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Executive Orders

EXECUTIVE ORDER KBB 05-13

Bond Allocation—Parish of Jefferson
Home Mortgage 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 2005 (hereafter "the 2005 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2005 Ceiling; and

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

WHEREAS, the Parish of Jefferson Home Mortgage Authority has requested an allocation from the 2005 Ceiling to be used with a program of financing mortgage loans for single family, owner-occupied resident families throughout the parish of Jefferson, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2005 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$20,000,000	Parish of Jefferson Home Mortgage Authority	Single Family Mortgage Revenue Bonds

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 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, 2005, provided that such bonds are delivered to the initial purchasers thereof on or before August 17, 2005.

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

SECTION 5: The undersigned certifies, under penalty of perjury, that the allocation granted herein was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: 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 19th day of May, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0506#059

EXECUTIVE ORDER KBB 05-14

Cooperative Endeavor Agreements

WHEREAS, Article VII, Section 14 of the Louisiana Constitution of 1974 (hereafter "Art. VII, 14") expresses the general prohibition that "the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private. [N]either the state nor a political subdivision shall subscribe to or purchase the stock of a corporation or association or for any private enterprise.";

WHEREAS, Article VII, 14 also authorizes, for a public purpose, "Cooperative Endeavors" among the state and its political subdivisions or political corporations, and with the United States or its agencies, or with any public or private association, corporation, or individual;

WHEREAS, R.S. 38:2193 mandates that, if the Attorney General is of the opinion that a contract of the state or any political subdivision violates Art. VII, 14, the Attorney General shall institute a civil proceeding to invalidate the contract if in his opinion such a proceeding is necessary for the assertion or protection of any right or interest of the state or political subdivision within the intendment of Art. VII, 14;

WHEREAS, since a cooperative endeavor agreement (hereafter "agreement") is a form of contract, it would be in the best interest of the state of Louisiana to have all such agreements reviewed by an arm of the state that is not a party to the agreement, prior to the agreement becoming effective, in order to limit the potential for litigation over the validity of the agreement;

WHEREAS, the best interest of the state of Louisiana is also served by monitoring the use of these agreements from both a legal and a budgetary perspective, and by providing a centralized record of these agreements; and

WHEREAS, the Division of Administration is charged with the responsibility for the state of Louisiana of overseeing the acquisition of supplies and services under contractual agreements and, therefore, has the expertise and

necessary personnel to determine if these agreements are in violation of Art. VII, 14, or any procurement statutes or rules which regulate the manner in which the state and its agencies and political subdivisions must acquire supplies and services;

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

SECTION 1: Unless exempted by written delegation of authority granted by the director of the Office of Contractual Review, Division of Administration, with the approval of the commissioner of administration, each department, commission, board, agency, and/or office in the executive branch of the state of Louisiana (hereafter "department") shall submit all cooperative endeavor agreements (hereafter "agreements") which require the expenditure of public funds to the Office of Contractual Review for review and approval.

SECTION 2: To the fullest extent possible, all agreements shall be submitted for review at least forty-five (45) days prior to the effective date of the agreement. The Office of Contractual Review shall review the agreement as expeditiously as possible and return it to the submitting department. Agreements not submitted within forty-five (45) days in advance of the effective date must be accompanied by a written explanation of the reasons for the delay in submission.

SECTION 3:

A. Agreements with non-governmental entities for economic development purposes should contain the specific goals sought to be achieved by the non-governmental entity and methods for reimbursement to the state if those goals are not met. Further, a non-governmental entity, other than one participating in a business incubator program, Quality Jobs Program, or Enterprise Zone Program, which defaults on the agreement, breaches the terms of the agreement, ceases to do business, or ceases to do business in Louisiana, shall be required to repay the state, and the agreement must set out the terms of the repayment.

B. Agreements based on legislative appropriation to a public or quasi-public agency or entity which is not a state budget unit must include a comprehensive budget, provided to the agency and the legislative auditor, showing all anticipated uses of the appropriation, an estimate of the duration of the project, and a plan showing specific goals and objectives, including measures of performance.

C. Agreements should contain a plan to monitor compliance with the terms of the agreement, assigning a particular person within the agency to be responsible for

monitoring the agreement. Written reports must be provided to the agency at least every six (6) months concerning the use of funds and the specific goals and objectives for the use of the funds.

D. Agreements that contain an allowance for a non-governmental recipient to make grants should contain a listing of all sub-recipients, or, at the minimum, a detailed description of the grant application and approval process, ensuring that funds are not provided for any use inconsistent with the provisions of the Agreement.

SECTION 4: Agreements in which the state serves as a guarantee or credit enhancement for a private for-profit entity and which do not contemplate the issuance of bonds should be submitted to the State Bond Commission for approval prior to execution. Evidence of the necessary Bond Commission approval should be attached to the submitted agreement.

SECTION 5: All agreements shall be submitted with a "BA-22" or other appropriate budgetary form evidencing the availability of funds.

SECTION 6: All agreements shall contain a provision that conditions the agreement and/or continuation of the agreement on

- a) the availability of sufficient funds to fulfil the obligations of the department under the agreement; and
- b) the approval of the director of the Office of Contractual Review and/or the commissioner of administration, unless exempt by written delegation of authority granted pursuant to Section 1 of this Order.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in implementing the provisions of this Order.

SECTION 8: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 27th day of May, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0506#060

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 PPM 49 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, 2005. 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—L.R.S. 39:231. "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 31:0000 (June 2005).

§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.

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.)

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. 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.

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.

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, undersecretary, assistant secretary, and the equivalent positions in higher education and the office of elected officials).

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:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:0000 (June 2005).

§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 vehicles 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 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. An annual authorization for routine travel shall not cover travel between an employee's home and workplace, out-of-state travel, or travel to non-routine meetings such as conferences and conventions.

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 travel expenses. 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.

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.

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 26:1253 (June 2000), LR 27:803 (June 2001), LR 28:1126 (June 2002), LR 29:823 (June 2003), LR 30:1112 (June 2004), LR 31:0000 (June 2005).

§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 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 by a department head, the traveler shall certify that at least one hour of working time will be saved by such travel; and 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 unchartered privately-owned aircraft under the above guidelines will be made on the following basis:

i. at the rate of 36 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 (Receipt Required) All commercial airfare tickets must be purchased from 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 is to be submitted to the Office of State Travel.) Use of the contract travel agency is mandatory, purchase of state contract airfares is not mandatory. When using the

contracted travel agency, the traveler has choices for the type of airfare tickets to be purchased. Choices are:

State Contract Airfares:

- * Refundable.
- * Non-penalty.
- * Last Seat Availability at the contract price.
- * Use—State Employees on official state business.

/or/

Lowest Logical Airfares:

- * Non-refundable.
- * Penalty tickets—change fees.
- * Restrictions—such as advance purchase or weekend stays.
- * Prices increase as seats are sold.
- * Public fares.

a. The traveler should evaluate their travel itinerary and make the most cost-effective decision. Travelers should take into consideration factors as to whether travel dates could change, meetings could cancel, how much savings each type of ticket offers, etc. 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 state contract air rates when available, or coach/economy class rates when contract rates are not available (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. Where a stopover is required to qualify for a low-priced airfare, the state will pay additional lodging and meals expense subject to applicable limits where a net savings in total trip expenses results from use of the low-priced airfare. For determining whether there is a savings, the state contract airfare should be used for comparison, or coach/economy fare if there is no contract rate. If additional work time will be lost, then the cost of the traveler's time is to be used in the calculation. The comparison must be shown on the travel voucher.

e. The policy regarding airfare penalties are the state will pay the 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.

f. 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.

g. 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.

h. 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.

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

j. 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.

k. Matched Carriers are airlines that did not win an award for a certain city and will now offer the same discounted price that was awarded to the contract vendor. Matched carriers are not to be used unless there are two or more hours difference in the departure or arrival time. The state does not have a contract with the matched fare carriers; therefore, we do not have last seat availability and certain rules including cancellation penalties will apply to these fares. In order for the state to continue to receive state contracted airfares, it is necessary that the contract carrier be utilized when electing to use state contract rates, if available. When using the Contract Airfares, there are no restrictions or penalties. Once the decision is made not to use the contract airfare you must use the lowest logical fare available.

l. 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 Division of Administration to operate or travel in a fleet vehicle.

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 36 cents 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 36 cents per mile to travel between a common carrier/terminal and the employee's 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 traveler's convenience, the traveler will be reimbursed for in-route expenses on the basis of 36 cents per mile only. The total cost of the mileage may not exceed the cost of travel by using the lesser of State Contract airfare or 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 fare.

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:

- i. non-availability is documented;
- ii. the vehicle will be used to transport more than two persons; or
- iii. 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 Clauses i or ii 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).

