirements outlined in these provisions.

12. Square footage requirements for common area living room, dining room, and activities room are as follows.

a. Living and activity spaces shall be separate from the dining room with a combined total square footage of at least 60 square feet per resident. Living and activity spaces do not include corridors and lobby areas for the purposes of calculation. Living and activity spaces may be combined.

b. The facility shall have at least 20 square feet of designated dining space per resident if dining will be conducted in one seating. If dining will be conducted in two seatings, 10 square feet per resident will be required. Facilities will document their dining seating plan, and maintain the documentation for review by the department.

c. In facilities that house residents in more than one building, there shall be a living room and/or activities room located in each building with at least 10 square feet per licensed resident with an additional 10 square feet available on the campus in a common area. The facility's 10 square feet per licensed resident in the common area shall be distinct from any other square footage requirements for other campus programs.

d. In facilities housing residents in more than one building, a single dining room may be used for the complex. The dining room in multi-building facility shall have at least 20 square feet of space per licensed resident in the facility. If dining will be conducted in two seatings, 15 square feet per resident will be required. Facilities will document their dining seating plan, and maintain the documentation for review by department.

13. In facilities housing residents in more than 1 building, protection from the elements of the weather shall be provided for residents who must access other buildings.

14. Any modification, alternation or addition shall satisfy all physical environment requirements in effect at the time that the modification, alteration, or addition is placed into service and shall meet the requirements of the ADA.

15. A facility shall not share common living, or dining space with another facility licensed to care for individuals on a 24 hour basis.

16. The facility shall provide common areas to allow residents the opportunity for socialization.

17. Dining rooms and leisure areas shall be available for use by residents at appropriate times to provide periods of social and diversified individual and group activities.

18. The facility shall provide public restrooms of sufficient number and location to serve residents and visitors. Public restrooms are located close enough to activity hubs to allow residents with incontinence to participate comfortably in activities and social opportunities.

19. The facility's common areas shall be accessible and maintained to provide a clean, safe and attractive environment for the residents.

20. Leisure common areas shall not be confined to a single room.

21. Space used for administration, sleeping, or passage shall not be considered as dining or leisure space.

22. Wastepaper baskets and trash containers used in the common areas must be metal or approved washable plastic baskets.

23. Living and/or recreational rooms shall be furnished according to the activities offered. Furniture for living rooms and sitting areas shall include comfortable chairs, tables, and lamps of good repair and appearance.

24. The facility shall prominently post the grievance procedure, resident's rights, and abuse and neglect procedures in an area accessible to all residents.

25. During power outages or other emergencies, the facility shall have the ability to generate power to the main common area/space.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6891. Residential Living Units

A. General Requirements

1. All living units in adult residential care provider facilities shall be independent apartments. Each apartment or unit shall be at minimum 300 square feet in size and configured to permit residents to carry out, with or without assistance, all the functions necessary for independent living, including sleeping; sitting; dressing; personal hygiene; storing, preparing, serving and eating food; storing clothing and other personal possessions; doing personal correspondence and paperwork; and entertaining visitors. Each apartment or unit shall be accessible to and useable by residents who use a wheelchair or other mobility aid consistent with the accessibility standards.

2. Privacy of residents shall be maintained in all living units.

B. Physical Features. Each residential unit shall have at least the following.

1. An individual lockable entrance and exit. A single door may serve as both entrance and exit. Keys, code or other opening device for the door(s) to the adult residential care provider facility shall be supplied to all residents without a credible diagnosis of dementia. In situations where a provider feels a resident without a diagnosis of dementia is

at risk of injury to themselves if provided with a key, code or other exit device to the facility, a managed risk agreement may be negotiated. All apartments or units shall be accessible by means of a master key or similar system that is available at all times in the facility and for use by designated staff.

2. Each apartment or unit shall have a minimum of 300 square feet.

3. No apartment or unit in an adult residential care provider facility shall be occupied by more than two residents regardless of square footage.

4. Each residential unit shall contain an outside window. Skylights are not acceptable to meet this requirement.

5. In new facilities licensed after the effective date of these regulations, the facility shall provide HVAC thermostats that can be individually controlled by the resident, with a locking mechanism provided, if required, to prevent harm to a resident.

6. Each residential unit shall have a separate and complete bathroom with a toilet, bathtub or shower, and sink. The bathrooms must be ADA accessible, as required by the State Fire Marshal. Roll-in showers are encouraged.

7. The cooking capacity of each residential unit may be removed or disconnected depending on the individual needs of the resident.

8. Each residential unit shall have a call system, either wired or wireless, monitored 24-hours a day by the ARCP.

9. Each apartment or unit shall be equipped for telephone and television cable or central television antenna system.

10. Each residential unit shall have easy access to common areas such as living room(s), activity room(s), dining room(s) and laundry.

11. Each residential unit shall have a kitchen that is a visually and functionally distinct area within the unit.

12. Each residential unit shall have a sleeping and living area that is an area within the apartment or unit but need not be separate rooms.

C. Bedrooms

1. The facility may provide either studio, one or two bedroom or a combination of residential unit sizes based upon the feasibility and market study.

2. The bedroom in each residential unit shall be a visually separate and distinct area.

3. In order to develop a two-bedroom unit, a minimum of 100 square feet must be allowed for the second bedroom.

D. Kitchenettes

1. Each residential unit shall contain, at a minimum, a small refrigerator, a wall cabinet for food storage, a small bar-type sink, and a counter with workspace and electrical outlets, a small cooking appliance, for example, a microwave or a two-burner cook top.

2. If the resident assessments indicate that having a cooking appliance in the living unit endangers the resident, no cooking appliance shall be provided or allowed in the living unit or the cooking appliance may be disconnected.

E. Bathrooms

1. Entrance to a bathroom from one residential unit shall not be through another residential unit.

2. Bathtubs and/or showers should be able to support aging in place, support accessibility for persons with limited

mobility and be accessible to wide array of ability levels, including but not limited to, roll in showers, lift assist bathing and side entrance bathtubs.

3. Grab bars and non-skid surfacing or strips shall be installed in all showers and bath areas.

4. Bathrooms shall have floors and walls of impermeable, cleanable, and easily sanitized materials.

5. Resident bathrooms shall not be utilized for storage or purposes other than those indicated by this Subsection.

6. Hot and cold-water faucets shall be easily identifiable and be equipped with scald control.

7. Emergency call system.

F. Storage

1. The facility shall provide adequate portable or permanent closet(s) in the resident's unit for clothing and personal belongings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§6893. Furnishings and Equipment

A. The following are general provisions concerning furnishing and equipment that each Adult Residential Care provider must meet.

1. All rooms must have working light switches at the entrance to each room.

2. Windows must be kept clean and in good repair and supplied with curtains, shades or drapes. Each window that can be opened shall have a screen that is clean and in good repair.

3. Light fixtures in resident general use or common areas must be equipped with covers to prevent glare and hazards to the residents.

4. All fans located within seven feet of the floor must be protected by screen guards.

5. Common dining room space and furnishings in good repair must be provided for each resident in the facility. Dining room space and furnishings must be sufficient to serve all residents. Facilities shall be allowed to plan dining schedules to allow for two settings per meal to increase resident's choice of meal times.

6. All furnishings and equipment in common areas must be durable, clean, and appropriate to its functions.

7. All areas of a facility must be well lighted to ensure residents' safety.

8. Throw or scatter rugs, or bath rugs or mats shall have a non-skid backing.

B. Residential Furnishings

1. Furniture. Each facility shall strive to maintain a residential environment and encourage residents to use their own furnishings and supplies. However, if the resident does not have their own furniture, the facility must provide basic furnishings. The basic furnishings for each unit are:

a. a bed unit, including a frame and a clean mattress and pillow;

b. basic furnishings, such as a private dresser or similar storage area for personal belongings that is readily accessible to the resident;

c. a closet, permanent or portable, to store clothing and aids to physical functioning, if any, which is readily accessible to the resident;

d. a minimum of two chairs;

- e. a table for dining;
- f. window treatments to ensure privacy; and
- g. lamp for reading.

2. Linens. Residents may provide their own linens, but may not be required by the facility to do so. The facility must include in the resident's occupancy admission agreement whether the resident or his or her personal representative prefers the facility to provide linens or the resident, resident's family or his or her personal representative will provide his or her own linens, and whether the facility will launder the linens or the resident, resident's family or his or her personal representative will launder his or her own linens. Linens may be provided by the facility for no cost or may be provided at an extra charge.

a. If the resident, resident's family or his or her personal representative party chooses to utilize facility linens, the following minimum amounts of linen must be available in the facility at all times:

- i. sheets—three sets for each resident;
- ii. pillow cases—three sets for each resident;
- iii. bath towel—three for each resident;
- iv. hand towels—three for each resident;
- v. washcloths—three for each resident;
- vi. blankets—one for each resident; blankets type for the season and the individual resident's comfort; and
- vii. pillows—one per resident.

b. If the resident, resident's family or his or her personal representative wishes to use his or her own personal linens, the facility will counsel the resident, resident's family or his or her personal representative on recommended quantities to maintain. In the case where a resident, resident's family or his or her personal representative uses personal linens, the facility is not required to provide or keep available any linen for the resident unless the resident does not have sufficient numbers of personal linens available to maintain clean and sanitary conditions. If this is the case, the facility shall provide additional linens up to the quantities specified above. In both cases, clean linens may be stored in the resident's unit.

c. Bed linens must be changed at least weekly, or as often as needed to ensure clean or non-soiled linens.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2163.1-2163.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by assuring the safe operation of facilities that render adult residential care services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, August 26, 2008, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally

or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Adult Residential Care Providers Minimum Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 08-09. It is anticipated that \$10,660 (SGF) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase state revenue collections to the Department of Health and Hospitals (the licensing fees paid by adult residential care providers) by approximately \$18,000 for FY 08-09, \$21,000 for FY 09-10, and \$24,000 for FY 10-11.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to adopt provisions governing the minimum licensing standards for adult residential care providers (approximately 30 providers statewide). It is anticipated that implementation of this proposed rule will have economic cost for adult residential care providers of approximately \$18,000 for FY 08-09, \$21,000 for FY 09-10, and \$24,000 for FY 10-11.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Jerry Phillips
Medicaid Director
0807#084

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Facility Need Review—Adult Residential Care
(LAC 48:I.Chapter 125)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 125 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2116, and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

Act 433 of the 2006 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals to adopt provisions governing the facility need review

process and licensing standards for adult residential care providers. In compliance with the directives of Act 433, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt provisions governing the inclusion of adult residential care providers in the Facility Need Review Program. In addition, in order to facilitate the adoption of the new provisions governing adult residential care providers, Chapter 125 has been reorganized.

Title 48

PUBLIC HEALTH—GENERAL

Part 1. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter A. General Provisions

§12501. Definitions

A. Definitions. When used in this Chapter the following terms and phrases shall have the following meanings unless the context requires otherwise.

Abeyance of Nursing Facility Beds—a situation in which a nursing facility, if it meets certain requirements, may have all (but not only a portion) of its approved beds disenrolled from the Medicaid Program without causing the approval for the beds to be revoked after 120 days.

Adult Residential Care Provider (ARCP)—a facility, agency, institution, society, corporation, partnership, company entity, residence, person or persons, or any other group which provides adult residential care services for compensation for two or more adults who are unrelated to the licensee or operator. Adult residential care includes, but is not limited to the following services: lodging, meals, medication administration, intermittent nursing service, and assistance with personal hygiene, assistance with transfers and ambulation, assistance with dressing, housekeeping and laundry.

Applicant—the person who is developing the proposal for purposes of enrolling the facility, units and/or beds in the Medicaid Program. See the definition of *Person*.

Applicant Representative—the person specified by the applicant on the application form to whom written notifications are sent relative to the status of the application during the review process.

Approval—a determination by the department that an application meets the criteria of the Facility Need Review (FNR) Program for purposes of participating in the Medicaid Program or a determination by the department that an application meets the criteria of the FNR Program for purposes of being licensed by the department.

Approved—beds and/or facilities which are grandfathered in accordance with the grandfather provisions of this program and/or beds approved in accordance with the Facility Need Review Program.

CMS—Centers for Medicare and Medicaid Services.

Community Home—a type of community residential facility which has a capacity of eight or fewer beds.

Department—the Department of Health and Hospitals in the state of Louisiana.

Department of Health and Hospitals (DHH)—the agency responsible for administering the Medicaid Program in Louisiana.

Disapproval—a determination by the department that a proposal does not meet the criteria of the Facility Need

Review Program and that the proposed facility, beds or units may not participate in the Medicaid Program.

Emergency Community Home Bed Pool—a pool consisting of approved beds which have been transferred from state developmental centers and which are made available for transfer to non state-operated community homes in order to address emergency situations on a case-by-case basis.

Enrollment in Medicaid—execution of a provider agreement with respect to reimbursement for services provided to Title XIX eligibles.

Facility Need Review (FNR)—a review conducted for nursing facility beds (including skilled beds, IC-I and IC-II beds), intermediate care facility for the developmentally disabled beds, and adult residential care units to determine whether there is a need for additional beds to enroll and participate in the Medicaid Program.

Group Home—a type of community residential facility which has a capacity of nine to 15 beds.

Health Standards Section—the section in the Bureau of Health Services Financing which is responsible for licensing health care facilities and agencies, certifying those facilities and agencies that are applying for participation in the Medicaid (Title XIX) and Medicare (Title XVIII) Programs, and conducting surveys and inspections.

Hospital Service District—a political subdivision of the State of Louisiana created or authorized pursuant to R.S. 46:1051 et seq.

Intermediate Care-Level I (IC-I)—a level of care within a nursing facility which provides basic nursing services under the direction of a physician to persons who require a lesser degree of care than skilled services, but who need care and services beyond the level of room and board. Services are provided under the supervision of a registered nurse seven days a week during the day tour of duty with licensed nurses 24 hours a day.

Intermediate Care-Level II (IC-II)—a level of care within a nursing facility which provides supervised personal care and health related services, under the direction of a physician, to persons who need nursing supervision in addition to help with personal care needs. Services are provided under the supervision of a registered nurse seven days a week during the day tour of duty with licensed nurses 24 hours a day.

Intermediate Care Facility for the Developmentally Disabled (ICF-DD)—a facility which provides developmentally disabled residents with professionally developed individual plans of care, supervision, and therapy in order to attain or maintain optimal functioning.

Legal Device—any legally binding instrument, such as a counter letter, made during the period a Notice of Abeyance is in effect, which would effect the transfer of disenrolled beds.

Notice of Abeyance—a written notice issued by the department to a nursing facility stating that the criteria for placing all of the facility's approved beds in abeyance have been met.

Medicaid Program—the medical assistance program administered in accordance with Title XIX of the Social Security Act.

Notification—is deemed to be given on the date on which a decision is mailed by the Facility Need Review Program or a hearing officer.

Nursing Facility—an institution which is primarily engaged in providing the following services to residents and has in effect a transfer agreement with one or more hospitals:

- a. skilled nursing care and related services for residents who require medical or nursing care;
- b. rehabilitation services for the rehabilitation of injured, disabled, or sick persons; or
- c. on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities; said institutional facilities are those facilities which are not primarily for the care of mental diseases.

Person—an individual or other legal entity.

Program—the Facility Need Review Program.

Review Period—the period of time in which the review is conducted.

Secretary—the secretary of the Department of Health and Hospitals.

Skilled Nursing Care—a level of care within a nursing facility which provides intensive, frequent, and comprehensive nursing care and/or rehabilitation services ordered by and under the direction of a physician. Services are provided under the supervision of a registered nurse seven days a week during the day tour of duty with licensed nurses 24 hours a day. Skilled beds are located in nursing facilities and in "distinct parts" of acute care hospitals.

a. Facility Need Review policies governing skilled beds in nursing facilities also apply to Title XIX skilled beds in hospitals. In order to be enrolled to participate in Title XIX, skilled beds in hospitals must be approved through Facility Need Review. Skilled care is also referred to as "extended care".

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:

§12503. General Information

A. The Department of Health and Hospitals will conduct a facility need review (FNR) to determine if there is a need for additional facilities, beds or units to enroll to participate in the Title XIX Program for the following facility types:

1. nursing facilities;
2. skilled nursing facilities;
3. intermediate care facilities for the developmentally disabled; and
4. adult residential care units or facilities.

B. No nursing facility, skilled nursing facility, ICF-DD bed, nor adult residential care provider units/beds shall be enrolled in the title XIX Program unless the bed has been approved through the FNR Program. No ARCP unit may be licensed by the department unless the unit has been approved through the FNR Program.

C. 42 CFR Part 442.12(d) allows the Medicaid agency to refuse to execute a provider agreement if adequate documentation showing good cause for such refusal has

been compiled (i.e., when sufficient beds are available to serve the Title XIX population). The Facility Need Review Program will review applications for additional beds, units and/or facilities to determine whether good cause exists to deny participation in the Title XIX Program to prospective providers of those services subject to the FNR process.

D. The department shall be responsible for reviewing proposals for facilities, beds, and units submitted by health care providers seeking to participate in the Medicaid Program. The secretary or his designee shall issue a decision of approval or disapproval.

1. The duties of the department under this program include, but are not limited to:

- a. determining the applicability of these provisions to all requests for approval to enroll facilities, beds, or units in the Medicaid Program;
- b. reviewing, determining and issuing approvals or disapprovals for proposals determined to be subject to these provisions;
- c. adopting and promulgating such rules and regulations as may be necessary to implement the provisions of this program pursuant to the Administrative Procedure Act; and
- d. defining the appropriate methodology for the collection of data necessary for the administration of the program.

E. Grandfather Provision. An approval shall be deemed to have been granted under this program without review for NFs, ICF-DDs and/or beds that meet one of the following descriptions:

1. all valid Section 1122 approved health care facilities/beds;
2. all valid approvals for health care facilities/beds issued under the Medicaid Capital Expenditure Review Program prior to the effective date of this program;
3. all valid approvals for health care facilities issued under the Facility Need Review Program; or
4. all nursing facility beds which were enrolled in Medicaid as of January 20, 1991.

F. Exemptions from the facility need review process shall be made for:

1. a nursing facility which needs to be replaced as a result of destruction by fire or a natural disaster, such as a hurricane; or
2. a nursing facility and/or facility building owned by a government agency which is replaced due to a potential health hazard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:

§12505. Application and Review Process

A. FNR applications shall be submitted to the Bureau of Health Services Financing, Health Standards Section, Facility Need Review Program. Application shall be submitted on the forms (on 8.5" by 11" paper) provided for that purpose, contain such information as the department may require, and be accompanied by a nonrefundable fee of \$10 per bed or unit. An original and three copies of the application are required for submission.

1. Application forms may be requested in writing or by telephone from the FNR Program. The FNR Program will provide application forms, inventories, utilization data, and other materials relevant to the type of application.

2. The applicant representative specified on the application will be the only person to whom the FNR Program will send written notification in matters relative to the status of the application during the review process. If the applicant representative or his address changes at any time during the review process, the applicant shall notify the FNR Program in writing.

3. A prospective ARCP applicant shall submit the following documents as part of the application:

a. certification of the number and ratio of Medicaid approved nursing facility beds that will be converted to ARC units;

b. a letter of intent that includes the location of the proposed ARC site and the proposed date of opening;

d. certification that the applicant will provide services as defined in the statute; and

e. certification which includes the following:

i. that the applicant has reviewed the licensing regulations and will comply with the licensing regulation; and

ii. acknowledgement that failure to meet the time-frames established in paragraph eight above will result in automatic expiration of the FNR approval for the ARCP units.

B. The review period will be no more than 60 days, except as noted in the case of issuance of a request for proposals (RFP). The review period begins on the first day after the date of receipt of the application, or, in the case of issuance of an RFP, on the first day after the period specified in the RFP.

1. A longer review period will be permitted only when initiated by the Facility Need Review Program. A maximum of 30 days will be allowed for an extension, except as otherwise noted for the issuance of a RFP.

2. An applicant may not request an extension of the review period, but may withdraw an application (in writing) at any time prior to the notification of the decision by the FNR Program.

a. The application fee is non-refundable.

3. The FNR Program shall review the application within the specified time limits and provide written notification of the decision to the applicant representative.

a. Notification of disapproval shall be sent by certified mail to the applicant representative, with reasons for disapproval specified.

b. If notification is not sent by the sixtieth day, except as noted in the case of issuance of a RFP, the application is automatically denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, LR 21:812 (August 1995), amended LR 34:

Subchapter B. Determination of Bed or Unit Need

§12507. Intermediate Care Facilities for the

Developmentally Disabled

A. The service area for a proposed or existing facility is designated as the department's administrative region in which the facility or proposed facility is or will be located.

The administrative regions and the parishes which comprise these regions are as follows:

1. Region I: Jefferson, Orleans, Plaquemines, and St. Bernard;

2. Region II: Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge, and West Feliciana;

3. Region III: Assumption, Lafourche, St. Charles, St. James, St. John, St. Mary, and Terrebonne;

4. Region IV: Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, and Vermilion;

5. Region V: Allen, Beauregard, Calcasieu, Cameron, and Jefferson Davis;

6. Region VI: Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Vernon, and Winn;

7. Region VII: Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine and Webster;

8. Region VIII: Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll; and

9. Region IX: Livingston, St. Helena, St. Tammany, Tangipahoa, and Washington.

B. The beds and population of the service area where the facility is located, or is proposed to be located, will be considered in determining the need for the facility or additional beds. The beds that are counted in determining the need for community and group homes are approved, licensed beds and approved, unlicensed beds as of the due date for a decision on an application.

C. Data sources utilized include information compiled by the FNR Program and the middle population projections recognized by the State Planning Office as official projections. The population projections utilized are those for the year in which the beds are to be enrolled in the Medicaid Program.

D. In accordance with the department's policy of least restrictive environment, there is currently no identified need for additional facilities with 16 or more beds. Therefore, applications for facilities of 16 or more beds shall not be accepted for review, and applications to increase existing facilities to 16 or more beds shall not be accepted for review.

E. At the present time, the recommended bed-to-population ratio for community and group homes has been achieved. However, special needs and circumstances may arise which the department may consider as indicators of need for additional beds such as occupancy rates, availability and accessibility of clients in need of placements, patient origin studies, and requests for special types of beds or services.

1. For service areas in which average annual occupancy for the four most recent quarters (as reported in the MR-2) is in excess of 93 percent, the department may review the census data, utilization trends, and other factors described in of this section to determine if additional beds are needed.

F. If the department determines that there is a need for beds in a parish with an average annual occupancy in excess of 93 percent, a Request for Proposals (RFP) will be issued. No applications will be accepted under these provisions unless the department declares a need and issues a RFP. Applications will be accepted for expansion of existing facilities and/or for the development of new facilities.

1. The RFP will indicate the region in need of beds, the number of beds needed, the date by which the beds are to be available to the target population (enrolled in Medicaid), and the factors which the department considers relevant in determining the need for the additional beds.

2. The RFP will specify the MR-2 on which the determination of need is based.

3. The RFP will be issued through newspaper publication and will specify the dates during which the department will accept applications.

4. Applications will be accepted for a period to be specified in the RFP. Once submitted, an application cannot be changed and additional information will not be accepted.

G. The department will review the proposals and independently evaluate and assign points to each of the following 10 items on the application for the quality and adequacy of the response to meet the need of the project:

1. work plan for Medicaid certification;
2. availability of the site for the proposal;
3. relationship or cooperative agreements with other health care providers;
4. accessibility to other health care providers;
5. availability of funds; financial viability;
6. experience and availability of key personnel;
7. range of services, organization of services and program design;
8. methods to achieve community integration;
9. methods to enhance and assure quality of life; and
10. plan to ensure client rights, maximize client choice and family involvement.

H. A score of 0-20 will be given to the applicant's response to each item using the following guideline:

1. 0 = inadequate response;
2. 5 = marginal response;
3. 10 = satisfactory response;
4. 15 = above average response; and
5. 20 = outstanding response.

I. In the case of a tie for the highest score for a specific facility or additional beds, the department will conduct a comparative review of the top scoring proposals which will include prior compliance history. The department will make a decision to approve one of the top scoring applications based on the comparative review of the proposals.

J. If no proposals are received which adequately respond to the need, the department may opt not to approve an application.

K. At the end of the 90-day review period, each applicant will be notified of the department's decision to approve or disapprove the application. However, the evaluation period may be extended for up to 60 days. Applicants will be given 30 days from the date of receipt of the notification by the department in which to file an appeal.

1. The issuance of the approval of the proposal with the highest number of points shall be suspended during the 30-day period for filing appeals and during the pendency of any administrative appeal. All administrative appeals shall be consolidated for purposes of the hearing.

L. Proposals approved under these provisions are bound to the description in the application with regard to type of beds and/or services proposed as well as to the location as defined in the RFP issued by the department.

1. Approval for Medicaid shall be revoked if these aspects of the proposal are altered.

2. Beds to meet a specific disability need approved through this exception must be used to meet the need identified.

M. Prior approval from the Office for Citizens with Developmental Disabilities is required before admission of all Medicaid recipients to facilities in beds approved to meet a specific disability need identified in a RFP issued by the department.

N. Exception for approved beds in downsizing large residential ICF-DD facilities (16 or more beds).

1. A facility with 16 or more beds which voluntarily downsizes its enrolled bed capacity in order to establish a group or community home will be exempt from the bed need criteria.

a. Beds in group and community homes which are approved under this exception are not included in the bed-to-population ratio or occupancy data for group and community homes approved under the FNR Program.

2. Any enrolled beds in the large facility will be disenrolled from the Title XIX Program upon enrollment of the same number of group or community home beds.

3. When the department intends to downsize the enrolled bed capacity of a state-owned facility with 16 or more beds in order to develop one or more group or community home beds that will be owned by the state, a RFP will be issued.

a. The RFP will be issued and beds shall be made available in accordance with the methods described in this Section;

4. For private facility beds downsized to privately owned group or community homes, these facilities should contact the regional Office for Citizens with Developmental Disabilities in the region where the proposed community or group home beds will be located. These proposals do not require facility need review approval.

O. Exception for Additional Beds for Certain ICFs-DD

1. Any ICF-DD which serves children or adults suffering from mental retardation, autism or behavioral problems and which had no less than 150 and no more than 180 approved beds as of August 15, 2003, shall, upon application to the department, be granted approval for up to 50 additional beds without being required to meet the standards set forth in this Section, §12505 or §12527.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:

§12509. Emergency Community Home Bed Pool

Exception

A. The Emergency Community Home Bed Pool consists of all Medicaid enrolled beds which have been authorized to be transferred from state developmental centers to non state-operated community homes on or before June 30, 2002 in order to address emergency situations on a case-by-case basis.

B. Effective July 1, 2002, the secretary of the department may not authorize the transfer of any beds from the

emergency community home bed pool to a non state operated community home unless the bed had been authorized to be transferred to a non state operated community home on or before June 30, 2002 and was subsequently transferred from that facility back to the pool pursuant to the provisions of this Section.

C. Emergency situations which may be addressed through the use of the emergency community home bed pool shall include, but not be limited to situations in which it is difficult or impossible to find a placement for an individual in an ICF-DD because of one of the following:

1. an inadequate number of available ICF-DD beds in the service area to serve the needs of the developmentally disabled population in general;

2. an inadequate number of available ICF-DD beds in the service area to serve the needs of the developmentally disabled population who also have physical or behavioral disabilities or difficulties; or

3. an inadequate number of available ICF-DD beds in the service area to provide for the transition of individuals from residing in large residential facilities to residing within the community.

D. Any agency or individual who becomes aware of an actual or potential emergency situation should contact the Office for Citizens with Developmental Disabilities (OCDD). OCDD shall submit its recommendations to the Facility Need Review Program for emergency placement. OCDD's recommendations shall include:

1. identification of the individual in need of emergency placement,

2. the individual's needs,

3. the service area in which transfer from the emergency community home bed pool is requested, and

4. the names of one or more existing community homes that would be appropriate for the emergency placement.

E. To be eligible for transfer of one or more beds from the emergency community home bed pool, a community home must meet the following requirements, based on documentation provided by the Health Standards Section.

1. The facility must comply with the physical accessibility requirements of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973; or if it does not comply with those requirements, it must have a written plan to be in compliance within 24 months.

2. The facility cannot have been on a termination track or have had any repeat deficiencies within the last 12 months.

3. The facility must meet all square footage requirements, *Life Safety Code* requirements and general construction requirements of 42 CFR Subpart I, Conditions of Participation for Intermediate Care Facilities for the Mentally Retarded, as well as LAC 50:VII.Chapter 301 and LAC 48:I.Chapters 51, 63 and 79.

4. The facility must ensure the provision of sufficient staffing and behavior modification plans to meet the needs of current residents and prevent those residents from being adversely affected by the emergency admission.

F. The secretary shall authorize the transfer of the bed for use at the non state-operated community home. Upon the enrollment of the transferred bed at that community home,

the bed shall be permanently transferred to that facility subject to the following conditions.

1. Once the bed is no longer needed to remedy the emergency situation, the facility shall continue to make it available for subsequent emergency placements. However, it may be used temporarily to serve other individuals until it is needed for a new emergency placement.

2. The facility shall make the bed available for a new emergency placement within 72 hours after receiving a request for such placement from the department as set forth herein. If the facility does not comply with such a request, the secretary may, at his discretion, transfer the bed from the facility back to the emergency community home bed pool.

G. Beds which have been placed in the emergency community home bed pool shall be exempt from the bed need criteria and the requirements for requests for proposals which are normally applicable to ICFs-DD.

H. For purposes of the emergency community home bed pool exception, the definition of a service area provided in §12507.A. is applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), LR 34:

§12511. Nursing Facilities

A. The service area for proposed or existing nursing facilities or beds is the parish in which the site is located. Exceptions are the parishes of Ascension, Iberville, Plaquemines and St. John, each of which is composed of two separate service areas as divided by the Mississippi River.

B. Nursing facility beds located in "distinct parts" of acute care general hospitals must be approved through FNR in order to be enrolled to participate in the Medicaid Program.

C. In reviewing the need for beds, all proposed beds shall be considered available as of the projected date of the project. The FNR Program does not recognize the concept of "phasing-in" beds, whereby an applicant provides two or more opening dates.

D. For reviews in which the bed to population ratio is a factor, the bed inventory which will be used is that which is current on the date on which the complete application is received.

1. The bed to population ratio will be recomputed during the review period when the report is incorrect due to an error by the department.

E. For reviews in which utilization is a factor, the occupancy report which will be used is that which is current on the date on which the complete application is received.

1. The occupancy rate will be recomputed during the review period when the report is incorrect due to an error by the department.

F. In determining occupancy rates of nursing facilities or beds:

1. beds for which occupancy shall be based shall include nursing facility beds (skilled, IC-I and IC- II) which are enrolled in Title XIX;

2. each licensed bed shall be considered as available for utilization for purposes of calculating occupancy; and

3. a bed shall be considered in use, regardless of physical occupancy, based on payment for nursing services available or provided to any individual or payer through formal or informal agreement.

G. The beds and population of the service area where the facility is located, or is proposed to be located, will be considered in determining need for the facility or beds.

1. The beds which are counted in determining need for nursing facilities or beds are approved, licensed beds and approved, unlicensed beds as of the due date for decision on an application.

H. Data sources to be used include information compiled by the FNR Program and the middle population projections recognized by the State Planning Office as official projections. Population projections to be used are those for the year in which the beds are to be enrolled in the Medicaid Program.

I. In order for additional beds or facilities to be added in a service area, the bed-to-population ratio for nursing facility beds shall not exceed 65 Medicaid approved beds per 1,000 elderly population in a service area, and the average annual occupancy for the four most recent quarters (as reported in the LTC-2) shall exceed 95 percent in the service area.