D. Public Ground Transportation. The cost of public ground transportation such as buses, subways, airport 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 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 assignment approved by the Commissioner 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 overnight 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. To receive any meal reimbursement on single day travel, an employee must be in travel status for a

minimum of 12 hours. The maximum allowance for meal reimbursement for single day travel will be \$22.

(a) Breakfast and Lunch: (\$15). The 12-hour travel duration must begin at or before 6 a.m.

(b) Lunch: (\$9). Requires 12 hours duration in travel status.

(c) Lunch and Dinner: (\$22). The 12-hour travel duration must end at or after 8 p.m.

4. Travel with Overnight 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. Twenty Five Percent over Allowances. Department heads may allow prior approval for their employees to exceed the lodging and meals provisions of these regulations by no more than 25 percent on a case-by-case basis. 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. This authority shall not be delegated to any other person. Receipts are required for reimbursement.

2. Actual Expenses for State Officers. State officers and others so authorized by statute (See Definitions under *Authorized Persons*) or individual exception will be reimbursed on an actual expenses basis for meals and lodging except in cases where other provisions for reimbursement have been made by statute. Receipts or other supporting documents are required for each item claimed. Request shall not be extravagant and will be reasonable in relationship to the purpose of travel. State officers entitled to actual expense reimbursements are only exempted 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. 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 only, the inclusion of suburbs 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. Travelers may be reimbursed expenses for conference hotel lodging per the following rates, if the reservations are made at the actual conference hotel. When reservations are not available at the conference hotel and multi-hotels are offered in conjunction with a conference, traveler shall seek prices and utilize the least expensive. In the event all conference hotels are unavailable, then the traveler is subject to making reservations within the hotel rates as allowed in Routine Lodging.

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

Tier I

Breakfast	\$ 6
Lunch	\$ 9
Dinner	<u>\$13</u>
	\$28

LODGING:

	<u>Routine Lodging</u>	<u>Conference Lodging</u>
In-State cities (except as listed)	\$60	\$70
Baton Rouge	\$70	\$80
Lafayette	\$60	\$70
Slidell	\$60	\$70
Shreveport, Bossier City	\$65	\$75
Lake Charles, Sulphur	\$70	\$75
Gretna, Kenner, Metairie	\$70	\$80

Tier II

Breakfast	\$ 6
Lunch	\$10
Dinner	<u>\$15</u>
	\$31

LODGING:

	<u>Routine Lodging</u>	<u>Conference Lodging</u>
New Orleans	\$100	\$120 State Sponsored
		\$140 Non-State Sponsored
Out of State (except cities listed in Tiers III & IV)	\$65	\$140

Tier III

Breakfast	\$ 8
Lunch	\$11
Dinner	<u>\$19</u>
	\$38

LODGING:

	<u>Routine Lodging</u>	<u>Conference Lodging</u>
Atlanta, Cleveland, Dallas/Fort Worth, Denver, Detroit, Hartford, Houston, Los Angeles, Miami, Minneapolis/St. Paul, Nashville, Oakland, Ca., Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Me., Portland, Or., San Antonio, San Diego, St. Louis, Tampa, Fl., Wilmington, De., all of Alaska or Hawaii, Puerto Rico, Virgin Islands, American Samoa, Guam, District of Columbia	\$105	\$140

Tier IV

Breakfast	\$ 9
Lunch	\$12
Dinner	<u>\$22</u>
	\$43

LODGING:

	<u>Routine Lodging</u>	<u>Conference Lodging</u>
Baltimore, Boston, San Francisco, Seattle	\$155	\$155
Chicago, New York City, Washington D.C.	\$180	\$180
International Cities	\$180	\$180

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§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 \$5.50 per day and \$32.50 weekly at Park 'N Fly (no receipts required). Documentation required to receive the contract price is your agency issued photo ID, 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.

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§1508. Reimbursement for Other Expenses

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.

2. Charges for Storage and Handling of State Equipment

3. Baggage Tips

a. Hotel Allowances—not to exceed \$1 per bag for a maximum of three bags. Tips may be paid one time upon each hotel check-in and one time upon each hotel check-out, if applicable.

b. Airport Allowances—not to exceed \$1 per bag for a maximum of three bags. Tips may be paid one time for the airport outbound departure trip and one time for the inbound departure trip.

4. 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).

5. Laundry Services. Employees on travel for more than seven 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.

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§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 six-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 31:0000 (June 2005).

§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	\$12
Lunch - New Orleans	\$15

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 \$3.50 mandated gratuity per person, per morning and/or afternoon sessions.

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 31:0000 (June 2005).

§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 31:0000 (June 2005).

§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 31:0000 (June 2005).

Jerry Luke LeBlanc
Commissioner

0506#040

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

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

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

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

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

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

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

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

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

The Commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rule is necessary to immediately implement testing of crab or crabmeat for Chloramphenicol, to provide for the sale of crab or crabmeat and any products containing crab or crabmeat that are not contaminated with Chloramphenicol. This Rule becomes effective upon signature, May 13, 2005, and will remain in effect 120 days, unless renewed by the commissioner or until a permanent Rule is promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

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

A. Definitions

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

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

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

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

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

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

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

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

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

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

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

1. Sampling

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

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

ii. Four samples are to be taken of crab or crabmeat that are in lots of fifty-one to one hundred pounds.

iii. Twelve samples are to be taken of crab or crabmeat that are in lots of one hundred and one pounds up to fifty tons.

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

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

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

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

2. Each sample shall be identified as follows:

a. any package label;

b. any lot or batch numbers;

c. the country, province and city of origin;

d. the name and address of the importing company;

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

3. Sample Preparation. For small packages of crab or crabmeat up to and including one pound, use the entire sample. Shell the crabs, exercising care to exclude all shells from sample. Grind sample with food processor type blender

while semi-frozen or with dry ice. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer as a reserve.

4. Sample Analysis

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

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

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

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

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

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

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

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

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

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

F. Any person who is seeking to bring crab or crabmeat that is required to be sampled and tested under this Section,

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

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

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

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

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

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

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

1. The geographic area or areas are:

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 31:

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

A. Definitions

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

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

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

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

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

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

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

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

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

F. Foreign crab or crabmeat shall not have to be marked or labeled with the country of origin if such crab or crabmeat is included as components in a product manufactured in the United States and the crab or crabmeat is substantially transformed in the manufacturing of the final product. But in

no event shall thawing, freezing, packing, packaging, re-packing, re-packaging, adding water, portioning, shelling, processing, peeling, partially cooking or combining with domestic crab or crabmeat shall not be considered to be a substantial transformation.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 31:

Bob Odom
Commissioner

0506#003

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

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

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

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

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

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

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

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

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

The commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rule is necessary to immediately implement testing of honey for Chloramphenicol, to provide for the sale of honey and products containing honey that are not contaminated with Chloramphenicol. This Rule becomes effective upon signature, May 13, 2005, and will remain in effect 120 days, unless renewed by the commissioner or until a permanent Rule is promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

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

A. Definitions

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

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

Honey—any honey, whether raw or processed.

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

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

be used, as an ingredient in any food held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E.

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

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

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

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

1. Sampling

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

i. Two samples are to be taken of honey that is in lots of fifty pounds or less.

ii. Four samples are to be taken of honey that is in lots of fifty-one to one hundred pounds.

iii. Twelve samples are to be taken of honey that is in lots of one hundred and one pounds up to fifty tons.

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

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

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

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

2. Each sample shall be identified as follows:

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

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

4. Sample Analysis

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

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

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

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

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

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

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

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

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

9. A copy of the test results, including the test reference number, shall either accompany every shipment of such honey or food containing honey, and be attached to the

documentation submitted with every shipment sent to each location in Louisiana, or shall be immediately accessible to the department, upon request, from any such location.

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

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

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

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

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 31:

Bob Odom
Commissioner

0506#002

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

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

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

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

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

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

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

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

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

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

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

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

The Commissioner of Agriculture and Forestry has, therefore, determined that these emergency rules are necessary to immediately implement testing of shrimp and crawfish for Chloramphenicol, to provide for the sale of shrimp and crawfish that are not contaminated with Chloramphenicol and to provide for the labeling of shrimp and crawfish harvested from or produced, processed or packed in countries other than the United States. This Rule becomes effective upon signature, May 13, 2005, and will remain in effect 120 days, unless renewed by the commissioner or until a permanent Rule is promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

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

A. Definitions

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

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

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

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

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

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

1. The records and information required are:

a. the quantity and species of shrimp and crawfish acquired or sold;

b. the date the shrimp or crawfish was acquired or sold;

c. the name and license number of the wholesale/retail seafood dealer or the out-of-state seller from whom the shrimp or crawfish was acquired or sold;

d. the geographic area where the shrimp or crawfish was harvested;

e. the geographic area where the shrimp or crawfish was produced processed or packed;

f. the trade or brand name under which the shrimp or crawfish are held, offered or exposed for sale or sold; and

g. the size of the packaging of the packaged shrimp or crawfish.

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

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

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

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

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

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

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

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

1. Sampling

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

i. Two samples are to be taken of shrimp or crawfish that are in lots of fifty pounds or less.

ii. Four samples are to be taken of shrimp or crawfish that are in lots of fifty-one to one hundred pounds.

iii. Twelve samples are to be taken of shrimp or crawfish that are in lots of one hundred and one pounds up to fifty tons.

iv. Twelve samples for each fifty tons are to be taken of shrimp or crawfish that are in lots of over fifty tons.

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

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

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

2. Each sample shall be identified as follows:

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

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

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

4. Sample Analysis

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The geographic area or areas are:

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 31:

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

A. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 31:

Bob Odom
Commissioner

0506#001

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of Environmental Assessment

8-Hour Ambient Ozone Standard and
Nonattainment New Source Review
(LAC 33:III.111, 504, 607, 711, 2201, and 2202)(AQ253E)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allows the Department of Environmental Quality to use emergency procedures to establish rules, and under the authority of R.S. 30:2011, the secretary of the department hereby finds that imminent peril to the public welfare exists and declares that an emergency action is necessary to implement rules concerning the revised primary and secondary National Ambient Air Quality Standards (NAAQS) for ozone and transitional provisions for nonattainment new source review under the revised standard.

On April 30, 2004, EPA enacted 8-hour ozone NAAQS classifications, effective June 15, 2004 (69 FR 23858). The revised 8-hour NAAQS is more protective than the existing 1-hour ozone NAAQS. In order to transition from the existing 1-hour standard to the new 8-hour standard, EPA adopted a rule for implementation of the 8-hour ozone NAAQS-Phase 1 (the "Phase 1 Implementation Rule") on April 30, 2004 (69 FR 23951). In the Phase 1 Implementation Rule, EPA revoked the 1-hour standard in

full, including the associated designations and classifications, effective on June 15, 2005.

Litigation by a number of stakeholders pending in the United States Court of Appeals for the District of Columbia Circuit challenged various aspects of the Phase 1 Implementation Rule, resulting in EPA's agreement to reconsider several portions of the Rule through renewed notice and public comment. EPA only recently made final decisions on reconsideration, thus clearing the way for effectiveness of the Phase 1 Implementation Rule (70 FR 30592, May 26, 2005). As a result, Louisiana is required to adopt the 8-hour revised standard and measures to implement such standard. This Emergency Rule is necessary to address two of the most immediate aspects of implementation: 1) revision of LAC 33:III.711 to replace the 1-hour primary ambient air quality standard with the 8-hour standard; and 2) revision of nonattainment new source review provisions for parishes that were reclassified from severe under the 1-hour standard to marginal under the 8-hour standard (parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge). Because such parishes are still in nonattainment and because EPA has not yet developed guidance for nonattainment new source review under the 8-hour standard, the department is adopting measures to ensure that these parishes continue to make progress toward attainment while still accommodating growth. Regulatory changes will also delete references to the 1-hour standard and substitute the 8-hour standard, and take other actions to transition to the 8-hour standard. The attainment date for the Baton Rouge area under the 8-hour standard is June 15, 2007. Failure to adopt this Rule on an emergency basis (i.e., without the delays for public notice and comment) would result in imminent peril to the public welfare as the department would not have the authority to enforce the 8-hour standard.

This Emergency Rule is effective on June 15, 2005, 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 AQ253E, you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 1. General Provisions

§111. Definitions

A. When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below.

Ozone Exceedance—a daily maximum 8-hour average ozone measurement that is greater than the value of the standard.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:777 (August 1991), LR 21:1081 (October 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of Environmental Assessment, LR 31:

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

A. ...

1. For an area that is designated incomplete data, transitional nonattainment, marginal, moderate, serious, or severe nonattainment for the ozone national ambient air quality standard, VOC and NO_x are the regulated pollutants under this Section. VOC and NO_x emissions shall not be aggregated for purposes of determining major stationary source status and significant net emissions increases.

2. Except as specified in Subsection H of this Section, the potential to emit of a stationary source shall be compared to the major stationary source threshold values listed in Table 1 of this Section to determine whether the source is major.

3. Except as specified in Subsection H of this Section, the emissions increase which would result from a proposed modification, without regard to project decreases, shall be compared to the trigger values listed in Table 1 of this Section to determine whether a calculation of the net emissions increase over the contemporaneous period must be performed.

4. Except as specified in Subsection H of this Section, the net emissions increase shall be compared to the significant net emissions increase values listed in Table 1 of this Section to determine whether a nonattainment new source review must be performed.

5. ...

6. For applications deemed administratively complete in accordance with LAC 33:III.519.A on or after December 20, 2001 and prior to June 23, 2003, and for which the nonattainment new source review (NNSR) permit was issued in accordance with Subsection D of the Section on or before June 14, 2005, the provisions of this Section governing serious ozone nonattainment areas shall apply to VOC and NO_x increases. For applications deemed administratively complete in accordance with LAC 33:III.519.A on or after June 23, 2003, and for which the nonattainment new source review (NNSR) permit was issued in accordance with Subsection D of the Section on or before June 14, 2005, the provisions of this Section governing severe ozone nonattainment areas shall apply to VOC and NO_x increases.

B. - D.4. ...

5. Except as specified in Subsection H of this Section, emission offsets shall provide net air quality benefit, in accordance with offset ratios listed in Table 1 of this Section, in the area where the national ambient air quality standard for that pollutant is violated.

D.6. - F. ...

1. All emission reductions claimed as offset credit shall be from decreases of the same pollutant or pollutant class (e.g., VOC) for which the offset is required. Interpollutant trading, for example using a NO_x credit to offset a VOC emission increase, is not allowed. Except as specified in Subsection H of this Section, offsets shall be required at the ratio specified in Table 1 of this Section.

F.2. - G. *Visibility Impairment*. ...

H. Notwithstanding the parish's nonattainment status with respect to the 8-hour National Ambient Air Quality Standard (NAAQS) for ozone, the provisions of this Subsection shall apply to sources located in the following parishes: Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge.

1. For an existing stationary source with a potential to emit of 50 tons per year or more of VOC or NO_x, consideration of the net emissions increase will be triggered for any project that would:

a. increase emissions of VOC or NO_x by 25 tons per year or more, without regard to any project decreases;

b. increase emissions of highly reactive VOC (HRVOC) listed below by 10 tons per year or more, without regard to any project decreases:

- i. acetaldehyde;
- ii. 1,3-butadiene;
- iii. butenes (all isomers);
- iv. ethylene;
- v. propylene;
- vi. toluene;
- vii. xylene (all isomers);
- viii. isoprene.

2. The following sources shall provide offsets for any net emissions increase:

a. a new stationary source with a potential to emit of 50 tons per year or more of VOC or NO_x;

b. an existing stationary source with a potential to emit of 50 tons per year or more of VOC or NO_x with a significant net emissions increase of VOC, including HRVOC, or NO_x of 25 tons per year or more.

3. The minimum offset ratio for an offset required by Paragraph H.2 of this Section shall be 1.2 to 1.

4. This Subsection shall become effective June 15, 2005.

Table 1. - Footnote PM₁₀. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), LR 31:

Chapter 6. Regulations on Control of Emissions through the Use of Emission Reduction Credits Banking

§607. Determination of Creditable Emission Reductions

A. - C. ...

1. If the design value for the nonattainment area is above the national ambient air quality standard (NAAQS) for ozone, the department shall compare the current total point-source emissions inventory for the modeled parishes to the base case inventory except that beginning with the 2005 emissions inventory, this comparison shall be made to the base line inventory.

2. - 4.a. ...

i. if the design value for the nonattainment area is above the NAAQS for ozone and the current total point-source inventory for the modeled parishes exceeds the base case inventory or base line inventory, as appropriate per Paragraph C.1 of this Section, baseline emissions shall be the lower of actual emissions, adjusted allowable emissions determined in accordance with Paragraph C.3 of this Section, or emissions attributed to the stationary point source(s) in question in the base case or base line inventory, as appropriate; or

ii. if the design value for the nonattainment area is not above the NAAQS for ozone or the current total point-source inventory for the modeled parishes does not exceed the base case inventory or base line inventory, as appropriate per Paragraph C.1 of this Section, baseline emissions shall be the lower of actual emissions or adjusted allowable emissions determined in accordance with Paragraph C.3 of this Section; and

C.4.b. - D. ...