J. Exceptions for areas with high occupancy rates may be considered in the following situations.

1. A Medicaid enrolled nursing facility which maintains 98 percent average annual occupancy of its enrolled beds for the four most recent quarters (as reported in the LTC-2) may apply for approval of additional beds to be enrolled in the Medicaid Program.

a. In order for an application to be considered, all approved beds in the facility must be enrolled in Title XIX.

b. In order for a facility to reapply for additional beds, all approved beds must be enrolled in Title XIX for the four most recent quarters, as reported in the LTC-2.

c. The number of beds for which application may be made shall not exceed 10 beds.

d. In determining occupancy rates for purposes of this exception, only an adjustment of one additional day after the date of death, for the removal of personal belongings, shall be allowed if used for that purpose.

i. This adjustment shall not be allowed if nursing services available or provided to another individual are paid for through formal or informal agreement in the same bed for that time period.

e. In determining occupancy rates, more than one nursing facility bed enrolled in Title XIX shall not be considered occupied by the same resident, regardless of payment for nursing services available or provided.

f. For a Medicaid enrolled nursing facility with high occupancy to apply for additional bed approval, documentation of availability of health manpower for the proposed expansion shall be required.

g. For a Medicaid enrolled nursing facility with high occupancy to apply for additional bed approval, for the most recent 36 months preceding the date of application, compliance history and quality of care performance of the applicant facility must be void of any of the following sanctions:

i. appointment of a temporary manager;

ii. termination, non-renewal or cancellation, or initiation of termination or non-renewal of provider agreement; or

iii. license revocation or non-renewal.

2. When average annual occupancy for the four most recent quarters (as reported in the LTC-2) exceeds 95 percent in a parish, the department will determine whether additional beds are needed, and if indicated, may issue a request for proposals (RFP) to develop the needed beds.

a. Upon issuance of the utilization report, the department will identify the parishes with average annual occupancy in excess of 95 percent. The LTC-2 is issued by the department in the fourth month following the end of each calendar quarter.

b. In order to determine if additional beds are needed for each parish in which average annual occupancy is in excess of 95 percent, the department may review the census data, utilization trends, and other factors such as:

- i. special needs in an area;
- ii. information received from other health care providers and other knowledgeable sources in the area;
- iii. waiting lists in existing facilities;
- iv. requests from the community;
- v. patient origin studies;
- vi. appropriateness of placements in an area;
- vii. remoteness of an area;
- viii. occupancy rates in adjoining and/or adjacent parishes;
- ix. availability of alternatives;
- x. reasonableness of distance to facilities;
- xi. distribution of beds within a service area or geographical area; and
- xii. such other factors as the department may deem relevant.

c. The number of beds which can be added shall not exceed 15 percent of the existing approved beds in the parish, or 120 beds, whichever is less. The department will strive to assure that occupancy in existing facilities in the area will not decline below 85 percent as a result of the additional beds;

3. If the department determines that there is, in fact, a need for beds in a parish with average annual occupancy in excess of 95 percent, a RFP will be issued. No applications will be accepted under these provisions unless the department declares a need and issues a RFP. Applications will be accepted for expansions of existing facilities and/or for the development of new facilities.

a. The RFP will be issued through newspaper publication, and will specify the dates during which the department will accept applications. Also, nursing facilities in the service area and adjoining parishes will be notified of the issuance of the RFP.

b. The RFP will indicate the parish and/or area in need of beds, the number of beds needed, the date by which the beds are needed to be available to the target population (enrolled in Medicaid), and the factors which the department considers relevant in determining need for the additional beds. The RFP will specify the LTC-2 on which the determination of need is based.

c. Applications will be accepted for a 30-day period, to be specified in the RFP. Once submitted, an

application cannot be changed and additional information will not be accepted.

d. The department will review the proposals and independently evaluate and assign points (out of a possible 120) to the applications as follows:

i. 0-20 points: Availability of beds to the Title XIX population.

NOTE: Work plan for Medicaid certification and availability of site for the proposal.

ii. 0-20 points: Appropriateness of location, or proposed location.

NOTE: Accessibility to target population, relationship or cooperative agreements with other health care providers, and distance to other health care providers.

iii. 0-20 points: Responsiveness to groups with special needs (e.g. AIDS patients, ventilator assisted patients; technology dependent patients);

iv. 0-20 points: Experience and availability of key personnel (e. g., director of nursing, administrator, medical director);

v. 0-20 points: Distribution of beds/facilities within the service area. Geographic distribution of existing beds and population density will be taken into account.

e. A score of 0-20 will be given to the applicant's response to each item using the following guideline:

i. 0 = inadequate response;

ii. 5 = marginal response;

iii. 10 = satisfactory response;

iv. 15 = above average response; and

v. 20 = outstanding response.

f. If there is a tie for highest score for a specific facility or beds, a comparative review of the top scoring proposals will be conducted. In the case of a tie, the department will make a decision to approve one of the top scoring applications based on comparative review of the proposals.

g. If no proposals are received which adequately respond to the need, the department may opt not to approve an application.

h. At the end of the 60-day review period, each applicant will be notified of the department's decision to approve or disapprove the application. However, the department may extend the evaluation period for up to 30 days. Applicants will be given 30 days from the date of receipt of the department's notification by in which to file an appeal.

i. The issuance of the approval of the application with the highest number of points shall be suspended during the 30-day period for filing appeals and during the pendency of any administrative appeal. All administrative appeals shall be consolidated for purposes of the hearing.

4. Proposals submitted under these provisions are bound to the description in the application with regard to the type of beds and/or services proposed as well as to the site/location as defined in the request issued by the department.

a. Approval for Medicaid certification shall be revoked if these aspects of the proposal are altered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), LR 34:

§12513. Alternate Use of Licensed Approved Title XIX Beds

A. In a service area in which average annual occupancy is lower than 93 percent, a nursing home may elect to temporarily convert a number of Title XIX beds to an alternate use (e.g., adult day care).

1. The beds may be converted for alternate use until such time as the average annual occupancy in the service area exceeds 93 percent (based on the LTC-2 report) and the facility is notified of the same.

2. The facility shall then either re-enroll the beds as nursing home beds within one year of receipt of notice from the department that the average annual occupancy in the service area exceeds 93 percent.

3. The approval for beds not re-enrolled by that time will be expired.

B. A facility is prohibited from adding beds when alternately using beds.

C. All approved beds must be enrolled as nursing home beds in Title XIX for the four most recent quarters, as reported in the department's occupancy report, in order for additional beds to be approved.

D. A total conversion of all beds is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), LR 34:

§12515. Additional Beds for Replacement Facility

A. A nursing facility that has had all approved beds enrolled for the four most recent quarters (as reported in the LTC-2) and is structurally older than 25 years, may apply for approval for additional beds to be enrolled in the Medicaid Program in a replacement facility.

B. The number of beds for which an application may be made shall not exceed 20 beds, with the following exception:

1. a facility may be approved for sufficient beds to bring the total approved beds in the replacement facility to 80.

C. A facility shall not be approved for beds that would exceed 130 total approved beds in the replacement facility.

D. Sufficient documentation must be submitted to demonstrate to the department's satisfaction that the facility is structurally older than 25 years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), LR 34:

§12517. Adult Residential Care Provider

A. The FNR Program will determine the number of adult residential care provider (ARCP) units to be licensed by the department. No ARCP unit shall be licensed to operate unless the FNR Program has granted an approval for the licensed ARCP unit. Once the FNR Program approval is granted, the unit is then eligible to be licensed by the department, subject to meeting all the requirements for licensure.

1. An existing licensed nursing facility that converts Medicaid approved nursing facility beds to ARCP units shall

be automatically granted FNR approval for the converted units. The nursing home must submit an application to the department requesting the approval. The application must detail the Medicaid approved nursing home beds being converted.

B. The service area for proposed or existing adult residential care units is the parish in which the units are to be located. Exceptions are the parishes of Ascension, Iberville, Plaquemines and St. John, each of which is composed of two separate service areas divided by the Mississippi River.

C. Determination of Need Methodology

1. Population Based Methodology. The FNR Program methodology projects the need for ARCP units to be 15 units per 1,000 persons who are 65 years old and older for each service area. The approved unit to population ratio for ARCP shall not exceed 15 units per 1000 persons who are 65 years old and older except as provided for in paragraph three.

2. The need for facilities will be projected five years forward using the most recent census data available from the Louisiana State Division of Administration.

3. Approval for additional units or facilities may be granted by the department if the service area's average annual occupancy for the four most recent quarters exceeds 98 percent. Approval for additional units in new or existing ARCP facilities shall be granted in increments not to exceed 20 units.

D. ARCP facilities that have approval for licensed units shall submit quarterly reports to the DHH Office of Aging and Adult Services (OAAS). The report shall contain the facility's patient/resident days and such other information as determined by OAAS.

E. Applications for approvals of licensed units submitted under these provisions are bound to the description in the application with regard to the type of units and/or services proposed as well as to the site/location as defined in the application. FNR approval of licensed units shall expire if these aspects of the application are altered.

F. FNR approvals for licensed units are non-transferable. Approvals for licensed units are limited to location and name of original licensee.

1. No portion of the units may be transferred to another party or moved to another location without the submission of a new application to and approval by the department's FNR Program. Approval of licensed units shall automatically expire if moved or transferred without application to and approval by the FNR Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 34:

§12519. Conversion of Medicaid Approved Nursing

Facility Beds to Adult Residential Care Provider Units

A. Existing licensed nursing facilities that convert Medicaid approved beds to ARCP units will be automatically granted FNR approval of licensed ARCP units, upon submission of a completed application to the FNR Program.

B. Existing licensed nursing homes shall convert Medicaid approved beds to ARC units on a ratio of four Medicaid approved nursing facility beds for each approved ARCP unit if the existing nursing home facility structure is utilized.

1. Nursing facilities that build new ARC buildings shall surrender two Medicaid approved beds for each approved ARCP unit. The license for any such converted nursing facility bed is surrendered at the date of conversion.

C. Conversion of nursing facility beds to ARCP units is irrevocable and units so converted may not be returned to nursing facility service, except in the case of a gubernatorial or presidential declaration of emergency or natural disaster.

1. In the case of an emergency or natural disaster, the nursing home use shall be temporary, not to exceed six months.

D. Conversion Requirements

1. A nursing facility that utilizes the existing facility structure to convert Medicaid approved beds to ARCP units will have the square footage associated with those converted beds removed from its nursing facility fair rental value calculation.

2. If a nursing facility which constructs a new ARC building certifies that it will utilize the space associated with the converted beds for other nursing facility use, then nursing facility will not have the square footage associated with those converted beds removed from its nursing facility fair rental value calculation.

a. If a nursing home which constructs a new ARC building utilizes the converted space for any purposes other than nursing facility services associated with the remaining licensed beds in the facility, then the nursing facility will have the square footage associated with those converted beds removed from its nursing facility fair rental value calculation.

3. Beds forfeited for purposes of ARC units cannot simultaneously be utilized to convert semi-private rooms to private rooms or be used for any other separate benefits in the rate methodology.

E. The date of conversion shall be the date that plan approval is granted by DHH Engineering and Architectural Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 34:

§12521. Architectural and Licensing Compliance

A. The following time frames shall apply for complying with the requirements for obtaining approval of architectural plans and licensure.

1. ARCP units which are converted from Medicaid approved beds in existing nursing facilities shall have final architectural plans approved no later than six months from the date of the FNR approval. Such units shall be licensed within one year from the date of the FNR approval.

2. ARCP units which are converted from Medicaid approved nursing facility beds in new facilities shall have final architectural plans approved no later than six months from the date of the FNR approval. Such units shall be licensed within 24 months from the date of the FNR approval.

3. ARCP units which are to be licensed in existing adult residential facilities shall have final architectural plans approved no later than six months from the date of the FNR approval. Such units shall be licensed within one year from the date of the FNR approval.

4. ARCP units which are to be licensed in new adult residential facilities shall have final architectural plans

approved no later than six months from the date of the FNR approval. Such units shall be licensed within 24 months from the date of the FNR approval.

B. A one-time 90 day extension may be granted, at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant. Inappropriate zoning is not a basis for extension.

C. Failure to meet any of the timeframes in this Section could result in an automatic expiration of the FNR approval of the ARCP units.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 34:

§12523. Reserved.

§12525. Reserved.

Subchapter C. Revocation of Facility Need Review

Approvals

§12527. General Provisions

A. Nursing Facilities

1. Beds which are added to an existing, licensed facility must be enrolled in the Title XIX Program within one year of the date of approval by the FNR Program.

2. New nursing facilities which are approved to be constructed must be enrolled in the Title XIX Program within 24 months of the date of the approval.

3. An extension may be granted, at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant (e.g., acts of God). Inappropriate zoning is not a basis for extension.

B. Intermediate Care Facilities for the Developmentally Disabled

1. Group and community home beds must be enrolled in the Title XIX Program within nine months of the date of approval by the Facility Need Review Program.

2. A one-time 90-day extension may be granted, at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant (e.g., acts of God). Inappropriate zoning is not a basis for an extension.

3. If the beds are not enrolled in the Title XIX program within the time limits specified in this Section, the approval will automatically expire.

C. Approval of a group or community home bed shall be revoked when the Office for Citizens with Developmental Disabilities advises that the bed, which was approved for Title XIX reimbursement to meet a specific disability need identified in a RFP issued by the department, is not being used to meet that identified need based on the facility serving a Medicaid recipient in the bed without prior approval from the OCDD.

D. Except as provided in Subchapter E of this Chapter, approval shall be revoked under the following circumstances:

1. a facility's license is revoked, not renewed, or denied, unless the facility obtains a license within 120 days from the date of such revocation, nonrenewal or denial.

2. a facility's provider agreement is terminated unless, within 120 days thereof, the facility enters into a new provider agreement.

E. Except as provided in Subchapter E of this Chapter, beds may not be disenrolled except as provided under the alternate use policy and during the 120-day period to have beds relicensed or recertified. The approval for beds

disenrolled will automatically expire except as otherwise indicated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:

Subchapter D. Relocation of Nursing Facility Beds

§12529. General Provisions

A. A nursing facility's approved beds cannot be relocated to a different service area.

B. Approved beds may be relocated only under the following conditions.

1. Subject to the exception provided in Subparagraph 2, all of the approved beds must be relocated to a single new location.

a. The approval of any beds not relocated to that new location shall be revoked.

2. Notwithstanding the requirements of Subparagraph 1, a partial relocation of approved beds may be effected if the following conditions are met:

a. the approved beds are in a nursing facility owned by a hospital service district as of the date of adoption of this rule and at the time of the partial relocation;

b. the partial relocation does not place the approved beds in a different service area;

c. the approved beds are relocated to the site of a currently operational hospital owned by the same or a different hospital service district.

i. If the new location is owned by a different hospital service district, the ownership of the approval of the relocated beds must be transferred to the hospital service district to which the beds are relocated; and

d. no more than 25 percent of the nursing facility's approved beds are relocated.

3. If, within five years after a partial relocation to a hospital site pursuant to Subparagraph 2., the hospital located at that site ceases operations, the relocated beds shall revert to the original facility from which they were relocated. This provision shall not apply to relocations which require a transfer of ownership of the approval of the relocated beds.

4. A hospital service district may relocate or transfer the ownership of the approval of approved beds pursuant to Subparagraph c. only once.

5. Subparagraphs B.2., B.3. and B.4. are not intended to prohibit or restrict the relocation of all of the approved beds in a nursing facility by a hospital service district in accordance with Paragraph A. and Subparagraph B.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:

Subchapter E. Nursing Facility Bed Abeyance

§12531. General Provisions

A. A nursing facility may have all of its approved beds disenrolled from the Medicaid Program and placed in abeyance if the department determines that the average annual occupancy in the service area where the facility is

located is less than 85 percent. The department shall base this determination on the occupancy figures contained in the most recent LTC-2 report issued by the department prior to its receipt of a written request that the facility's beds be placed in abeyance in accordance with Paragraph B of this Section.

B. In order to request that a facility's beds be placed in abeyance, all persons or entities who are the holders of the approval, the nursing facility license, and the Medicaid provider agreement must submit to the department a written request signed by each such person or entity. The written request shall:

1. specify the date (which must be no later than 120 days after the receipt of the request by the department) on which the intended closure of the facility will occur; and

2. designate an individual (referred to hereinafter as the "designated contact person") who shall serve as the contact between the party(ies) submitting the request and the department with respect to all matters involving the placing of the facility's beds in abeyance and their removal from abeyance.

a. The written request must include the mailing address and telephone number of that person.

b. If the designated contact person is changed, a written notice thereof, signed by each person or entity who submitted the original request, shall be given to the department.