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 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:302 (February 2002), amended by the Office of Environmental Assessment, LR 31:

Chapter 7. Ambient Air Quality
§711. Tables 1, 1a, 2—Air Quality

A. Table 1. Primary Ambient Air Quality Standards

Table 1. Primary Ambient Air Quality Standards		
Air Contaminant	Maximum Permissible Concentration	
PM ₁₀	50 µg/m ³	(Annual geometric mean)
		(Maximum 24-hour concentration not to be exceeded more than once per year)
	150 µg/m ³	
Sulfur Dioxide (SO ₂)	80 µg/m ³	or 0.03 ppm (Annual arithmetic mean)
		or 0.14 ppm (Maximum 24-hour concentration not to be exceeded more than once per year)
	365 µg/m ³	
Carbon Monoxide (CO)	10,000 µg/m ³	or 9 ppm (Maximum 8-hour concentration not to be exceeded more than once per year)
		or 35 ppm (Maximum 1-hour concentration not to be exceeded more than once per year)
	40,000 µg/m ³	
Ozone	0.08 ppm daily maximum 8-hour average	The standard is met at an ambient air monitoring site when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm, as determined in accordance with 40 CFR 50, Appendix I.

Table 1. Primary Ambient Air Quality Standards		
Air Contaminant	Maximum Permissible Concentration	
Nitrogen Dioxide (NO ₂)	100 µg/m ³	(0.05 ppm) (Annual arithmetic mean)
Lead	1.5 µg/m ³	(Maximum arithmetic mean averaged over a calendar quarter)

1. - 2. ...

B. Table 1a. Secondary Ambient Air Quality Standards

Table 1a. Secondary Ambient Air Quality Standards		
Air Contaminant	Maximum Permissible Concentration	
PM ₁₀	50 µg/m ³	(Annual arithmetic mean)
		(Maximum 24-hour concentration not to be exceeded more than once per year)
	150 µg/m ³	
Sulfur Dioxide (SO ₂)	1,300 µg/m ³	(Maximum 3-hour concentration not to be exceeded more than once per year)
Carbon Monoxide (CO)	10,000 µg/m ³	or 9 ppm (Maximum 8-hour concentration not to be exceeded more than once per year)
		or 35 ppm (Maximum 1-hour concentration not to be exceeded more than once per year)
	40,000 µg/m ³	
Ozone	0.08 ppm daily maximum 8-hour average	The standard is met at an ambient air monitoring site when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm, as determined in accordance with 40 CFR 50, Appendix I.
Nitrogen Dioxide (NO ₂)	100 µg/m ³	(0.05 ppm) (Annual arithmetic mean)
Lead	1.5 µg/m ³	(Maximum arithmetic mean averaged over a calendar quarter)

B.1. - C. Table 2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), amended by the Office of Environmental Assessment, LR 31:

Chapter 22. Control of Emissions of Nitrogen Oxides (NO_x)

§2201. Affected Facilities in the Baton Rouge Nonattainment Area and the Region of Influence

A. - C.20. ...

D. Emission Factors

1. The following tables list NO_x emission factors that shall apply to affected point sources located at affected facilities in the Baton Rouge Nonattainment Area or the Region of Influence.

D.1. Table D-1A. - I.5. ...

J. Effective Dates

1. The owner or operator of an affected facility shall modify and/or install and bring into normal operation NO_x control equipment and/or NO_x monitoring systems in accordance with this Chapter as expeditiously as possible, but by no later than May 1, 2005.

2. The owner or operator shall complete all initial compliance testing, specified by Subsection G of this

Section, for equipment modified with NO_x reduction controls or a NO_x monitoring system to meet the provisions of this Chapter within 60 days of achieving normal production rate or after the end of the shake down period, but in no event later than 180 days after initial start-up. Required testing to demonstrate the performance of existing, unmodified equipment shall be completed in a timely manner, but by no later than November 1, 2005.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:290 (February 2002), repromulgated LR 28:451 (March 2002), amended LR 28:1578 (July 2002), LR 30:1170 (June 2004), amended by the Office of Environmental Assessment, LR 31:

§2202. Contingency Plan

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 30:1170 (June 2004), repealed by the Office of Environmental Assessment, LR 31:

Mike D. McDaniel, Ph.D.
Secretary

0506#050

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of Environmental Assessment

Expedited Penalty Agreement (LAC 33:I.801, 803, 805, and 807)(OS054E5)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allow the Department of Environmental Quality to use emergency procedures to establish rules, and of R.S. 30:2011 and 2074, which allow the department to establish standards, guidelines, and criteria, to promulgate rules and regulations, and to issue compliance schedules, the secretary of the department hereby declares that an emergency action is necessary in order to implement expedited penalty agreements.

This is a renewal of Emergency Rule OS054E4, which was effective on February 10, 2005, and published in the *Louisiana Register* on February 20, 2005. This version of the Emergency Rule edits the language in "The History of Previous Violations or Repeated Noncompliance" and, in the table in LAC 33:I.807, adds ten waste tire violations, edits a penalty amount for LAC 33:III.501.C.4 for Title V permits, and edits and/or clarifies underground storage tank violations by changing the penalty amounts or adding the mandatory training class for owners/operators. The Emergency Rule will abate the delay in correcting minor and moderate violations of the Environmental Quality Act. Delays in enforcement reduce the effectiveness of the action, unnecessarily utilize resources, and slow down the enforcement process. In the past three years alone, the Enforcement Division has received 8,139 referrals and has issued 4,259 actions. Currently strained budget and resource

issues pose imminent impairment to addressing minor and moderate violations. This Rule will provide an alternative penalty assessment mechanism that the department may utilize, at its discretion, to expedite penalty agreements in appropriate cases. The report to the Governor by the Advisory Task Force on Funding and Efficiency of the Louisiana Department of Environmental Quality recommended this action as a pilot program. The legislature approved the report and passed Act 1196 in the 2003 Regular Session allowing the department to promulgate rules for the program. This Emergency Rule allows the operation of the pilot program to commence immediately, without the delay and inflexibility of a permanent Rule. It will also allow the department to gather information to formulate a long-term rule and to evaluate the environmental and public health benefits and the social and economic costs of such a program in order to justify these requirements for the permanent rule.

This Emergency Rule is effective on June 10, 2005, 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 OS054E5 you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures Chapter 8. Expedited Penalty Agreement

§801. Definitions

Agency Interest Number—a site-specific number assigned to a facility by the department that identifies the facility in a distinct geographical location.

Qualifying Permit Parameter—for the purposes of these regulations: total organic carbon (TOC), chemical oxygen demand (COD), dissolved oxygen (DO), 5-day biochemical oxygen demand (BOD₅), 5-day carbonaceous biochemical oxygen demand (CBOD₅), total suspended solids (TSS), fecal coliform, and/or oil and grease.

Expedited Penalty Agreement—a predetermined penalty assessment issued by the department and agreed to by the respondent, which identifies violations of minor or moderate gravity as determined by LAC 33:I.705, caused or allowed by the respondent and occurring on specified dates, in accordance with R.S. 30:2025(D).

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 Environmental Assessment, LR 31:

§803. Purpose

A. The purpose of this Chapter is to provide an alternative penalty assessment mechanism that the

department may utilize, at its discretion, to expedite penalty assessments in appropriate cases. This Chapter:

1. addresses common violations of minor or moderate gravity;
2. quantifies and assesses penalty amounts for common violations in a consistent, fair, and equitable manner;
3. ensures that the penalty amounts are appropriate, in consideration of the nine factors listed in R.S. 30:2025(E)(3)(a);
4. eliminates economic incentives for noncompliance for common minor and/or moderate violations; and
5. ensures expeditious compliance with environmental regulations.

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 Environmental Assessment, LR 31:

§805. Applicability

A. **Limit of Penalty Amount.** The total penalty assessed for the expedited penalty agreement shall not exceed \$1,500 for one violation or \$3,000 for two or more violations per penalty assessed.

B. **Departmental Discretion.** The secretary of the department or his designee, at his sole discretion, may propose an expedited penalty agreement for any violation described in LAC 33:I.807.A and considered in accordance with Subsection E of this Section. The expedited penalty agreement shall specify that the respondent waives any right to an adjudicatory hearing or judicial review regarding violations identified in the signed expedited penalty agreement. The respondent must concur with and sign the expedited penalty agreement in order to be governed by this Chapter and R.S. 30:2025(D).

C. **Notification to the Respondent.** The expedited penalty agreement shall serve as notification to the respondent of the assessed penalty amount for the violations identified on the specified dates.

D. **Certification by the Respondent.** By signing the expedited penalty agreement, the respondent certifies that all cited violations in the expedited penalty agreement have been or will be corrected, and that the assessed penalty amount has been or will be paid, within 30 days of receipt of the expedited penalty agreement.

E. **Nine Factors for Consideration.** An expedited penalty agreement may be used only when the following criteria for the nine factors for consideration are satisfied.

1. **The History of Previous Violations or Repeated Noncompliance.** The violation identified in the expedited penalty agreement is not the same as or similar to a violation that occurred at the facility under the same agency interest number, and that was identified in any compliance order, penalty assessment, settlement agreement, or expedited penalty agreement issued to the respondent by the department within the previous two years. Site-specific enforcement history considerations will only apply to expedited penalty agreements.

2. **The Nature and Gravity of the Violation.** The violation identified is considered to be minor or moderate with regard to its nature and gravity.

- a. The violation identified in the expedited penalty agreement deviates somewhat from the requirements of

- b. The violation identified is isolated in occurrence and limited in duration.

- c. The violation is easily identifiable and corrected.

- d. The respondent concurs with the violation identified and agrees to correct the violation identified and any damages caused or allowed by the identified violation within 30 days of receipt of the expedited penalty agreement.

3. **The Gross Revenues Generated by the Respondent.** By signing the expedited penalty agreement, the respondent agrees that sufficient gross revenues exist to pay the assessed penalty and correct the violation identified in the expedited penalty agreement within 30 days of receipt of the expedited penalty agreement.

4. **The Degree of Culpability, Recalcitrance, Defiance, or Indifference to Regulations or Orders.** The respondent is culpable for the violation identified, but has not shown recalcitrance, defiance, or extreme indifference to regulations or orders. Willingness to sign an expedited penalty agreement and correct the identified violation within the specified timeframe demonstrates respect for the regulations and a willingness to comply.

5. **The Monetary Benefits Realized Through Noncompliance.** The respondent's monetary benefit from noncompliance for the violation identified shall be considered. The intent of these regulations is to eliminate economic incentives for noncompliance.

6. **The Degree of Risk to Human Health or Property Caused by the Violation.** The violation identified does not present actual harm or substantial risk of harm to the environment or public health. The violation identified is isolated in occurrence or administrative in nature, and the violation identified has no measurable detrimental effect on the environment or public health.

7. **Whether the Noncompliance or Violation and the Surrounding Circumstances Were Immediately Reported to the Department and Whether the Violation or Noncompliance Was Concealed or There Was an Attempt to Conceal by the Person Charged.** Depending upon the type of violation, failure to report may or may not be applicable to this factor. If the respondent concealed or attempted to conceal any violation, the violation shall not qualify for consideration under these regulations.

8. **Whether the Person Charged Has Failed to Mitigate or to Make a Reasonable Attempt to Mitigate the Damages Caused by the Noncompliance or Violation.** By signing the expedited penalty agreement, the respondent states that the violation identified and the resulting damages, if any, have been or will be corrected. Violations considered for expedited penalty agreements are, by nature, easily identified and corrected. Damages caused by any violation identified are expected to be nonexistent or minimal.

9. **The Costs of Bringing and Prosecuting an Enforcement Action, Such as Staff Time, Equipment Use, Hearing Records, and Expert Assistance.** Enforcement costs for the expedited penalty agreement are considered minimal. Enforcement costs for individual violations are covered with the penalty amount set forth for each violation in LAC 33:I.807.

F. Schedule. The respondent must return the signed expedited penalty agreement and payment for the assessed amount to the department within 30 days of the respondent's receipt of the expedited penalty agreement. If the department has not received the signed expedited penalty agreement and payment for the assessed amount by the close of business on the thirtieth day after the respondent's receipt of the expedited penalty agreement, the expedited penalty agreement may be withdrawn at the department's discretion.

G. Extensions. If the department determines that compliance with the cited violation is technically infeasible or impracticable within the initial 30-day period for compliance, the department, at its discretion, may grant one 30-day extension in order for the respondent to correct the violation cited in the expedited penalty agreement.

H. Additional Rights of the Department

1. If the respondent signs the expedited penalty agreement, but fails to correct the violation identified, pay the assessed amount, or correct any damages caused or allowed by the cited violation within the specified timeframe, the department may issue additional enforcement actions including, but not limited to, a civil penalty assessment and may take any other action authorized by law to enforce the terms of the expedited penalty agreement.

2. If the respondent does not agree to and sign the expedited penalty agreement, the department may notify the respondent that a formal civil penalty is under consideration. The department may then pursue formal enforcement action against the respondent in accordance with R.S. 30:2025(C), 2025(E), 2050.2, and 2050.3.

I. Required Documentation. The department shall not propose any expedited penalty agreement without an affidavit, inspection report, or other documentation to establish that the respondent has caused or allowed the violation to occur on the specified dates.

J. Evidentiary Requirements. Any expedited penalty agreement issued by the department shall notify the respondent of the evidence used to establish that the respondent has caused or allowed the violation to occur on the specified dates.

K. Public Enforcement List. The signed expedited penalty agreement is a final enforcement action of the department and shall be included on the public list of enforcement actions referenced in R.S. 30:2050.1(B)(1).

L. Date of Issuance. When an expedited penalty agreement is issued in conjunction with a Notice of Potential Penalty, the following issuance dates shall apply.

1. If the respondent does not wish to participate in the expedited penalty agreement program, the issuance date for the Notice of Potential Penalty portion of the document shall be 30 days after the respondent receives the document.

2. If the respondent does wish to participate in the expedited penalty agreement program, the issuance date for the expedited penalty agreement portion of the document shall be the date the administrative authority signs the document for the second, and final, time.

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 Environmental Assessment, LR 31:

§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			
Violation	Citation	Amount	Frequency
ALL MEDIA			
Failure to provide timely notification for the unauthorized discharge of any material that exceeds the reportable quantity but does not cause an emergency condition.	LAC 33:I.3917.A	\$300	Per day
Failure to provide timely written notification for the unauthorized discharge of any material that exceeds the reportable quantity but does not cause an emergency condition.	LAC 33:I.3925.A	\$300	Per day
AIR QUALITY			
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 Annual Criteria Pollutant Emissions Inventory in a timely and complete manner when applicable.	LAC 33:III.919	\$500	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
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 provide notice of change of ownership within 90 days after the change.	LAC 33:III.517.G	\$200	Per occurrence
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

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to submit an updated Emission Point List, Emissions Inventory Questionnaire (EQ), 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 maintain records for glycol dehydrators subject to LAC 33:III.2116.	LAC 33:III.2116.F	\$250	Per occurrence
Failure to submit an initial perchloroethylene inventory report.	LAC 33:III.5307.A	\$250	Per occurrence
Failure to submit perchloroethylene usage reports by July 1 for the preceding calendar year.	LAC 33:III.5307.B	\$250	Per occurrence
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.			
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	\$500	Per occurrence
Failure to post operating instructions on each pump.	LAC 33:III.2132.E	\$100	Per occurrence
Failure to maintain equipment as defined in LAC 33:III.2132.F.1-2.	LAC 33:III.2132.F.1-2	\$300	Per occurrence
Failure to tag defective equipment "out of order."	LAC 33:III.2132.F.3	\$500	Per occurrence
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	\$300	Per compliance inspection
Failure to use and/or diligently maintain, in proper working order, all air pollution control equipment installed at the site.	LAC 33:III.905	\$100	Per occurrence
HAZARDOUS WASTE			
Used Oil			
Failure of a used oil generator to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4013.E	\$500	Per occurrence

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure of a used oil transfer facility to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4035.H	\$500	Per occurrence
Failure of a used oil processor or re-refiner to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4049.G	\$500	Per occurrence
Failure of a used oil burner to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4069.G	\$500	Per occurrence
SOLID WASTE			
Waste Tires			
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	\$200	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	\$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 remit waste tire fees to the state on a monthly basis as specified.	LAC 33:VII.10519.D	\$100	Per occurrence
Failure to post required notifications to the public.	LAC 33:VII.10519.E	\$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	\$100	Per occurrence
Failure to keep waste tires or waste tire material covered as specified.	LAC 33:VII.10519.H	\$200	Per occurrence
Failure to segregate waste tires from new or used tires offered for sale.	LAC 33:VII.10519.M	\$200	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 maintain completed manifests for three years and have them available for inspection.	LAC 33:VII.10533.D	\$200	Per occurrence