C. If the department determines that the requirements set forth (Paragraphs A. and B.) have been met, it shall issue a written Notice of Abeyance and forward it to the designated contact person within 30 calendar days after its receipt of the request for abeyance, subject to the provisions of Paragraph L. If the department determines that these requirements have not been met or that the issuance of a Notice of Abeyance would conflict with Paragraph L, it shall issue a written denial and forward it to the designated contact person within 30 calendar days after its receipt of the request.

D. All of a facility's approved beds must be disenrolled from the Medicaid Program within 120 days after the designated contact person's receipt of a Notice of Abeyance. An extension not to exceed 90 days may be granted if extenuating circumstances warrant said extension, such as safe transfer of patients. Otherwise, the notice of abeyance will automatically expire at the end of the 120-day period.

E. All of a facility's approved beds may be disenrolled before the designated contact person's receipt of a notice of abeyance. However if he or she does not receive a notice of abeyance within 120 days after the beds are disenrolled, the provisions of §12527.D and E will be applicable.

F. With respect to the facility's beds which are not designated to be re-enrolled as Medicaid nursing facility beds, the approval shall automatically expire after 120 days from receipt of the notice of abeyance by the designated contact person; unless the beds are re-enrolled by that date, thus rescinding the notice of abeyance.

G. A Notice of Abeyance shall remain in effect until the facility's beds are taken out of abeyance and are re-enrolled in Medicaid.

H. A facility's beds shall remain in abeyance until the average annual occupancy in the facility's service area, as shown in the most recent LTC-2 report, has exceeded 93 percent.

I. If the department determines that the average annual occupancy in the facility's service area, as shown in the most recent LTC-2 report, has exceeded 93 percent, it shall give written notice thereof to the designated contact person.

1. The written notice shall specify the number of the facility's approved beds which must be taken out of abeyance and re-enrolled as Medicaid nursing facility beds.

2. That number shall be determined by the department based upon the following criteria.

a. A nursing facility with 120 or fewer enrolled beds at the time of the request may return all of its enrolled beds from abeyance.

b. A nursing facility with 121 to 160 enrolled beds at the time of the request may return up to 80 percent of its beds from abeyance, but in no case shall it be required to return fewer than 120 beds.

c. A nursing facility with 161 or more enrolled beds at the time of the request may return up to 75 percent of its beds from abeyance, but in no case shall it be required to return fewer than 128 beds, nor shall it be allowed to return more than 175 beds.

d. A nursing facility may choose to return fewer beds from abeyance than are allowed by this Subparagraph and if it does so, the balance of the beds shall be disenrolled.

J. Within one year after the receipt of the written notice described in Paragraph I. (or, in the case of new construction for a replacement facility, within 24 months after the receipt of such notice), the beds specified by the department must be taken out of abeyance and re-enrolled as Medicaid nursing facility beds.

1. An extension of that time may be granted at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant (e.g., acts of God).

2. Inappropriate zoning is not a basis for extension.

3. If the facility's beds which are designated to be re-enrolled as Medicaid nursing facility beds are not re-enrolled within the specified time period, the approval for those beds will automatically expire at the end of that period.

K. If, after issuing the written notice provided in Paragraph I to the designated contact person, the department determines that the requirement set forth in Paragraph H. is no longer met, the obligation to place the facility's beds back in service in accordance with Paragraph J. shall not be affected or negated.

L. If two or more requests to place beds in abeyance are pending at the same time, and the issuance of Notices of Abeyance for all of the pending requests would conflict with this Paragraph, priority shall be assigned to the requests as follows.

1. If two or more facilities are located in the same service area, a request with respect to a facility having a lower average annual occupancy rate shall have priority over a request with respect to a facility having a higher average annual occupancy rate, based on the most recent LTC-2 report issued by the department.

M. While a facility's beds are in abeyance, the ownership of the approval for those beds may not be transferred and shall not be subject to any legal device.

N. All of a facility's beds which are taken out of abeyance and re-enrolled in the Medicaid Program must remain located together in one facility, which shall be either

the original facility in which they were located before being placed in abeyance or another facility located in the same service area as the original facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1023 (May 2004), amended LR 34:

Subchapter F. Administrative Appeals

§12533. Appeal Procedures

A. Upon refusal of the department to grant a FNR approval, only the applicant shall have the right to request an administrative appeal.

1. A written request for such an appeal must be submitted by registered mail to the Secretary of the department of Health and Hospitals within 30 days after the notification of disapproval is received by the applicant.

2. A fee of \$500 shall accompany a request for an appeal.

B. Hearings shall be conducted by a hearing officer designated by the governor, provided that no person who has taken part in any prior consideration of, or action upon, the application may conduct such hearings.

1. However, a hearing officer who presided over a hearing and remanded the matter to the department may hear a subsequent appeal of the same application if the department again disapproves the application.

C. The hearing shall be conducted within 30 days after receipt of the written request for the hearing.

1. Requests by the department or the applicant for extensions of time within which to conduct a hearing may be granted at the discretion of the hearing officer, provided that if the hearing is not concluded within 180 days from the date of receipt by the applicant of notification of disapproval, the decision of the department will be considered upheld.

2. The hearing shall be open to the public.

D. The hearing officer shall have the power to:

1. administer oaths and affirmations;
2. regulate the course of the hearings;
3. set the time and place for continued hearings;
4. fix the time for filing briefs and other documents;

and

5. direct the parties to appear and confer to consider the simplification of the issues.

E. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs may be admitted and given probative effect. The rules of privilege recognized by law shall be given effect. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing can be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

F. All evidence, including records and documents in the possession of DHH of which it desires to avail itself, shall be offered and made part of the records. All such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

1. In the case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence. Notice may be taken of judicially cognizable facts.

2. In addition, notice may be taken of generally recognized technical or scientific facts within DHH's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material notices, including any staff memoranda or data. They shall be afforded an opportunity to contest the material so noticed.

G. The hearing officer shall have the power to sign and issue subpoenas, or to direct the department to do so, in order to require attendance and the testimony by witnesses and to require the productions of books, papers and other documentary evidence.

1. The applicant is required to notify the hearing officer in writing at least 10 days in advance of the hearing of those witnesses whom he wishes to be subpoenaed.

2. No subpoena shall be issued until the party (other than the department) who wishes to subpoena a witness first deposits with the hearing officer a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671.

3. DHH may request issuance of subpoenas without depositing said sum of money. The witness fee may be waived if the person is an employee of DHH.

4. When any person summoned under this section neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony as required, DHH may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt.

a. It shall be the duty of the judge to hear the application and, if satisfactory proof is made, to issue an attachment directed to some proper officer for the arrest of such person.

b. Upon such person being brought before him, the judge shall proceed with the hearing of the case.

c. Upon such hearing, the judge may issue such order as he shall deem proper, not inconsistent with the law for the punishment of contempt, to enforce obedience to the requirements of the summons and to punish such person for this default or disobedience.

H. The department or any party to the proceedings may take the deposition of witnesses, within or without the state, in the same manner as provided by law for the taking of depositions in civil actions in courts of record. Depositions so taken shall be admissible in the review proceeding at issue. The admission of such depositions may be objected to at the time of hearing and may be received in evidence or excluded from the evidence by the hearing officer in accordance with the rules of evidence provided in this Section.

I. The applicant, the department, any other agency which reviewed the application, and other interested parties (including members of the public and representatives of health services consumers) shall be permitted to give testimony and present arguments at the hearing without formally intervening. Such testimony and arguments shall be presented after the testimony of the applicant and DHH has been presented, or at the discretion of the hearing officer, at any other convenient time. When such testimony is presented, all parties may cross-examine the witness.

J. A record of the hearing proceeding shall be maintained. Copies of such record together with copies of all

documents received in evidence shall be available to the parties, provided that any party who requests copies of such material may be required to bear the costs thereof.

K. The hearing officer shall notify all parties, in writing or on the record, of the day on which the hearing will conclude and of any changes thereto; provided that a hearing must be concluded in accordance with the time requirements specified in this Section.

1. As soon as practicable, but not more than 45 days after the conclusion of a hearing, the hearing officer shall send his written decision and the reasons for the decision to the applicant, the department, and any interested parties who participated in the hearing.

2. Such decisions shall be publicized by the department through local newspapers and public information channels.

3. After rendering his decision, the hearing officer shall transmit the record of the hearing to the department.

L. An applicant who fails to have the disapproval reversed shall forfeit his filing fee.

M. Judicial review of the decision of the hearing officer shall be in accordance with the provisions of R.S. 49:964 provided, however, that only an applicant aggrieved by the decision of the hearing officer shall have the right to judicial review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, LR 21:812 (August 1995), amended LR 34:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by assuring the availability of and access to facilities that render adult residential care services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, August 26, 2008, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Facility Need Review Adult Residential Care

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other

than cost of promulgation for FY 08-09. It is anticipated that \$4,182 (SGF) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase revenue collections as a result of an application fee per residential unit (residential unit is defined as an individual apartment within a facility) to determine if there is a need for an adult residential care facility in a particular area. However, the numbers of units that will be licensed and enrolled to participate in the Medicaid Program cannot be determined at this time.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to adopt provisions governing facility need review for adult residential care providers (approximately 30 facilities). It is anticipated that implementation of this proposed rule will have an economic cost for directly affected persons in that an application fee of \$10 per unit will be assessed for the Facility Need Review process for each adult residential care provider that is licensed and enrolled to participate in the Medicaid Program. The numbers of units that will be licensed and enrolled to participate in the Medicaid Program cannot be determined at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jerry Phillips
Medicaid Director
0807#083

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Inpatient Hospital Services—Non-Rural, Non-State
Hospitals Reimbursement Methodology
Coverage of Hemophilia Blood Products
(LAC 50:V.965)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:V.965 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals (*Louisiana Register*, volume 20, number 6). The reimbursement methodology was subsequently amended to establish a weighted average per diem for each hospital peer group and discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, volumes 22 and 25, numbers 1 and 5). The department

promulgated an Emergency Rule to amend the reimbursement methodology for non-rural, non-state acute care hospitals to provide additional reimbursements to certain hospitals, classified as major teaching hospitals, for the extraordinary costs incurred in the purchase of blood products for Medicaid recipients who have been diagnosed with hemophilia (*Louisiana Register*, volume 34, number 5). This proposed Rule is being promulgated to continue the provisions of the May 20, 2008, Emergency Rule to amend the payment methodologies for private hospital inpatient services and to clarify the provisions governing hemophilia blood products.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§965. Hemophilia Blood Products

A. Effective for dates of service on or after May 20, 2008, the Department of Health and Hospitals shall provide additional reimbursements to certain non-rural, non-state acute care hospitals for the extraordinary costs incurred in purchasing blood products for certain Medicaid recipients diagnosed with, and receiving inpatient treatment for hemophilia.

B. Hospital Qualifications. To qualify for the additional reimbursement, the hospital must:

1. be classified as a major teaching hospital and contractually affiliated with a university located in Louisiana that is recognized by the Centers for Disease Control and Prevention and the Health Resource and Services Administration, Maternal and Child Health Bureau as maintaining a comprehensive hemophilia care center;

2. have provided clotting factors to a Medicaid recipient who has been diagnosed with hemophilia and has been hospitalized at the qualifying hospital for a period exceeding six days; and

3. have actual cost exceeding \$50,000 for acquiring the blood products used in the provision of clotting factors during the hospitalization.

a. Actual cost is the hospital's cost of acquiring blood products for the approved inpatient hospital dates of service as contained on the hospital's original invoices, less all discount and rebate programs applicable to the invoiced products.

C. Reimbursement. Hospitals who meet the aforementioned qualifications may receive reimbursement for their actual costs that exceed \$50,000 if the hospital submits a request for reimbursement to the Medicaid Program within 180 days of the patient's discharge from the hospital.

1. The request for reimbursement shall be submitted in a format specified by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on the family

functioning, stability and autonomy as described in R.S. 49:972.

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Center for Medicaid Services (CMS) if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, August 26, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Inpatient Hospital Services—Non-Rural, Non-State Hospitals Reimbursement Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$ 357,477 for FY 08-09, \$368,032 for FY 09-10, and \$379,073 for FY 10-11. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$900,995 for FY 08-09, \$927,856 for FY 09-10, and \$955,692 for FY 10-11. It is anticipated that \$164 will be expended in FY 07-08 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the May 20, 2008, emergency rule, amends the provisions governing the reimbursement methodology for non-rural, non-state acute care hospitals to provide an additional reimbursement to certain hospitals for the extraordinary costs incurred for blood products for Medicaid recipients with hemophilia. It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid Program by approximately \$1,258,144 for FY 08-09, \$1,295,888 for FY 09-10, and \$1,334,765 for FY 10-11.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips
Medicaid Director
0807#082

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Targeted Case Management
Reimbursement Methodology
(LAC 50:XV.10701 and 10703)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.10701 and adopt §10703 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated the rules governing optional targeted case management services under the Medicaid Program for inclusion in the *Louisiana Administrative Code (Louisiana Register, volume 30, number 5)*. The department promulgated an Emergency Rule to amend the provisions of the May 20, 2004, Rule governing the reimbursement methodology for targeted case management to require case management agencies to bill in 15-minute increments and to adopt provisions establishing cost reporting requirements for targeted case management (*Louisiana Register, volume 34, number 5*). This proposed Rule is being promulgated to continue the provisions of the May 1, 2008, Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 107. Reimbursement

§10701. Reimbursement

A. Effective for dates of service on or after May 1, 2008, reimbursement for case management services shall be a prospective rate for each approved unit of service provided to the recipient.

1. One-quarter hour (15 minutes) is the standard unit of service which covers both service provision and administrative costs.

2. All services must be prior authorized.

B. ...

C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1040 (May 2004), amended LR 31:2032 (August 2005), LR 34:

§10703. Cost Reports

A. Case management agencies shall provide annual cost reports based on the state fiscal year, starting with the period beginning July 1, 2008 and ending June 30, 2009. Completed reports are due within 90 calendar days after the end of each fiscal year.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by enhancing access to services and protecting patients by incident reporting requirements.

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Center for Medicaid Services (CMS) if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, August 26, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested individuals will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Targeted Case Management—Reimbursement Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 08-09. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 08-09. It is anticipated that \$164 will be expended in FY 08-09 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the May 1, 2008, Emergency Rule, proposes to amend the provisions governing the reimbursement methodology for targeted case management to require case management agencies to bill in 15-minute increments and adopt provisions establishing cost reporting requirements for targeted case management. Previously services were billed at a fixed monthly case fee. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected

persons or non-governmental groups in FY 08-09, FY 09-10 and FY 10-11 as the amount available for these services is capped.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jerry Phillips
Medicaid Director
0807#081

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Regulation Number 96—Prescribed Minimum
Statutory Reserve Liability and Nonforfeiture
Standard for Preneed Life Insurance
(LAC 37:XIII.Chapter 131)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner of the Louisiana Department of Insurance hereby gives notice of the department's intent to promulgate its Regulation 96, the purpose of which is to establish the 1980 Commissioners Standard Ordinary (CSO) Life Insurance Valuation Mortality Table as the required minimum statutory reserve valuation and nonforfeiture value standard for preneed life insurance policies.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 131. Regulation Number 96—Prescribed
Minimum Statutory Reserve Liability and
Nonforfeiture Standard for Preneed Life
Insurance**

§13101. Authority

A. Regulation 96 is promulgated by the Commissioner of Insurance pursuant to authority granted under the Louisiana Insurance Code, Title 22, R.S. 22:1 et seq., particularly the Standard Valuation Law, R.S. 22:163.B.(1)(a) and the Standard Nonforfeiture Law for Life Insurance, R.S. 22:168.G.(8)(f).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§13103. Scope

A. Regulation 96 applies to preneed life insurance policies as defined in §13107 of this regulation. Any discrepancy as to whether a particular insurance contract meets the definition of preneed life insurance as it pertains to this regulation will be resolved by the Commissioner of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§13105. Purpose

A. The purpose of Regulation 96 is to establish the 1980 Commissioners Standard Ordinary (CSO) Life Insurance Valuation Mortality Table, defined in §13107, as the required minimum statutory reserve valuation and nonforfeiture value standard for preneed life insurance policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§13107. Definitions

2001 CSO Mortality Table—that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the Proceedings of the NAIC (2nd Quarter 2002). Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

Home Service Contracts—those life insurance policies and certificates issued by a company that has a home service marketing distribution system as defined under Title 22, the Louisiana Insurance Code, R.S. 22: 1141.C(2). These policies have generally lower life insurance policy face amounts with simplified issue and non-medically underwritten features. The proceeds of these policies are usually used to pay burial and other funeral expenses.