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to collect appropriate waste tire fee for each new tire sold.	LAC 33:VII.10519.C, 10535.B	\$200	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	\$300	Per occurrence
Failure of out-of-state or out-of-country transporters to comply with state waste tire regulations.	LAC 33:VII.10523.E	\$200	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
Failure by collectors or collection centers to follow the requirements for receipt of tires.	LAC 33:VII.10527.A	\$200	Per occurrence
Failure of collection center operators to meet the standards in LAC 33:VII.10525.D.1-10 and 12-24.	LAC 33:VII.10527.B	\$300	Per occurrence
Failure of recyclers to provide notification of their existence and obtain an identification number.	LAC 33:VII.10531.A	\$300	Per occurrence
Failure of waste tire or waste tire material recyclers to meet the requirements of LAC 33:VII.10525.D.	LAC 33:VII.10531.B	\$300	Per occurrence
Failure to follow the requirements for manifest discrepancies.	LAC 33:VII.10533.C	\$300	Per occurrence
WATER QUALITY			
Failure to properly operate and maintain a facility:			
1. Failing to provide disinfection at any applicable sewage treatment plant.	LAC 33:IX.2701.E	\$200	Per occurrence
2. Failing to operate/maintain backup or auxiliary systems within a treatment system.	LAC 33:IX.2701.E	\$200	Per occurrence
3. Failing to implement adequate laboratory controls and quality assurance procedures.	LAC 33:IX.2701.E	\$200	Per occurrence
4. Allowing excessive solids to accumulate within a treatment system.	LAC 33:IX.2701.E	\$200	Per occurrence
5. Allowing sample holding times to expire before analyzing any sample and failing to follow approved methods when collecting and analyzing samples.	LAC 33:IX.2701.J.4	\$200	Per occurrence
Failure to sample any permit parameter in accordance with an LPDES permit.	LAC 33:IX.2701.A	\$100	Per permit parameter

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to submit Discharge Monitoring Reports (DMRs):			
1. Failing to submit DMRs, for any outfall, required by any LPDES individual permit.	LAC 33:IX.2701.L.4.a	\$200	Per submittal (per outfall)
2. Failing to submit DMRs, for any outfall, required by any LPDES general permit.	LAC 33:IX.2701.L.4.a	\$100	Per submittal (per outfall)
Exceedance of LPDES permit effluent limitations:			
1. Exceeding the daily maximum or weekly average concentration permit limit for any qualifying permit parameter.	LAC 33:IX.2701.A	\$150	Per permit parameter (per exceedance)
2. Exceeding a monthly average concentration permit limit for any qualifying permit parameter.	LAC 33:IX.2701.A	\$300	Per permit parameter (per exceedance)
3. Exceeding a daily maximum or weekly average mass loading permit limit for any qualifying permit parameter.	LAC 33:IX.2701.A	\$200	Per permit parameter (per exceedance)
4. Exceeding a monthly average mass loading permit limit for any qualifying permit parameter.	LAC 33:IX.2701.A	\$400	Per permit parameter (per exceedance)
5. Discharging effluent outside of the permitted range for pH (grab samples only).	LAC 33:IX.2701.A	\$150	Per grab sample (per exceedance)
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
Failure to submit certain reports as required by an LPDES permit, including 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 Plan (SWPPP), Pollution Prevention Plan (PPP), or Best Management Practices/Plan (BMP) as required by an LPDES permit.	LAC 33:IX.2701.A	\$500	Per occurrence
Failure to submit a Notice of Intent for coverage under the LPDES Storm Water Permit for Construction Activities or under the LPDES Storm Water Multi-Sector General Permit.	LAC 33:IX.2511.C.1	\$1,000	Per occurrence
Failure to provide notification of facility changes as required by an LPDES permit.	LAC 33:IX.2701.L.1	\$300	Per occurrence

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to submit a noncompliance report required by an LPDES individual permit.	LAC 33:IX.2701.L.7	\$200	Per occurrence
Failure to submit a noncompliance report required by an LPDES general permit.	LAC 33:IX.2701.L.7	\$100	Per occurrence
Unauthorized discharge of oil field wastes, including produced water.	LAC 33:IX.1901.A	\$1,000	Per occurrence
Unauthorized discharge of oily fluids.	LAC 33:IX.1701.B	\$1,000	Per occurrence
UNDERGROUND STORAGE TANKS			
Failure to register existing or new USTs containing regulated substances.	LAC 33:XI.301.A-B	\$300	Per occurrence
Failure to certify and provide required information on the department's approved registration form.	LAC 33:XI.301.B.1-2	\$300	Per occurrence
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 occurrence
Failure to provide corrosion protection to tanks that routinely contain regulated substances using one of the specified methods.	LAC 33:XI.303.A.1-2	\$500 and completion of a department-sponsored compliance class	Per occurrence
Failure to provide corrosion protection to piping that routinely contains regulated substances using one of the specified methods.	LAC 33:XI.303.A.1-2	\$250 and completion of a department-sponsored compliance class	Per occurrence
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.A.1-2	\$100 and completion of a department-sponsored compliance class	Per occurrence
Failure to provide spill and/or overfill prevention equipment as specified.	LAC 33:XI.303.A.3 and/or B.4	\$300 and completion of a department-sponsored compliance class	Per occurrence
Failure to upgrade existing UST systems to new system standards as specified.	LAC 33:XI.303.B	\$500 and completion of a department-sponsored compliance class	Per occurrence
Failure to pay fees by the required date.	LAC 33:XI.307.D	\$200	Per occurrence
Failure to report, investigate, and/or clean up any spills and overfills.	LAC 33:XI.501.B	\$1,500	Per occurrence

Expedited Penalties			
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.	LAC 33:XI.503.A	\$300 and completion of a department-sponsored compliance class	Per occurrence
Failure to have UST systems equipped with cathodic protection systems inspected for proper operation as specified.	LAC 33:XI.503.B	\$500 and completion of a department-sponsored compliance class	Per occurrence
Failure to inspect UST systems with impressed current cathodic protection systems every 60 days to ensure that the equipment is running properly.	LAC 33:XI.503.C	\$300 and completion of a department-sponsored compliance class	Per occurrence
Failure to comply with recordkeeping requirements.	LAC 33:XI.503.D	\$200 and completion of a department-sponsored compliance class	Per occurrence
Failure to meet requirements for repairs to UST systems.	LAC 33:XI.507	\$300	Per occurrence
Failure to follow reporting requirements, 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 within 24 hours after a request.	LAC 33:XI.509	\$300 and completion of a department-sponsored compliance class	Per occurrence
Failure to meet the performance requirements when performing release detection required in LAC 33:XI.703.	LAC 33:XI.701	\$750 and completion of a department-sponsored compliance class	Per occurrence
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 and/or failure to provide notification when a leak detection method indicates that a release may have occurred.	LAC 33:XI.703.A.1-2	\$1,500 and completion of a department-sponsored compliance class	Per occurrence
Failure to satisfy the additional requirements for petroleum UST systems as specified	LAC 33:XI.703.B	\$350 and completion of a department-sponsored compliance class	Per occurrence
Failure to maintain release detection records.	LAC 33:XI.705	\$200 and completion of a department-sponsored compliance class	Per occurrence

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to report any suspected release within 24 hours after becoming aware of the occurrence.	LAC 33:XI.707	\$500 and completion of a department-sponsored compliance class	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 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 Environmental Assessment, LR 31:

Mike D. McDaniel, Ph.D.
Secretary

0506#051

DECLARATION OF EMERGENCY

Office of the Governor Boxing and Wrestling Commission

Boxing and Wrestling Standards
(LAC 46:XI.Chapters 1, 3 and 5)

The Louisiana State Boxing and Wrestling Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(b) and 49:967(D), and adopts the following Rule. This Emergency Rule is necessary to prevent the loss of tax revenues resulting from locations re-broadcasting television related events; require wrestling promoters/producers scheduling events to promote the safety and welfare of participants, commissioners and ring officials; to move rules to show correct placement, repealing rules which are not in effect; and to join with all sanctioning bodies that have now adopted the *Uniform Rules of Boxing* for championship bouts.

This Emergency Rule is being promulgated to continue the provisions contained in the December 9, 2004 Emergency Rule (*Louisiana Register*, Volume 30, Number 12), and the provisions contained in the February 10, 2005 Emergency Rule (*Louisiana Register*, Volume 31, Number 2). This Emergency Rule is effective starting June 11, 2005, for a period of 120 days or until adoption of the final Rule, whichever occurs first.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XI. Boxing and Wrestling

Chapter 1. General Rules

§101. Definitions

* * *

Exhibition—a boxing, kickboxing or martial arts engagement in which the boxers, kickboxers or martial arts

contestants show or display their skill without necessarily striving to win. This definition excludes wrestling, pursuant to R.S. 4:75 and 76.

* * *

Physician—a person possessing a doctor of medicine (allopathic/M.D.), doctor of osteopathy or doctor of osteopathic medicine degree (osteopathic/D.O.) or an equivalent degree duly awarded by a medical or osteopathic educational institution approved by the commission.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§102. Annual License Fees

A. The following is a scale of fees for licensees.

- | | |
|---------------------------------------|-------|
| 1. Promoters | \$500 |
| 2. Matchmakers | \$500 |
| 3. Referees | \$ 25 |
| 4. Managers | \$ 25 |
| 5. Announcers | \$ 25 |
| 6. Professional boxers | \$ 25 |
| 7. Seconds | \$ 25 |
| 8. Professional wrestling contestants | \$ 25 |
| 9. Event coordinator | \$500 |
| 10. Other licenses | \$ 25 |

B. ...

AUTHORITY NOTE: Adopted in accordance with R.S. 4:65(B).

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§117. Permit

A. No contracts will be recognized or considered valid unless filed with the commission and until a permit is issued for the event by the commission. A permit fee of \$250 for a non-television show and a permit fee of \$2,000 for a television show may be required by the commission.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§119. Deposits: Closed Circuit and Pay-Per-View Television Rebroadcasting

A. All locations rebroadcasting television related events, may be required to deposit a maximum of \$1,000, in advance for expenses and taxes. *Location* in this particular rule meaning any casino, public auditorium, hotel or civic center. Money, less taxes and expenses, will be refunded by the commission to producer if taxes collected do not equal amount deposited. If taxes exceed the deposit, then the commission will proceed with collecting taxes as outlined in Revised Statute 4:67. Sports bars with a 250 person capacity or less will be required to purchase a permit for \$100; sports bars with a 400 person capacity or less will be required to

purchase a permit for \$200; over 400 person capacity a promoters license is required. If sports bars are part of a location, as defined in this rule, then the same rule will apply as a location. Five percent taxes will apply as indicated in Revised Statute 4:67. Complimentary passes or tickets are taxable if ticket prices are outlined in the television contract or advertised and sold at a specified price. The capacity of a location will be determined by the state/local fire marshal's office. Locations are required to obtain a promoters license from the commission; sports bars with a capacity of less than 400 are exempt from purchasing a promoters license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§121. Hold Harmless and Indemnity Agreement

A. All individuals, except the members of the commission, acting in any official capacity for any event(s) sanctioned by the commission shall be required to execute the Hold Harmless and Indemnity Agreement of the commission, prior to receiving any assignment from the commission. This shall be in addition to the agreement as set forth in the license application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:79.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§123. Ringside Physicians

A. The ringside physicians shall be stationed at places designated by the commission.

B. The ringside physician may terminate any contest or exhibition at any time if in the opinion of such physician the health or well-being of any participant would be significantly jeopardized by continuation of the contest or exhibition. In the event of any serious physical injury, such physician shall immediately render any emergency treatment necessary, recommended further treatment or hospitalization if required, and fully report the entire matter to the commission within 24 hours, and thereafter, as required by the commission. Such physician may also require that the injured participant and his or her manager remain in the ring or on the premises or report to a hospital after the contest for such period of time as such physician deems advisable.

C. Any contrary provisions of these rules notwithstanding, the ringside physician may enter the ring during the progress of a bout at any time to fulfill his or her official duties. A ringside physician desiring to enter the ring for this purpose shall first signal the referee of his or her intention, upon which the referee shall stop the progress of the bout by signaling the timekeeper. At any time during the progress of a bout, the referee may stop the progress of the bout by signaling the timekeeper, and require the ringside physician to enter the ring to examine a participant. Nothing herein shall be deemed to prohibit the ringside physician from entering the ring to examine any contestant during the rest periods, with or without invitation from the referee.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:70.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), repromulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§125. Event Approval

A. A member of the Louisiana Boxing and Wrestling Commission, including the chairman, may not legally and/or officially authorize and/or give approval to any television network, corporation, limited liability company, promoter, match-maker or any other entity, private or corporate, for any major event date and site selection, without the prior approval of a majority of the commission members voting in favor. *Major Event* in this rule means any boxing, kick-boxing or wrestling (WCW, WWF, etc.) contests that the state of Louisiana authorizes this commission to sanction. Minor local wrestling shows may be excluded from this rule. (Local area commissioners should coordinate these shows through the deputy commissioners and chairman, once they are made aware of such events.)

B. Once a commissioner is contacted by a promoter, he must advise the promoter that a typewritten request on official letterhead must be submitted to the chairman by mail or facsimile. In the request disclosure must be made regarding the venue (television contracts, promoter, matchmaker, number of bouts, bout contracts, arena contracts, sanctioning bodies, ticket information, etc.) After date and site selection is approved, full disclosure of all venue information must be submitted no later than two weeks prior to the event.

C. Once an official request is made, the chairman must call a meeting to approve or reject the request. A quorum, according to state statute, must be present to approve or reject such requests. An emergency meeting will not be necessary, if the time table is such, that the request may be discussed at the regular scheduled commission meeting.

D. The commission may demand that all monies relative to boxing venues be placed in escrow in the commission treasury. Monies in this rule means fighters purses and ring officials (referees, timekeepers, inspectors, physicians, judges, etc.) expenses. All ring officials pay will be predetermined and coordinated through the commission with the promoter. The ring officials will be paid by commission checks the same day or night before the start of the first bout. If the commission required fighters' purses to be placed in escrow then the fighters also will be paid by commission checks, less any expenses due the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D and R.S.4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§127. Charity Events

A. Permission to hold charity events must be obtained from the commission.

1. If expenses for the event are to be deducted from the proceeds, then a report estimating the expenses to be incurred shall be presented to the commission 21 days prior to the event for approval. The report shall contain an expense limit to be incurred for the event.

2. A final report showing the actual expenses incurred along with the amount of donated proceeds must be submitted to the commission no later than 7 days after the event.

3. A receipt from the charitable organization must be included in the final report to the commission.

B. Shows advertised as charity events must announce in advance in the public press what contribution will be for

charity and for what particular charity and this money must be paid before other expenses are deducted.

C. Should the entire proceeds, (except actual expenses) be given to charity, then this fact must be published. A complete report of all expenses and the actual amount turned over to charity must be available for the press on the day following the exhibition.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§129. Tickets and Sale of Tickets

A. All tickets shall have a number, price and date printed or stamped plainly on the face of the ticket as well as the stub retained by the ticket holder. Any ticket sold or deposited in the ticket box that is not printed or stamped plainly with a price on the face of the ticket will be counted, for tax purposes, at a value or price of the highest price ticket sold for the event.

B. Tickets of different prices shall be printed or stamped on heavy paper of different colors. Use of passout tickets is prohibited unless the club receives written permission from the commission to use them.

C. Under no circumstances shall a ticket holder be passed through the gate without having the ticket separated from the stub, or be allowed to occupy a seat unless in possession of the ticket stub. The ticket taker at the door shall separate the ticket from the stub and deposit the ticket in the sealed box provided by the commission or the commission representative.

D. The commission or the commission representative shall check numbers and places of ticket boxes at the gates and cause them to be sealed and after the event, have them opened and tickets counted under his supervision.

E. The commission may approve the use of roll tickets. No advance sale of roll tickets shall be permitted. Each roll must be numbered and priced according to the color of the roll. The commission or representative of the commission must be informed of the price of the tickets before they can be sold. The starting ticket number of each roll must be recorded by the commission or the commission representative.

F. Promoters shall provide complimentary tickets or official passes to the commission for attendance of commissioners and commission staff to efficiently conduct commission business for the presentation of a good show. If necessary 30 complimentary tickets or passes will be provided.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:73.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), repromulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§131. Penalties and Sanctions

A. Anyone licensed and/or subject to the authority of the commission, who violates any of the rules and regulations of the commission as set forth in title, parts and chapters, shall be subject to such sanctions as imposed by the commission which may result in fines, suspensions and revocations of licenses to be determined by the commission pursuant to the laws of the state of Louisiana and the authority of the commission vested to the commission by those laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:82.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 31:

§133. Unauthorized Matchmakers, Promoters, Managers

A. Anyone under the authority of the commission who deals with undercover matchmakers, promoters or managers of anyone not licensed by the commission shall be suspended by the commission.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), repromulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§135. Safety

A. Licensed clubs shall take all necessary precautions looking toward safety, order and proper behavior.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), repromulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

Chapter 3. Professional Boxing

§134. Prohibited Ring Official Assignments

A. A ring official domiciled in the state of Louisiana shall not accept an assignment in the United States or its possessions that is not sponsored, sanctioned, approved or supervised by the commission, another official state commission, or a member of the Association of Boxing Commissions. *Official State Commission*, in this rule, meaning a commission domiciled and coming under the jurisdiction and regulatory powers of their state or United States possession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§135. Judges and Referees

A. - B.2. ...

C. The referee is the sole arbiter of a bout and is the only individual authorized to stop a contest.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:79.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended

1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§317. Judging Methods and Procedures

A. Scoring

1. - 1.d. ...