Preneed Life Insurance—for purposes of this regulation, is any life insurance policy or certificate that is issued in combination with, in support of, with an assignment to, or as a guarantee for a prearrangement agreement for goods and services to be provided at the time of, and immediately following, the death of the insured. Goods and services may include, but are not limited to, embalming, cremation, body preparation, viewing or visitation, coffin or urn, memorial stone, and transportation of the deceased. For the purpose of this regulation preneed life insurance shall include home service contracts and other similarly underwritten life insurance policies and certificates.

Ultimate 1980 CSO—the Commissioners' 1980 Standard Ordinary Life Valuation Mortality Tables (1980 CSO) without 10-year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law approved in December 1983.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§13109. Minimum Valuation Mortality Standards

A. For preneed life insurance policies, as defined in §13107, the mortality standard to be used to determine the minimum statutory reserve liabilities and nonforfeiture

values for both male and female insureds shall be the Ultimate 1980 CSO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§13111. Minimum Valuation Interest Rate Standards

A. The minimum statutory valuation interest rate standard used in the valuation of preneed life insurance shall be the calendar year statutory valuation interest rates as defined in Title 22, the Louisiana Insurance Code, R.S. 22:163.B.(1).

B. The minimum statutory interest rate standard used in the determination of nonforfeiture values for preneed life insurance shall be the calendar year statutory nonforfeiture interest rates as defined in Title 22, the Louisiana Insurance Code, R.S. 22:168.G.(9).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§13113. Minimum Valuation Method Standards

A. The standard method used to determine the minimum statutory reserve for preneed life insurance shall be the method defined in Title 22, the Louisiana Insurance Code, R.S. 22:163.B.(4)(a).

B. The standard method used to determine the minimum nonforfeiture values for preneed life insurance shall be the method defined in Title 22, the Louisiana Insurance Code, R.S. 22:168.G.(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§13115. Transition Rules

A. For preneed life insurance policies issued on or after the effective date of Regulation 96, and before January 1, 2012, the 2001 CSO may be used as the minimum statutory standard for reserves, and the minimum standard for nonforfeiture benefits, for both male and female insured lives.

B. If an insurer elects to use the 2001 CSO as a minimum statutory standard for any preneed life insurance policy, issued on or after the effective date of this regulation and before January 1, 2012, the insurer shall provide, as a part of the actuarial opinion memorandum submitted in support of the company's asset adequacy testing, an annual written notification to the domiciliary commissioner. The notification shall include:

1. a complete list of all preneed life insurance policy forms that use the 2001 CSO as a minimum standard;

2. a certification signed by the appointed actuary stating that the reserve methodology employed by the company in determining reserves for the preneed life insurance policies issued on or after the effective date of this regulation and using the 2001 CSO as a minimum statutory standard, develops adequate reserves (For the purposes of this certification, the preneed life insurance policies using the 2001 CSO as a minimum statutory standard cannot be aggregated with any other policies.); and

3. supporting information regarding the adequacy of reserves for preneed life insurance policies issued after the effective date of this regulation and using the 2001 CSO as a minimum statutory reserve standard.

C. Preneed life insurance policies issued on or after January 1, 2012, must use the Ultimate 1980 CSO in the calculation of minimum statutory reserves and nonforfeiture values.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§13117. Effective Date

A. Regulation 96 will become effective upon promulgation in the *Louisiana Register* and will be applicable to preneed life insurance policies, as specified in §13103, issued on or after January 1, 2009.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

Family Impact Statement

1. Describe the Effect of the Proposed Rule on the Stability of the Family. The proposed Rule should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Rule on the Functioning of the Family. The proposed Rule should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Rule on Family Earnings and Budget. The proposed Rule should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Rule on the Behavior and Personal Responsibility of Children. The proposed Rule should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Rule on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed Rule should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

On Tuesday, August 26, 2008, beginning at 9 a.m., the Department of Insurance will hold a public hearing in the Poydras Hearing Room located at 1702 N. Third Street, Baton Rouge, LA 70802 to allow for public commentary concerning the proposed promulgation of its Regulation 96 as set forth below.

Persons interested in obtaining copies of Regulation 96 or in making comments relative to this proposal may do so at the public hearing or by writing to Barry E. Ward, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Written comments will be accepted through the close of business on Wednesday, August 27, 2008.

James J. Donelon
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Regulation Number 96—Prescribed
Minimum Statutory Reserve Liability and Nonforfeiture
Standard for Preneed Life Insurance**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Louisiana Department of Insurance does not anticipate any implementation costs for proposed Regulation 96.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Proposed Regulation 96 will have no impact on revenues. Although Regulation 96 establishes the 1980 Commissioners Standard Ordinary (CSO) Life Insurance Valuation Mortality Table as the minimum statutory reserve valuation and nonforfeiture value standard for preneed life insurance business, which will establish higher tax reserves and less taxable income, there should be no material impact upon state tax revenues as result of this proposed rule change. R.S. 47:227 grants insurance companies a dollar-for-dollar tax credit against the income tax in the amount paid in insurance premium tax. Due to Regulation 96 impacting a small portion of the life insurance business, there will not be any significant changes in state revenues as a result of the proposed rules.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no expected direct costs to any persons or non-governmental groups as result of proposed Regulation 96.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Implementation of proposed Regulation 96 should have no adverse impact upon competition and employment in the state.

S. Denise Brignac
Chief Deputy Commissioner
0807#060

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Application to Drill (LAC 43:XIX.103)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and Title 30 of the Louisiana Revised Statutes of 1950 (R.S. 30:4 et seq.), the Louisiana Office of Conservation hereby gives notice of its intent to amend LAC 43:XIX Subpart 1 (Statewide Order No. 29-B) Chapter 1 (General Provisions).

The amendment requires the addition of Interstate highways to the location plat along with the distance from the Interstate highway to the well and changes the required location plat scale to 1,000 feet to the inch.

The amendment also requires the notification of appropriate state and local authorities by drilling permit applicants upon issuance of a permit to drill for wells located within 1,000 feet of an Interstate highway. Notification is achieved by providing a copy of the approved drilling permit and the certified location plat to the appropriate authorities.

The amendment also updates the agency name from "Department of Conservation" to "Office of Conservation" and clarifies the term "ownership" by changing the term to "operator of record".

Title 43

NATURAL RESOURCES

**Part XIX. Office of Conservation—General Operations
Subpart 1. Statewide Order No. 29-B**

Chapter 1. General Provisions

§103. Application to Drill

A. All applications for permits to drill wells for oil or gas or core test wells below the fresh water sands shall be made on Form MD-10-R or revisions thereof, and mailed or delivered to the district office. These applications, in duplicate, shall be accompanied by three copies of the location plat, preferably drawn to a scale of 1000 feet to the inch. The plats shall be constructed from data compiled by a registered civil engineer or surveyor and shall definitely show the amount and location of the acreage with reference to quarter-section corners, or other established survey points. There shall also be shown all pertinent lease and property lines, leases, offset wells, and the location and distance from the well to the nearest shoulder of any Interstate highway within the boundaries of the plat. When the tract to be drilled is composed of separately-owned interests which have been pooled or unitized, the boundaries to the acreage in each separately-owned interest must be indicated. Plats must have well locations certifications either written on or attached to the well location plats and this certification must be signed by a registered civil engineer, qualified surveyor or a qualified engineer regularly employed by the applicant. If possible the application card shall give the name and address of the drilling contractor, otherwise the information, as soon as determined, shall be supplied by letter to the district manager.

1. Applicants that receive a drilling permit for a well located within 1,000 feet of an Interstate highway shall furnish a copy of the approved drilling permit and the certified location plat to the appropriate state and local authorities, including all emergency responders.

B. When dual completion applications are granted, each well shall be considered as two wells. The production from each sand shall be run through separate lead lines and the production from each sand shall be measurable separately. The department's agent shall designate suitable suffixes to the well number which will serve as reference to each producing sand.

C. No well shall be drilled, nor shall the drilling of a well be commenced, before a permit for such well has been issued by the Office of Conservation; furthermore, any work, such as digging pits, erecting buildings, derricks, etc., which the operator may do or have done, will be done at his own risk and with the full understanding that the Office of Conservation may find it necessary to change the location or deny the permit because of the rules and regulations applying in that instance.

D. No well shall commence drilling below the surface casing until a sign has been posted on the derrick, and subsequently on the well if it is a producer, showing the operator of record of the well, name of lease, section, township, range, and the serial number under which the permit was issued. The obligation to maintain a legible sign remains until abandonment.

E. In order to make the designation of the well, as referred to above, more uniform throughout the state, and thus to facilitate the handling of all matters relative to any

particular well, the following system of rules has been developed for use in the naming of wells in the future in Louisiana.

1. In no case shall any operator name or well name exceed 30 characters. A space is equivalent to one character.

a. Abbreviations shall be used whenever possible to comply with the above. It is recommended that "S" be used for sand and "U" for unit.

b. The official well name appearing on Form MD-10-R (Application to Drill) shall be used when reporting on all Office of Conservation forms and also in any correspondence.

2. Lease Wells. All wells drilled on a lease basis shall bear the lessor's surname and initials or given name.

Example:	Lease Name	Well Number
	J. R. Smith	Number 2

3. The commissioner shall prescribe or cause to have prescribed the procedure for assigning well and/or nomenclature and shall issue a memorandum concerning same from time to time as the need arises.

a. Developmental units proposed at a hearing shall be named in accordance with the latest memorandum, and the well number shall depend on whether or not there are any other wells in existence on the lease.

b. Any unit maps filed with an application for hearing must reflect proposed unit names in accordance with the latest memorandum.

4. Units with Alternate Unit Wells. For those cases where more than one well serves the same proration unit, the wells shall be named in accordance with the latest memorandum, and the well number shall be followed by the letters ALT in the case of each alternate well.

Example:	Lease Name	Well Number
	Hayes Sue; J. R. Smith	Number 1
	Hayes Sue; Dave Luke	Number 1 ALT
	Hayes Sue; St. Mary	Number 22 ALT

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (August 1958), (August 1961), (May 1973), amended by the Department of Natural Resources, Office of Conservation, LR 34:

Family Impact Statement

In accordance with RS 49:972, the following statements are submitted after consideration of the impact of the proposed Rule amendment at LAC 43:XIX.103, Application to Drill on family as defined therein.

1. The proposed Rule amendment will have no effect on the stability of the family.

2. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The proposed Rule amendment will have no effect on the functioning of the family.

4. The proposed Rule amendment will have no effect on family earnings and family budget.

5. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. Family or local government are not required to perform any function contained in the proposed Rule amendment.

A public hearing will be held on August 26, 2008 at 9 a.m. in the LaSalle Building, LaBelle Hearing Room, 617 N. Third Street, Baton Rouge, LA 70802. Interested persons are

invited to attend and submit oral comments on the proposed amendments. If accommodations are required under the Americans with Disabilities Act, please advise the Office of Conservation, Engineering Division at P.O. Box 94275, Baton Rouge, LA 70804-9275 in writing within 10 working days of the hearing date. Two hours of free parking are allowed in the Welcome Center parking garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference "Proposed Amendment of LAC 43:XIX.103". Such comments must be received no later than Monday, August 11, 2008, at 4:30 p.m., and should be sent to Chris Sandoz, Office of Conservation, Engineering Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; hand delivered to 617 North Third Street, Ninth Floor, Baton Rouge, LA 70802; by e-mail to chris.sandoz@la.gov; or by fax to (225) 342-2584.

This proposed regulation is available on the Internet at <http://dnr.louisiana.gov/cons/conserv.ssi> and is available for inspection at the following DNR office locations from 8 a.m. until 4:30 p.m.: 617 N. Third Street, Ninth Floor, Baton Rouge, LA 70802; Brandywine III, Suite 220, 825 Kaliste Saloom Road, Lafayette, LA 70508; State Office Building, Suite 668, 1525 Fairfield Avenue, Shreveport, LA 71101; 122 St. John Street, Room 228, Monroe, LA 71201.

James H. Welsh
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Application to Drill**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs or savings to State or Local government units anticipated due to the proposed rule amendments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local government units anticipated due to the proposed rule amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The primary group affected by these rules changes will be Exploration and Production companies. There are no anticipated cost increases associated with the location plat scale changes. There are minor cost increases associated with the addition of Interstate highway location and distance information to the location plats and with the notification requirements. When compared to the cost of drilling a well, these cost increases are anticipated to be negligible.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

James H. Welsh
Commissioner
0807#029

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources Office of Conservation

Diverter Systems and Blowout Preventers (BOP) (LAC 43:XIX.111)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and Title 30 of the Louisiana Revised Statutes of 1950 (R.S. 30:4 et seq.), the Louisiana Office of Conservation hereby gives notice of its intent to amend LAC 43:XIX Subpart 1 (Statewide Order No. 29-B) Chapter 1 (General Provisions).

The amendment includes requirements for diverter systems in areas where drilling hazards are known to exist or anticipated to divert fluids safely away from the facilities and personnel during a blowout event. The district manager is also given authority to require the use of a diverter system on any well. These diverter systems must meet minimum specifications and have certain characteristics, including the design, type and number of diverter lines, the number and location of control stations, valve types, and anchor and support systems.

The amendment also requires the proper design, installation, use, maintenance, and testing of blowout preventers for all wells during drilling, workover, or other appropriate well operations. The required minimum characteristics for blowout preventer systems and associated auxiliary equipment are specified, including preventer types, the number and location of control stations, valve types and pressure ratings.

The amendment requires inspections, drills, function tests and pressure tests be conducted at specified intervals to ensure diverter systems and blowout preventer systems are maintained and work properly when needed. Inspection, drill and test records are required to be maintained at the well site for review by the Office of Conservation. Well control safety training is also required for employees to ensure that all required equipment is used correctly.

The text of this proposed Rule may be viewed in the Emergency Rule portion of this issue of the *Louisiana Register*.

Family Impact Statement

In accordance with RS 49:972, the following statements are submitted after consideration of the impact of the proposed Rule amendment at LAC 43:XIX.111, Diverter Systems and Blowout Preventers (BOP) on family as defined therein.

1. The proposed Rule amendment will have no effect on the stability of the family.
2. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.
3. The proposed Rule amendment will have no effect on the functioning of the family.
4. The proposed Rule amendment will have no effect on family earnings and family budget.
5. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.
6. Family or local government are not required to perform any function contained in the proposed Rule amendment.

A public hearing will be held on August 26, 2008 at 9 a.m. in the LaSalle Building, LaBelle Hearing Room, 617 N. Third Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. If accommodations are required under the Americans with Disabilities Act, please advise the Office of Conservation, Engineering Division at P.O. Box 94275, Baton Rouge, LA 70804-9275 in writing within 10 working days of the hearing date. Two hours of free parking are allowed in the Welcome Center parking garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference "Proposed Amendment of LAC 43:XIX.111". Such comments must be received no later than Monday, August 11, 2008, at 4:30 p.m., and should be sent to Chris Sandoz, Office of Conservation, Engineering Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; hand delivered to 617 North Third Street, Ninth Floor, Baton Rouge, LA 70802; by email to chris.sandoz@la.gov; or by fax to (225) 342-2584.

This proposed regulation is available on the Internet at <http://dnr.louisiana.gov/cons/conserv.ssi> and is available for inspection at the following DNR office locations from 8 a.m. until 4:30 p.m.: 617 N. Third Street, Ninth Floor, Baton Rouge, LA 70802; Brandywine III, Suite 220, 825 Kaliste Saloom Road, Lafayette, LA 70508; State Office Building, Suite 668, 1525 Fairfield Avenue, Shreveport, LA 71101; 122 St. John Street, Room 228, Monroe, LA 71201.

James H. Welsh
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Diverter Systems and Blowout Preventers

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no implementation costs or savings to State or Local government units anticipated due to the proposed rule amendments.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections of state or local government units anticipated due to the proposed rule amendments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The primary groups affected by these rules changes will be Exploration and Production companies, Drilling and Workover contractors, and Drilling Services Equipment Rental companies. Many Exploration and Production companies have already implemented internal policies which incorporate similar safety equipment and design specifications and, as a result, the majority of contractors already include the required equipment, training and testing in their bids and rates.
Minor cost increases are estimated in some cases due to the blowout preventer requirements and testing requirements. Cost increases due to the diverter system requirements and the training requirements are estimated to be negligible. The

additional documentation requirements do not result in any additional paperwork or forms.

Any cost increases resulting from the proposed rules will be partially offset by reductions in insurance premiums due to the additional safety equipment and are negligible when compared to the potential costs of a blowout.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

James H. Welch
Commissioner
0806#030

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

**Disciplinary Rules and Procedures for Adult Offenders
(LAC 22:I.341-363)**

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Public Safety and Corrections, Corrections Services, amends in their entirety LAC 22:I.341-365 and adds new rules and regulations, all relative to the Disciplinary Rules and Procedures for Adult Offenders.

The text of this proposed Rule may be viewed the Emergency Rule portion of this *Louisiana Register*.

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804, until 4:30 p.m. on August 11, 2008.

James M. Le Blanc
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Disciplinary Rules and
Procedures for Adult Offenders**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This is a technical adjustment to an existing regulation. There will be no fiscal impact with repealing and implementing of the new regulation.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units since this is a technical adjustment.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There is no estimated cost or economic benefit to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no estimated effect on competition and employment with this rule.

B.E. "Trey" Boudreaux, III
Undersecretary
0807#066

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

Forfeiture of Good Time (LAC 22:I.333)

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 15:823, and the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to repeal LAC 22:I.333, Forfeiture of Good Time for Escape or Battery on an Employee of the Department in its entirety. The content of this Section will be incorporated into Subchapter B Disciplinary Rules and Procedures for Adult Offenders.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult Services

Subchapter A. General

**§333. Forfeiture of Good Time from Inmates who
Escape or Commit Battery on an Employee of
the Department**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:571.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 25:1875 (October 1999), repealed LR 34:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804, unit 4:30 p.m. on August 11, 2008.

James M. Le Blanc
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Forfeiture of Good Time

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There would be no fiscal impact to the state for the repeal of the Forfeiture of Good Time from offenders who Escape or Commit Battery on an Employee. This rule is published as part of the Offender Rule Book and this repeal is only addressing a duplication of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There would be no fiscal impact on the Revenue Collections of state or local governmental units as a result of the repeal of this rule. This rule will remain in effect; the repeal process is only removing duplication.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no an estimated cost or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

B.E. "Trey" Boudreaux, III
Undersecretary
0807#065

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

**Searches of Employees
(LAC 22:I.304)**

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 36:404, hereby gives notice of its intent to repeal LAC 22:I.304, Searches of Employees in its entirety. This is a technical adjustment as the information is not required to be promulgated and will remain intact and enforced as a department regulation.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult Services

§304. Searches of Employees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:402.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Corrections Services, LR 12:445 (July 1986), repealed LR 34:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804, until 4:30 p.m. on August 11, 2008.

James M. Le Blanc
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Searches of Employees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This repeal is a technical adjustment. This regulation does not have to be promulgated and the procedure will remain

intact and enforced as a department regulation. Therefore, there will be no fiscal impact with the repealing of the rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units since this is a technical adjustment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment with the repeal of this rule.

B.E. "Trey" Boudreaux, III
Undersecretary
0807#064

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
State Uniform Construction Code Council**

International Mechanical Code (LAC 55:VI.301)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730:22(C) and (D) and R.S. 40:1730.34(B) relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Code Council hereby proposes to amend a Section under Chapter 3 to provide for a one and two family supplement to the 2006 International Mechanical code that will cover mechanical code enforcement for residential structures.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 3. Adoption of the Louisiana State Uniform

§301. Louisiana State Uniform Construction Code

A. - A.3.b.i.(b)...

4. International Mechanical Code, 2006 Edition, and the standards referenced in that code for regulation of construction within this state. Also included for regulation, the Louisiana One- and Two- Family Supplement to the 2006 International Mechanical Code. Furthermore, the International Mechanical Code, 2006 Edition, Chapter 1, Section 101.2 Scope is amended as follows: Exception: Detached one- and two- family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the Louisiana One- and Two- Family Supplement to the 2006 International Mechanical Code.

5. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments or requests for public hearing on this proposed rule change to Curt McCarty, Administrator, Louisiana State Uniform Construction Code Council, at 7979 Independence Boulevard, Suite 106, Baton Rouge, LA 70806. Comments will be accepted through close of business August 10, 2008

Jill P. Boudreaux
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: International Mechanical Code**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will result in an increase in cost to governmental units in the potential aggregate amount of \$3,400 for the initial purchase of 200 codebooks. This provides for the Louisiana One and Two Family Supplement to the 2006 International Mechanical Code. The cost to purchase a copy of the supplement is \$17.00 each. There are approximately 150 permit departments in the state. Larger departments will most likely purchase multiple copies. The proposed rule will not result in any additional state expenditure apart from or in addition to that which will result from the enactment of Act 12 of the 2005 First Extraordinary Session.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections of state governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule will allow local building permit departments to utilize residential mechanical standards that are available in one supplemental codebook for code enforcement instead of utilizing commercial standards in a different codebook.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as the proposed rule is merely adding a supplement to an already established code.

Jill P. Boudreaux
Undersecretary
0807#061

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

CCAP Provider Disqualifications (LAC 67:III.5113)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to adopt the Louisiana Administrative Code, Title 67:III, Subpart 12, Chapter 51, Child Care Assistance Program (CCAP), Subpart B, Section 5113, Disqualification Periods for CCAP Providers. Adoption is pursuant to the authority granted to the department by the Child Care and Development Fund (CCDF).

Section 5113 is being added to further promote the safety of children during their care by CCAP providers by applying CCAP disqualification periods that will result in termination of CCAP payments to child care providers for specified periods of time after determination that certain acts or violations have been committed.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program (CCAP)

Subchapter B. Child Care Providers

§5113. Disqualification Periods for CCAP Providers

A. A child care provider shall be disqualified from receiving CCAP payments if the agency determines that certain acts or violations have been committed by that provider. CCAP disqualifications shall apply as follows.

1. A Criminal Background Check (CBC) from State Police that indicates the provider has been convicted of or pled no contest to a crime listed in R.S.15:587.1(C) shall result in permanent disqualification. If a CBC from State Police for a person living in or working in an FCDCH or for a person working in a Class A or Class E center indicates the person has been convicted of or pled no contest to a crime listed in R.S. 15:587.1(C), the provider shall be disqualified until that person is no longer living in or working in the FCDCH or working in the Class A or Class E center.

2. A Category 1 validated complaint of child abuse or neglect on the provider shall result in permanent disqualification. If the Category 1 validated complaint is for a person living in or working in an FCDCH or for a person working in a Class A or Class E center, the provider shall be disqualified until that person is no longer living in or working in the FCDCH or working in the Class A or Class E center. The following types of validated complaints of child abuse or neglect are considered to be Category 1 complaints: bone fracture, Factitious Disorder by Proxy/Munchausen by Proxy Syndrome, poisoning or noxious substance ingestion, suffocation, whiplash/Shaken Infant Syndrome, HIV/AIDS and Hepatitis, prostitution, sexual intercourse (vaginal or anal), failure to thrive (non-organic), central nervous system damage/brain damage/skull fracture, internal injury, subdural hematoma, torture, wounds, oral sex, sexual exploitation/pornography, sexually transmitted disease, malnutrition/starvation, death/abuse, death/neglect, perpetrators who have an adjudication of a child in need of care, perpetrators with a voluntary or involuntary

Termination of Parental Rights (TPR) judgment, sexual enticement, simulated intercourse, abandonment, burns, eye injury, minor head/facial injuries, tying or confinement, passive abuse, exploitation, sexual manipulation or fondling, emotional maltreatment, bruises/cuts/welts/scratches, dislocations or sprains, human bites, mouth/dental trauma, medical neglect, drug/alcohol abuse, dependency, and lack of supervision as described in §5113.A.4. These types of validated complaints of child abuse or neglect are defined by the Office of Community Services.

3. A Category 2 validated complaint of child abuse or neglect on the provider shall result in the corrective action or disqualification periods described below. If the Category 2 validated complaint is for a person living in or working in an FCDCH or working in a Class A or Class E center, the provider shall be disqualified until that person is no longer living in or working in the FCDCH or working in the Class A or Class E center, or until the corrective action described below is met or the disqualification period described below ends, whichever is sooner. The following types of validated complaints of child abuse or neglect are considered to be Category 2 complaints: inadequate clothing, inadequate food, inadequate shelter, and lack of supervision as described in §5113.A.4. These types of validated complaints of child abuse or neglect are defined by the Office of Community Services. The corrective action or disqualification periods for Category 2 validated complaints are as follows:

- a. corrective action, for first validated complaint;
- b. one month or until compliance with corrective action, whichever is later, for second validated complaint or for failure to complete corrective action for first validated complaint;
- c. six months or until compliance with corrective action, whichever is later, for third validated complaint;
- d. 12 months or until compliance with corrective action, whichever is later, for fourth and subsequent validated complaints.

4. A validated complaint of child abuse or neglect due to lack of supervision shall be deemed by the agency as either a Category 1 or a Category 2 complaint, based on the severity of the complaint and the circumstances that existed at the time of the complaint.

5. An Intentional Program Violation (IPV) is any act by a CCAP provider than consists of intentionally making a false or misleading statement, or misrepresenting, concealing, or withholding relevant facts. A provider who has committed an IPV will be subject to the following disqualification periods:

- a. six months for the first violation;
- b. 12 months for the second violation;
- c. 24 months for the third and subsequent violations.

6. Non-fraudulent violations of the terms of the CCAP Provider Agreement, such as but not limited to failure to comply with recordkeeping requirements, caring for more than six children (FCDCH) or for more children than the licensed capacity (Class A), etc., shall result in the following disqualification periods:

- a. one month or until compliance with corrective action, whichever is later, for first violation;

b. six months or until compliance with corrective action, whichever is later, for second violation;

c. 12 months or until compliance with corrective action, whichever is later, for third and subsequent violations.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L.104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 34:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This proposed Rule will have a positive effect on the stability of the family by ensuring a safe environment for children, free from individuals known to have abused/neglected children and offering parents a measure of confidence in their decision to place their children in out-of-home care.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? This proposed Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? This proposed Rule will have no effect on the functioning of the family.

4. What effect will this Rule have on family earnings and family budget? This proposed Rule will have no effect on family earnings and family budget.

5. What effect will this Rule have on the behavior and personal responsibility of children? This proposed Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

All interested persons may submit written comments through, August 28, 2008, to Alison Neustrom, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, LA, 70804-9065.

A public hearing on the proposed Rule will be held on August 28, 2008, at the Department of Social Services, Iberville Building, 627 N. Fourth Street, Seminar Room 1-129, Baton Rouge, LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Ann Silverberg Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: CCAP Provider Disqualifications

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to apply disqualification periods for Child Care Assistance Program (CCAP) payments to child care providers after it has been determined that certain acts or violations have been committed.

There is no net savings anticipated as a result of this rule change because CCAP payments will continue to be made to other eligible providers on behalf of CCAP children.

The cost of publishing rulemaking and printing policy changes is estimated to be \$1,000 (\$500 State General Fund/\$500 Federal Child Care Block Grant funds). This is a one-time cost that is routinely included in the agency's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Providers who are disqualified will no longer receive CCAP payments until compliance with corrective action has occurred. The period of disqualification will depend on the type and number of validated complaints. The agency is unable to determine how many providers will be disqualified from receiving CCAP payments; however the average loss per month if a provider is disqualified would be as follows: Class A Providers (\$6,157), Family Day Care Home Providers (\$719), In-Home Providers (\$586), and School Child Care Program Providers (\$831).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule should have no impact on competition and employment.

Adren O. Wilson
Assistant Secretary
0807#069

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

2009 Turkey Season and Bag Limits (LAC 76:XIX.115)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the turkey rules and regulations for the 2009 season.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final Rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§115. Turkey Hunting Seasons and Bag Limits

A. Daily limit is one gobbler. Season limit is two gobblers. Turkeys taken on WMAs are part of the season bag limit. Only one turkey may be taken during WMA lottery hunts.

B. Turkey season will open in designated areas on the fourth Saturday in March. The Area A turkey season will be 30 consecutive days in length, the Area B turkey season will be 23 consecutive days in length, and the Area C turkey

season will be 16 consecutive days in length. Wildlife Management Areas, National Forests, National Wildlife Refuges, and U.S. Army Corps of Engineers land may vary from this framework. Deviation from this framework may occur in those years when the fourth Saturday in March falls the day before Easter.

C. Statewide Youth Turkey and Physically Challenged Season on private lands shall be the weekend prior to the statewide turkey season.

D. Only those Wildlife Management Areas listed herein are open to turkey hunting. All other Wildlife Management Areas are closed.

E. 2009 Turkey Hunting Schedule

Area	Season Dates
A	March 28 - April 26
B	March 28 - April 19
C	March 28 - April 12
Private Lands Youth and Physically Challenged Hunter (Wheelchair Confined) Hunt	March 21 - 22

F. Wildlife Management Area Turkey Hunting Schedule

WMA	Non-Lottery Hunt Dates	Lottery Hunt Dates
Bayou Macon	None	April 11-12
Bens Creek	March 28-April 12	None
Big Lake	March 28-April 12	None
Bodcau	March 28-April 12	None
Boeuf	March 28-April 5	None
Clear Creek	April 6-26	March 28-29 April 4-5
Camp Beauregard	March 28-April 5	None
Dewey Wills		April 18-19 April 25-26
Fort Polk	March 28-April 26	None
Grassy Lake	March 28-April 5	None
Hutchinson Creek	March 28-April 26	None
Jackson-Bienville	March 28-April 12	None
Lake Ramsey	March 28-April 12	None
Little River	March 28-April 12	None
Loggy Bayou	None	April 18-19
Peason Ridge	March 28-April 26	None
Red River	March 28-April 12	None
Sabine	None	March 28-29 April 4-5
Sandy Hollow	March 28-April 12	None
Sherburne	April 2-5	March 28-29 March 30-April 1
Sicily Island	None	March 28-30 March 31-April 2 April 3-5 April 6-12
Tangipahoa Parish School Board	March 28-April 26	None
Three Rivers	March 28-April 12	None
Tunica Hills South Tract	April 13-19	March 28-29 April 4-5 April 11-12
Tunica Hills North Tract	April 13-19	March 28-29 April 4-5 April 11-12
Union	None	April 11-12
Walnut Hills	March 28-April 26	None
West Bay	None	March 28-29 April 4-5

G. Wildlife Management Area Lottery Youth Hunts

WMA	Lottery Youth Hunt Date
Bens Creek	March 21
Big Lake	March 21
Fort Polk/Peason Ridge/ Calcasieu Ranger Dist.	March 21
Jackson-Bienville	March 21
Loggy Bayou	April 11
Sherburne	March 21-22
Sicily Island	March 21
Spring Bayou	March 21
Thistlethwaite	April 4
Tunica Hills	March 21
Union	April 4
West Bay	March 21

H. Wildlife Management Area Physically Challenged (Wheelchair Confined) Hunt

1. Jackson-Bienville WMA will be open April 18-24 to holders of valid Physically Challenged Hunter (Wheelchair Classification) Permits.

I. Federal Lands Turkey Hunting Schedule

1. Kisatchie National Forest (KNF) turkey hunting schedule: Caney Ranger District, March 28-April 12; all remaining KNF lands, March 28-April 19 (including Catahoula and Red Dirt National Wildlife Management Preserves).

2. U.S. Army Corps of Engineers turkey hunting schedule: Indian Bayou Area, March 21-22 physically challenged lottery only hunt, lottery hunt only on March 28-29 and March 30-April 1, non-lottery hunt April 2-5. Old River Control and Lock Areas, March 28-April 12.

3. National Wildlife Refuges: Bogue Chitto NWR, March 28-April 19; Lake Ophelia NWR, March 28-April 10 hunt ends at 12:00 p.m. each day; Tensas NWR, March 21-22 (youth only), March 28-April 12; Upper Ouachita NWR, March 21 (youth lottery only).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2264 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2376 (November 2002), LR 29:2513 (November 2003), LR 30:2875 (December 2004), LR 31:3167 (December 2005), LR 32:2272 (December 2006), LR 33:2470 (November 2007), LR 34: .

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments on the proposed Rule to Mr. Kenneth Ribbeck, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton

Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, September 4, 2008.

Patrick C. Morrow
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: 2009 Turkey Season and Bag Limits**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Establishment of turkey hunting regulations is an annual process that is carried out using existing staff and funding levels. No increase or decrease in costs to state or local governmental units associated with implementing the proposed rule is anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections from the sale of wild turkey licenses in Fiscal Year 2009 are estimated to be \$58,317.50. Failure to adopt this rule would result in no turkey hunting seasons and the subsequent loss of state revenue collections from the sale of turkey licenses. In addition, loss of tax revenues of an undeterminable amount may occur to both state and local governmental units from the foregone sales of supplies and equipment used in the pursuit of turkeys.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Approximately 18,000 resident and nonresident sportsmen and an undeterminable number of sporting good distributors, retail outlets and landowners are directly affected by the proposed rule. Turkey hunters in Louisiana generate income to retail outlets, landowners and commercial businesses through hunting lease payments and purchase of related outdoor equipment and associated items (food, fuel, clothing, shotgun shells, etc.). These land and business owners will be negatively impacted if turkey hunting seasons, rules and regulations are not established and promulgated. The actual amount of this impact is not estimable at this time. Resident and nonresident turkey hunters will be required to purchase a Louisiana wild turkey license in addition to their basic and big game hunting licenses, provided they are not exempt from purchasing a turkey license or do not already possess a license that includes wild turkey hunting privileges. The costs incurred by turkey hunters for the purchase of wild turkey licenses will be \$5.50 for residents, non-resident active military, non-resident students and non-resident Louisiana natives, and \$20.50 for other non-residents.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting supports approximately 13,000 full and part-time jobs in Louisiana, a portion of which are directly related to turkey hunting. Failure to establish turkey hunting seasons may have a negative impact on some of these jobs. It is anticipated that there will be little or no effect on competition in both the public and private sectors resulting from the proposed action.

Wynnette Kees
Deputy Undersecretary
0807#053

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

General and WMA Turkey Hunting Regulations (LAC 76:XIX.113)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the turkey rules and regulations for the 2009 season.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final Rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§113. General and WMA Turkey Hunting Regulations

A. General Regulations. Only gobblers (male turkeys) may be taken. Taking of hen (female) turkeys, including bearded hens, is prohibited. Still hunting only. Use of dogs, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzleloading shotguns, using shot not larger than #2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited. The running of coyote with dogs is prohibited in all turkey hunting areas during the open turkey season. No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys. A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closures. No person hunting turkeys more than 200 yards from a baited area will be in violation of the turkey baiting regulation.

B. Tags

1. Prior to hunting turkeys, all turkey hunters, regardless of age or license status, must obtain turkey tags and have them in their possession while turkey hunting. Immediately upon killing a turkey, hunters must attach a carcass tag to the turkey before it is moved from the site of the kill and must document the kill on the turkey harvest report card. The date of kill and parish of kill must be recorded on the carcass tag. The tag must remain attached to the turkey while kept at camp or while it is transported to the domicile of the hunter or to a cold storage facility. Hunters

who keep the carcass or meat at a camp must also comply with game possession tag regulations. Within 72 hours of the kill, the hunter must report the kill and record the validation number on the turkey harvest report card. Hunters may report turkeys by calling the validation phone number or using the validation web site.

2. Turkey hunters purchasing licenses by phone or internet will be given an authorization number and a LDWF identification number that will serve as their license and tags until the physical license and tags arrive by mail. Turkey hunters who have purchased a license with tags, but have not yet received their physical license and tags, must immediately tag their kill with a possession tag before moving it from the site of the kill. The authorization number and LDWF identification number must be recorded on the possession tag. Hunters must retain documentation of any turkeys killed and upon receiving their physical tags and harvest report card, validate their kill as required in these regulations. The tags for turkeys killed prior to receiving the physical tags must be removed from the turkey harvest report card and discarded.

3. Tags removed from the turkey harvest report card prior to killing a turkey are no longer valid and if lost will not be replaced. Duplicate tags and turkey harvest report cards are available to replace lost report cards and attached tags. Hunters will be charged a fee for duplicate turkey harvest report cards and tags. Hunters that have killed a turkey prior to losing their remaining tag and harvest report card must remove and discard the duplicate tag to account for the original tag that was used and validated. Hunters must record any previously validated turkey on the duplicate turkey harvest report card.

C. Possession of Live Wild Turkeys. No person shall take live wild turkeys or their eggs from the wild. No person shall possess captive live wild turkeys, (*Meleagris gallopavo silvestris*, *M. g. osceola*, *M. g. intermedia*, *M. g. merriami*, *M. g. mexicana*) or their eggs, regardless of origin, without a valid game breeder license. No pen-raised turkeys from within or without the state shall be liberated (released) within the state.

D. Statewide Youth and Physically Challenged Season Regulations. Only youths 17 years of age or younger or hunters possessing a Physically Challenged Hunter Permit with wheelchair classification may hunt. Youth must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults accompanying youth may not possess a firearm or bow. Youths may possess only one firearm or bow while hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt. Only one gobbler per day may be taken and any gobbler taken by the hunter during this special season counts towards their season bag limit of 2.

E. Shooting Hours. One-half hour before sunrise to one-half hour after sunset.

F. Turkey Hunting Area Descriptions

1. Area A

- a. All of the following parishes are open:
 - i. Beauregard;
 - ii. Bienville;
 - iii. Claiborne (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - iv. East Baton Rouge;
 - v. East Feliciana;
 - vi. Grant (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - vii. Jackson;
 - viii. LaSalle;
 - ix. Lincoln;
 - x. Livingston;
 - xi. Natchitoches (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - xii. Rapides (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - xiii. Sabine;
 - xiv. St. Helena;
 - xv. Tangipahoa;
 - xvi. Union;
 - xvii. Vernon (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - xviii. West Baton Rouge;
 - xix. West Feliciana (including Raccourci Island);
 - xx. Winn (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
- b. Portions of the following parishes are also open:
 - i. Allen—North of LA 104, west of LA 26 south of junction of LA 104 to US 190, north of US 190 east of Kinder, west of US 165 south of Kinder;
 - ii. Avoyelles—That portion bounded on the east by the Atchafalaya River, on the north by Red River to the Brouillette Community, on the west by LA 452 from Brouillette to LA 1, on the south by LA 1, eastward to Hamburg, thence by the West Atchafalaya Basin Protection levee southward;
 - iii. Calcasieu—North of I-10;
 - iv. Caldwell—West of Ouachita River southward to Catahoula Parish line;
 - v. Catahoula—South and west of the Ouachita River from the Caldwell Parish line southward to LA 8 at Harrisonburg, north and west of LA 8 from Harrisonburg to the LaSalle Parish line. ALSO that portion lying east of LA 15;
 - vi. Evangeline—North and west of LA 115, north of LA 106 west of LA 115 to US 167, west of US 167 south to LA 10, north of LA 10 west of US 167 to LA 13, west of LA 13 south of LA 10 to Mamou and north of LA 104 west of Mamou;
 - vii. Franklin—That portion lying east of LA 17 and east of LA 15 from its juncture with LA 17 at Winnsboro;
 - viii. Iberville—West of LA 1. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;
 - ix. Jefferson Davis—North of US 190 from junction with LA 26 to Kinder, west of US 165 and north of I-10 west from junction of US 165;
 - x. Madison—That portion lying east of US 65 from East Carroll Parish line to US 80 and south of US 80. Also, all lands east of the main channel of the Mississippi River;

- xi. Morehouse—West of US 165 from the Arkansas line to the junction of LA 140 at Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to US 165 at Bastrop, south of US 165 to junction of LA 3051 (Grabault Road) south of LA 3051 to junction of LA 138, west of LA 138 to junction of LA 134, north of LA 134 to the Ouachita Parish line;
- xii. Ouachita—East of LA 143 from Union Parish line to US 80 in West Monroe, north of US 80 to LA 139, west of LA 139 to the Morehouse Parish line;
- xiii. Pointe Coupee—All of the parish except that portion bounded on the north by LA Hwy. 1, from Innis to the junction of LA Hwy 417, on the west by LA Hwy. 417 southward toward McCrea, on the south by LA Hwy. 417 from McCrea to its junction with Delhi Lane, then by Delhi Lane to LA Hwy. 418, then LA Hwy. 418 northward to LA Hwy. 1 at Innis. Exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries.
- xiv. Richland—That portion south of US 80 and east of LA 17;
- xv. St. Landry—That portion bounded on the west by the West Atchafalaya Basin Protection Levee and on the east by the Atchafalaya River. Exception: the Indian Bayou Area, see Federal Lands Hunting Schedule for Indian Bayou Area dates;
- xvi. Upper St. Martin—All Within The Atchafalaya Basin. Exceptions: Sherburne WMA and Indian Bayou Area, see WMA Turkey Hunting Schedule for special season dates on all state, federal and private lands within Sherburne WMA boundaries and see Federal Lands Hunting Schedule for Indian Bayou dates;
- xvii. Tensas—That portion west of US 65 from the Concordia Parish line to its juncture with LA 128, north of LA 128 to St. Joseph; west and north of LA 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands east of the main channel of the Mississippi River.

2. Area B

- a. All of the following parishes are open:
 - i. Caddo;
 - ii. DeSoto;
 - iii. Red River;
 - iv. St. Tammany;
 - v. Washington.
- b. Portions of the following parishes are open:
 - i. Ascension—All east of the Mississippi River;
 - ii. Bossier—All open except that portion bounded on the north by I-20, on the west by LA 164, on the south by LA 164, and on the east by the Webster Parish Line;
 - iii. East Carroll—East of US 65 from Arkansas state line to Madison Parish line;
 - iv. Iberville—All east of the Mississippi River;
 - v. Webster—All open except that portion bounded on the north by I-20, on the east by U.S. 371, on the south by LA 164, and on the west by the Bossier Parish line (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates).

3. Area C

- a. All of the following parishes are open:
 - i. Concordia.

- b. Portions of the following parishes are open:
 - i. Caldwell—All east of the Ouachita River;
 - ii. Catahoula—All of the parish except for that portion located in Area A;
 - iii. Franklin—West of LA 17 from the Richland Parish line southward to Winnsboro, west of LA 15 southward to the Catahoula Parish line;
 - iv. Richland—West of LA 17 from Franklin Parish line to Ringle Road, south of Ringle Road to Ferguson Road, south of Ferguson Road to Little Road, south of Little Road to Big Creek, east of Big Creek to Franklin Parish line;
 - v. Tensas—East and south of US 65 from Concordia Parish line to LA 128, south of LA 128 to St. Joseph, east and south of LA 605, 604 and 3078 northward to Port Gibson Ferry.

4. Turkey season dates on Wildlife Management Areas, National Wildlife Refuges, Kisatchie National Forest and U.S. Army Corps of Engineers land located within Areas A, B, and C may vary from the season set for the parish in which they are located. Seasons for these lands are specified in LAC 76:XIX.115.

G. WMA Turkey Hunting Regulations

1. WMAs with youth turkey hunts are closed to all activities except turkey hunting by authorized youth hunt participants and fishing on the day(s) of the youth hunt.

2. Self-Clearing Permits. All turkey hunts, including lottery hunts, are self-clearing. Hunters must check in daily by obtaining a permit from a self-clearing station prior to hunting. The self-clearing permit must be in the hunter's possession while hunting. Upon completion of each days hunt, the hunter must check out by completing and depositing the hunter report portion of the permit in the check-out box at a self-clearing station before exiting the WMA.

3. Lottery Hunts. All or portions of some WMA seasons are designated as lottery hunts and are restricted to hunters selected by pre-application lottery. To apply for these lottery hunts, a hunter must submit a completed official application form to the Baton Rouge office by the deadline printed on the application. A non-refundable fee of \$5 must be sent with each application. Applicants for WMA youth hunts must be 17 years of age or younger and at least 8 years old on the day of the hunt. Applicants may submit only one application and may be selected for only one WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Hunters must abide by self-clearing permit requirements. Hunters chosen for WMA lottery hunts may be accompanied by one person. The person accompanying a lottery hunter shall not possess a firearm/bow or take a turkey, and must remain within a distance that allows normal voice contact with the lottery hunter at all times. Youths chosen for special youth only hunts will be assigned a guide on the day of the hunt. One person may accompany the youth and guide, but may not hunt.

4. WMA Physically Challenged Hunt (Wheelchair Confined). Open only to hunters with a Physically Challenged Hunter Permit with wheelchair classification. During this hunt, ATVs may be used by hunters on all designated ATV trails in accordance with the Physically Challenged Hunter Permit. Hunters must abide by self-clearing permit requirements.

- 5. Rules Specific to Certain WMAs:
 - a. Bens Creek—No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.
 - b. Sandy Hollow—No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.
 - c. Sherburne—All turkeys taken must be checked at the WMA headquarters.
 - d. Tunica Hills (North Tract)—Area closed to all users one day after close of turkey season until August 31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2263 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2375 (November 2002), LR 29:2512 (November 2003), LR 30:2874 (December 2004), LR 31:3167 (December 2005), LR 32:2272 (December 2006), LR 33:2469 (November 2007), LR 34:

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments on the proposed Rule to Kenneth Ribbeck, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, September 4, 2008.

Patrick C. Morrow
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: General and WMA
Turkey Hunting Regulations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Establishment of turkey hunting regulations is an annual process that is carried out using existing staff and funding levels. No increase or decrease in costs to state or local governmental units associated with implementing the proposed rule is anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections from the sale of wild turkey licenses in Fiscal Year 2009 are estimated to be \$58,317.50. Failure to adopt this rule would result in no turkey hunting seasons and the subsequent loss of state revenue collections from the sale of turkey licenses. In addition, loss of tax revenues of an undeterminable amount may occur to both state and local governmental units from the foregone sales of supplies and equipment used in the pursuit of turkeys.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Approximately 18,000 resident and nonresident sportsmen and an undeterminable number of sporting good distributors, retail outlets and landowners are directly affected by the proposed rule. Turkey hunters in Louisiana generate income to retail outlets, landowners and commercial businesses through

hunting lease payments and purchase of related outdoor equipment and associated items (food, fuel, clothing, shotgun shells, etc.). These land and business owners will be negatively impacted if turkey hunting seasons, rules and regulations are not established and promulgated. The actual amount of this impact is not estimable at this time. Resident and nonresident turkey hunters will be required to purchase a Louisiana wild turkey license in addition to their basic and big game hunting licenses, provided they are not exempt from purchasing a turkey license or do not already possess a license that includes wild turkey hunting privileges. The costs incurred by turkey hunters for the purchase of wild turkey licenses will be \$5.50 for residents, non-resident active military, non-resident students and non-resident Louisiana natives, and \$20.50 for other non-residents.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting supports approximately 13,000 full and part-time jobs in Louisiana, a portion of which are directly related to turkey hunting. Failure to establish turkey hunting seasons may have a negative impact on some of these jobs. It is anticipated that there will be little or no effect on competition in both the public and private sectors resulting from the proposed action.

Wynnette Kees
Deputy Undersecretary
0807#054

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY – JUNE 2008

LAC Title	Part.Section	Effect	Location LR 33 Month Page	LAC Title	Part.Section	Effect	Location LR 33 Month Page			
7	XIII.129,131	Amended	May 863		V.3517,3523,3719,4001,4003	Amended	Apr. 614			
	XXXV.101,137	Amended	Mar. 408		V.3707,3711,3715,4365,4367	Amended	June 981			
10	I.1501,1503	Adopted	May 871		V.3807,3823,3845,4003,4033	Amended	June 1008			
					V.4005,4045,4067,4301,4357	Amended	Apr. 614			
19	II.501-511 II.513,515	Amended	Apr. 602		V.4047,4067,4357,4431,4727	Amended	June 1008			
		Repealed	Apr. 602		V.4367,4379,4381,4401,4439	Amended	Apr. 614			
25	I.Chapter 11	Adopted	Apr. 599		V.4373,4387,4395,4403,4407	Amended	June 981			
					V.4397,4999	Amended	Jan. 69			
28	I.Chapters 1-13 IV.301,505,1101,1103,1107 IV.1201-1213,1301 IV.1401-1419,1701 V.203,215,221,223,241,245,247 XXXIII.301 XLI.1107 LXXIX.303,2103,2703 LXXIX.303 LXXIX.3301,3303 LXXXIII.301,519,2401 LXXXIII.305,309,311,501-509 LXXXIII.703,3501-3507,4310 LXXXIII.703,4302,4310,4313 CXI.303,305,312,315,701 CXI.305,1801 CXI.1351,1355 CXV.501,11171307,1309,2321 CXVII.101,303-309,501,505,507 CXVII.701-707 CXXXI.305 CXXXI.311 CXXXI.347,403,421 CXXXI.401 CXXXI.410 CXXXI.657	Adopted	Mar. 409		V.4411,4433,4435,4437,4438	Amended	June 981			
		Amended	Feb. 234		V.4497,4507,4512,4513,4701	Amended	Apr. 614			
		Amended	Feb. 234		V.4440,4441,4451,4452,4462	Amended	June 981			
		Amended	Feb. 234		V.4472,4489,4498,4507,4512	Amended	June 981			
		Amended	Apr. 610		V.4701,4703	Amended	June 981			
		Repromulgated	Jan. 64		V.4703,4901,4903,4909,4911	Amended	Apr. 614			
		Adopted	Apr. 610		V.4901,4903,4909,4999	Amended	June 1008			
		Amended	Feb. 229		V.4913,4915	Amended	Apr. 614			
		Amended	Apr. 609		V.10111,10119	Amended	May 882			
		Adopted	Feb. 229		V.10303	Amended	May 882			
		Amended	Mar. 430		VII.301,503,508,709,717,719	Amended	Apr. 612			
		Repealed	Mar. 430		VII.115,3005	Amended	June 1008			
		Amended	Mar. 430		IX.2301,4901,4903	Amended	May 865			
		Amended	May 867		IX.2707,4905,6125	Amended	Jan. 69			
		Amended	Mar. 427		IX.7301	Amended	June 1028			
		Amended	Jan. 65		XI.707	Amended	Jan. 69			
		Amended	Mar. 431		XI.1121	Amended	May 864			
		Amended	Jan. 65		XV.102,725,729,731,763	Amended	June 981			
		Amended	Apr. 607		XV.326	Amended	June 1027			
		Amended	Apr. 604		XV.493	Amended	Feb. 243			
		Amended	Apr. 604		XV.1517	Amended	May 865			
							35	XIII.Chapter 116	Amended	May 869
							37	XIII.Chapter 127 XIII.Chapter 129	Adopted Adopted	Jan. 90 Apr. 664
				42	XI.2405	Amended	June 1037			
31	I.Chapter 9 II.Chapter 1 III.Chapter 1	Adopted	Apr. 702	43	I.901-904	Adopted	Feb. 254			
		Adopted	Apr. 704		I.907,909,911,1301-1305	Repealed	Feb. 254			
		Adopted	Apr. 698		I.925-851	Amended	Feb. 254			
32	III.301 III.301 III.301,701 III.315 III.317 V.301 V.301,701 V.317 V.315	Amended	Apr. 646	46	I.1001-1033	Adopted	Feb. 254			
		Amended	Apr. 649		V.101,103,301	Amended	Feb. 254			
		Amended	Apr. 646		V.Chapter 7	Adopted	Jan. 74			
		Amended	Apr. 647		V.Chapter 30	Adopted	Mar. 435			
		Amended	Apr. 647		V.Chapter 36	Repealed	Mar. 435			
		Amended	Apr. 646		XXI.901	Amended	Mar. 434			
		Amended	Apr. 646		XXV.Chapters 1-7	Amended	Feb. 246			
		Amended	Apr. 647		XLV.151	Repealed	Feb. 243			
33	I.3931 I.3931 I.3931 III.111 III.506 III.701,703,711 III.2121,2125,2145,2147,2201 V.105,109,199,303,305,311,321 V.105,109,110,529,535,537 V.109,1113,1127,1315,1319,1517 V.322,513,529,530,535,536,537 V.322,519,523,532 V.709 V.1109,1113,1501,1516,1529 V.1127,1516,1703,1711,1741 V.1509,1513,1515,1529,1737 V.1739,1903,1905,1907,1911 V.1799,1802,1907,2001,2299 V.1901,2223,2299,2603,3001 V.1913,2109,2245,2246,2247 V.2303,2515,2605,2719,2803 V.2603,2805,2903,3001,3005 V.2805,2807,3007,3023,3111 V.3005,3013,3025,3115,3325 V.3007,3105,3115,3315,3319 V.3099 V.3119,3317,3319,3517,3527	Amended	Jan. 69	48	XLV.1503,1508-1510,1517,1519	Amended	Feb. 243			
		Amended	May 865		XLV.4231-4239	Adopted	Mar. 438			
		Repromulgated	June 980		XLV.4501,4507,4509	Amended	Feb. 243			
		Amended	Jan. 69		XLVII.1715	Amended	May 874			
		Amended	June 978		XLVII.3355	Amended	Mar. 440			
		Amended	Mar. 433		LI.107,503	Amended	May 872			
		Amended	Jan. 69		LIX.301,405,701	Amended	Apr. 666			
		Amended	Apr. 614		LXXXV.714	Amended	June 1028			
		Amended	Apr. 614		XCI.103,301,309,311	Amended	May 874			
		Amended	June 1008			50	I.Chapter 78	Adopted	Jan. 80	
		Amended	Mar. 433		I.9734		Amended	May 880		
		Amended	Apr. 614		I.15901-15903		Adopted	Jan. 89		
		Amended	June 981		I.18101,18301-18305		Adopted	Apr. 649		
		Amended	Jan. 68		I.18501-18507		Adopted	Apr. 649		
		Amended	Apr. 614		V.6303		Amended	Mar. 442		
		Amended	June 1008				49	I.8345	Amended	Apr. 661
		Amended	June 981		II.10154			Amended	June 1031	
		Amended	June 981		III.Chapters 201,205			Adopted	Apr. 659	
		Amended	Apr. 614		III.2305			Adopted	May 878	
		Amended	June 1008		III.2525			Adopted	Feb. 253	
		Amended	June 981		V.901,953,1331	Adopted		May 877		
		Amended	June 981		V.911	Adopted		May 875		
		Amended	Apr. 614		V.953-959	Adopted		May 876		
Amended	June 1008	V.Chapters 25,27	Adopted	Apr. 654						
Amended	Apr. 614	VII.1312	Amended	June 1033						
Amended	May 865	VII.1319	Adopted	May 879						
Amended	June 981	IX.15121	Adopted	June 1035						

LAC Title	Part.Section	Effect	Location LR 33		LAC Title	Part.Section	Effect	Location LR 33		
			Month	Page				Month	Page	
	IX.8503,8501,8701	Adopted	June	1035	56	III.Chapter 21	Amended	June	1039	
	XI.10703	Amended	June	1033		III.2115	Amended	June	1039	
	XI.16703	Adopted	June	1036		III.2301,2303,2307,2309	Repealed	June	1047	
	XIII.701	Adopted	Apr.	654		V.1107	Amended	Mar.	435	
	XV.701	Repealed	Apr.	659	58	I.113	Adopted	Jan.	97	
	XV.11101,11103	Amended	June	1036		I.301,303,501,503	Amended	Mar.	446	
	XV.4305	Amended	Mar.	441		I.2903	Amended	June	1048	
	XV.6905	Amended	June	1032		I.3505	Repealed	Jan.	97	
	XV.10501,10505,11701	Amended	Apr.	663		III.101	Amended	June	1048	
	XV.12917	Amended	Feb.	253	61	I.101	Amended	Apr.	667	
	XV.16105	Amended	Mar.	441		I.1305	Amended	Mar.	446	
	XVII.501	Amended	May	881		III.1532	Adopted	Apr.	671	
	XVII.1505,1707,1907,10117	Repealed	May	881		V.101,103,109,113,118,121,211	Amended	Apr.	673	
	XXI.3901	Amended	Feb.	251		V.213,303,703,907,1103,1307	Amended	Apr.	673	
	XXI.5715	Adopted	Apr.	662		V.1503,2501,2503,2711	Amended	Apr.	673	
	XXI.5901,6101	Amended	Apr.	662		V.Chapter 31	Amended	Apr.	673	
	XXI.Chapters 81,85	Amended	June	1029		V.3503,3515	Amended	Apr.	673	
	XXI.8301	Amended	June	1031		67	III.1940	Amended	May	884
	XXI.Chapter 91	Adopted	Feb.	251			III.Chapter 51	Amended	Apr.	691
	XXI.12101	Amended	Feb.	250	III.5125,5127		Adopted	Jan.	95	
	XXVI.14301	Amended	Feb.	252	III.Chapter 55		Amended	Apr.	693	
	XXVII.325,571,573	Adopted	May	878	III.5507,5521,5523,5535		Repealed	Apr.	693	
	XXIX.901	Amended	Jan.	87	III.5565,5585		Repealed	Apr.	693	
	XXIX.915,917,919,921,923	Repealed	Jan.	87	III.5593		Adopted	Feb.	277	
	XXIX.925,935,945,963	Amended	Jan.	87	III.5595		Adopted	Feb.	276	
	XXIX.971	Adopted	May	880	V.Chapter 5		Repealed	May	884	
	XXXIX.901	Amended	Jan.	87	VII.115		Amended	June	1038	
51	I.101,105,107,111,119,125	Amended	Apr.	651	76	VII.108	Adopted	Apr.	706	
	I.109	Repealed	Apr.	651		VII.112	Adopted	May	886	
	II.905	Amended	Mar.	444		VII.367	Amended	Jan.	97	
	IX.127,145,319,321	Amended	Mar.	444		VII.369,515	Amended	May	886	
55	XXIII.1109	Amended	Mar.	444	VII.371	Adopted	May	886		
	I.301	Amended	Jan.	94	XI.103	Amended	May	885		
	I.1511,1531	Amended	June	1037	XI.111	Adopted	June	1049		
	VI.101,301,703	Amended	Jan.	93	XI.305	Adopted	May	886		
	VI.301	Amended	May	883						
VI.905	Adopted	Jan.	93							

Potpourri

POTPOURRI

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

2008 Quarantine Listing—Supplement

In accordance with LAC 7:XV.107 and 109, we are hereby publishing a "Supplement to the 2008 Quarantine Listing for Asian Citrus Psyllid."

Based on recent survey, the parishes of Lafourche and Terrebonne are being added to the listing of areas regulated for the Asian Citrus Psyllid in LAC 7:XV.127E.2. This action is being taken because the Asian Citrus Psyllid has been found in Lafourche and Terrebonne parishes.

13.0 Asian Citrus Psyllid
The parishes of Lafourche and Terrebonne.
Date: July 11, 2008

Mike Strain, DVM
Commissioner

0807#090

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Withdrawal of Proposed Rule AQ281 Toxic Air Pollutant Ambient Air Standards (LAC 33:III.5112) (0807Pot1)

Notice is given that the Department of Environmental Quality is hereby withdrawing the proposed rule, Log #AQ281, which proposed to amend the Air regulations, LAC 33:III.5112. The Notice of Intent for this proposed rule was published on pages 1897-1900 in the *Louisiana Register* on September 20, 2007. A public hearing was held on October 25, 2007, and comments were received. After review and consideration of all comments received, the department has determined that other substantive changes to these regulations are needed. Therefore, the department is withdrawing this proposed Rule and intends to initiate rulemaking for separate rules further revising certain provisions of LAC 33:III.Chapter 51. If you have any questions, please contact Gilberto Cuadra, Office of Environmental Assessment, Environmental Planning Division, (225) 219-3580.

Herman Robinson, CPM
Executive Counsel

0807#041

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Extension of Comment Period for Centralized Waste Treatment Facilities Also Treating Exploration and Production Waste—Log #MM003 (LAC 33:IX.101, 701, 703, 708, 715, 1701, 1703, 1705, 1707, 1709, 1711, 1799, 1901, 2313, 2501, 2903, 6509, 6701, 6703, 6705, 6707, 6709, 7305, 7307, and 7395; and XV.1404) (0807Pot2)

The Louisiana Department of Environmental Quality is granting the request for an extension of the comment period on the draft proposed regulations regarding centralized waste treatment facilities also treating exploration and production waste, LAC 33:IX.101, 701, 703, 708, 715, 1701, 1703, 1705, 1707, 1709, 1711, 1799, 1901, 2313, 2501, 2903, 6509, 6701, 6703, 6705, 6707, 6709, 7305, 7307, and 7395; and XV.1404 (MM003). The Potpourri notice requesting comments on this advanced draft Rule was published on pages 1258-1288 of the June 20, 2008, issue of the *Louisiana Register*. All interested persons are invited to continue to submit written comments on the draft regulation. Persons commenting should reference this draft regulation by MM003. Such comments must be received no later than September 15, 2008, at 4:30 p.m., and should be sent to Sharon Parker, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to sharon.parker@la.gov.

Copies of the draft Rule can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of MM003. This draft Rule is available on the Internet at <http://www.deq.louisiana.gov/portal/tabid/1669/Default.aspx>

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

Herman Robinson, CPM
Executive Counsel

0807#042

POTPOURRI

**Department of Health and Hospitals
Board of Veterinary Medicine**

Fall/Winter Examination Dates

The Louisiana Board of Veterinary Medicine will administer the State Board Examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e., holiday, weather).

The board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the National Board of Veterinary Medical Examiners (NBVME), formerly the National Board Examination Committee (NBEC), as follows:

Test Window Date	Deadline To Apply
November 17 through December 13, 2008	Friday, August 1, 2008

The board will also accept applications for and administer the Veterinary Technician National Examination (VTNE) for state registration of veterinary technicians as follows:

Test Date	Deadline To Apply
Friday, January 16, 2009	Friday, December 12, 2008

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801 and by request via telephone at (225) 342-2176 or by e-mail at lbvm@eatel.net; application forms and information are also available on the website at www.lsbvm.org.

Wendy D. Parrish
Administrative Director

0807#040

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Sam J. Recile, Trustees	Lockport	L	M Gray D	1	64413
Hilliard Oil & Gas, Inc.	Sunshine	L	Lex Alexander	1	174063
Trice Production Company	Lockport	L	State Lease 2394	1	59097
M L Jackson Trustee	Elm Grove	S	Mercer	1	53252
Francis X. Orofino	Elm Grove	S	H C Van Hoose et al Fee	1	85723

James H. Welsh
Commissioner of Conservation

0807#039

POTPOURRI

**Department of Natural Resources
Office of the Secretary**

Loran Coordinates—Underwater Obstructions

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 3 claims in the amount of \$13,822.66 were received for payment during the period June 1, 2008 - June 30, 2008.

There were 3 claims paid and 0 claims denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2918.379	8931.512	Plaquemines
2919.777	9124.814	Terrebonne
2942.955	8938.192	St. Bernard

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225)342-0122.

Scott A. Angelle
Secretary

0807#046

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