2. It is also noted that sportsmanship should be taken into consideration by the judges and the condition of the boxer at the end of the bout. The items listed do not have the same scoring value. Clearly, a man who hits his opponent and is aggressive throughout the contest is entitled to more credit than the one who is merely defensive and shows ring generalship. If the referee or the commission shall decide, at any time, that either contestant did not enter into a contest in good faith, or if the commission or referee discovers, at any time, that either or both contestants are not performing their part in good faith, or is guilty of any foul tactic, or of faking, or of violating any rule of the commission, the referee or commission may stop the contest. The referee may stop the contest when either contestant shows marked superiority or is apparently outclassed. If a contestant is knocked down, or falls through weakness, he must get up unassisted within 10 seconds. The referee shall count off the seconds. If the contestant attempts to get up, and goes back down, the count shall be continued by the referee where he left off. During the count, the opponent shall go to the farthest neutral corner and remain there. Should the opponent refuse to do so, or leave the farthest neutral corner, the referee may stop counting. Upon compliance by the opponent, however, the referee shall continue counting where he left off. If a contestant, who has fallen out of the ring during a contest, fails to return immediately, the referee shall count him out as if he were "down" allowing 20 seconds. In every round but the last round of a bout, should a boxer be down at the time the bell rings ending the round, the count shall continue until the boxer gets up or is counted out. The termination of the bout is at the discretion of the referee and/or the ring physician. Should a contestant leave the ring during the one-minute period between rounds, and fail to be in the ring when gong rings to resume boxing, the referee shall declare his opponent the winner. A contestant shall be deemed "down" when:

- a. any part of his body other than his feet is on the floor;
- b. or he is hanging helplessly over the ropes;
- c. or he is rising from a "down" position.

3. Answering the Bell. Should a contestant finish any one round of a contest and fail to answer the bell for the succeeding round for any one of numerous reasons, such as cuts, injuries or admission of overwhelming superiority, the proper termination of the bout is by a technical knockout in the round for which he fails to answer the bell. For instance, both contestants have finished round 6. One of them fails to answer the bell for round 7, or indicates to the referee that he will not answer the bell. It is a "TKO-7." Indeed the man should be regarded as technically counted out while seated in his corner just as though the bell sounded for the seventh round. Certainly he completed round 6 and cannot, therefore, be charged with a loss in the sixth. Boxers suffering a knockout or a technical knockout will automatically be

suspended for a minimum period of 30 days. Any violation of this rule jeopardizes the welfare of the boxer. No boxer will be reinstated in less than 30 days unless investigated and specifically authorized by the commission or commission physician.

B. In the event a boxer has been knocked down the referee shall order such boxer's opponent to a neutral corner and commence a count of eight and such mandatory eight count after knockdowns is standard procedure in all bouts. Upon completion of said eight count the referee shall determine whether such boxer is able to continue.

C. There is no standing eight count.

D. When a boxer loses his mouthpiece, the referee shall call time as soon as possible and instruct such boxer's seconds to promptly wash or replace such boxer's mouthpiece and re-install same. If a referee determines that a boxer has deliberately spit out his mouthpiece for any reason, the referee shall issue a warning for the first such infraction and instruct the judges at the end of the round following a second such infraction to deduct one point from their scores for such boxer for that round. A boxer may be disqualified for deliberately spitting out his mouthpiece for the third time in any one round and his opponent declared the winner.

E. At the end of each round, each judge shall mark his or her scorecard in ink or indelible pencil with the score of each boxer in such round, and shall deliver the scorecard to the referee, who shall in turn deliver the scorecard of all judges to the commission.

F. At the conclusion of a contest or exhibition, except a contest or exhibition which has been concluded by knockout, technical knockout or disqualification, the commission shall tally the total points awarded to each participant and inform the announcer of the decision of the three judges.

G. The announcer shall announce the decision of the judges from the ring, and in the main events, the announcer shall call out the total points awarded by each judge. The boxer who has more points on the scorecard of the official is the winner on that judge's scorecard. The boxer who has been awarded the decision on at least two of the three judge's scorecard is the winner of the bout. In the event that neither boxer has been awarded the decision on at least two of the three judge's scorecard the decision shall be a draw, majority draw and all other possibilities.

H. The judges shall score a knockdown in any one round in a manner which is consistent with §317.A.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D, R.S.4:64, R.S. 4:76 and R.S. 4:79.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§318. Rounds, Duration and Intermission

A. Rounds shall be a minimum of 180 seconds long and 120 seconds long for female boxers.

B. There shall be a 60-second intermission between rounds, unless otherwise directed or authorized by the commission. The referee, at the request of the ringside physician, may extend this intermission, if necessary to examine a participant, for up to 30 additional seconds.

C. Each championship contest will be scheduled for 12 rounds, 180 seconds long, and a 60 second rest period.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§321. Fouls, Deductions of Points Because of a Foul and Accidental Fouling

A. - A.17. ...

B. If a contestant fouls his opponent during a contest or commits any other infraction, the referee may penalize him by deducting points from his score, whether or not the foul or infraction was intentional. The referee may determine the number of points to be deducted in each instance and shall base his determination on the severity of the foul or infraction and its effect upon the opponent. Point deductions for intentional fouls are mandatory.

C. If an intentional foul causes an injury, and the injury is severe enough to terminate the bout immediately, the boxer causing the injury shall lose by disqualification.

D. If an intentional foul causes an injury, and the injury results in the bout being stopped in a later round, the injured boxer will win by a technical decision if he is ahead on the score cards or the bout will result in a technical draw if the injured boxer is behind or even on the score cards.

E. If a boxer injures himself while attempting to intentionally foul his opponent, the referee will not take any action in his favor, and this injury will be the same as one produced by a fair blow.

F. When the referee determines that it is necessary to deduct a point or points because of a foul or infraction, he shall warn the offender of the penalty to be assessed.

G. The referee shall, as soon as practical after the foul, notify the judges and both contestants of the number of points, if any, to be deducted from the score of the contestant.

H. Any point or points to be deducted for any foul or infraction must be deducted in the round in which the foul or infraction occurred, and may not be deducted from the score of any subsequent round.

I. Accidental Foul

1. If a bout is stopped because of an accidental foul, the referee shall determine whether the boxer who has been fouled can continue or not. If the boxer's chance of winning has not been seriously jeopardized as a result of a foul, the referee may order the bout continued after a reasonable interval. Before the bout begins again, the referee shall inform the commission's representative of his determination that the foul was accidental.

2. If the referee determines that the bout may not continue because of an injury suffered as the result of an accidental foul, the bout will result in a no decision if stopped before four completed rounds.

3. If an accidental foul renders a contestant unable to continue the bout after four completed rounds have occurred the bout will result in a technical decision awarded to the boxer who is ahead on the score cards at the time the bout is stopped.

a. After the fourth round has been completed, partial or incomplete rounds shall be scored.

b. However, any point deduction(s) occurring during this partial round will be deducted from the score of the completed rounds.

J. If an injury inflicted by an accidental foul later becomes aggravated by fair blows and the referee orders the bout stopped because of the injury, the outcome must be determined by scoring the completed rounds and the round during which the referee stops the bout.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D and R.S.4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§335. Compensation of Officials

A. All officials that participate in an event sanctioned by the commission, shall be compensated by the promoters/producers. The amount compensated will be pre-determined, prior to the event, between the commission and the promoter/producer. Officials, in this rule, not to include the commission or physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

Chapter 5. Professional Wrestling

§523. Wrestling Booking Agent

Repealed (Reserved).

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, repealed by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§525. Wrestling Promoters

Repealed (Reserved).

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, repealed by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

§527. Application of Professional Boxing Rules

A. The following conditions specifically described in the professional boxing rules also apply to professional wrestling: appearance, weight, the fulfilling of contracts, ring introductions, acceptance of decision, managers, timekeepers, physicians, seconds, coaching, clothing worn by attendants, ring equipment, water bottles and buckets, betting, and notifying men before the contest.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:

A.L. "Buddy" Embanato, Jr.
Chairman

0506#014

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies (LAC 50:V.Chapter 3)

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule to adopt the provisions governing the disproportionate share payment methodologies for hospitals in May of 1999 (*Louisiana Register*, Volume 25, Number 5). The May 20, 1999 rule was later amended to change the criteria used to define rural hospitals and to clarify the policy governing final payments and adjustments (*Louisiana Register*, Volume 29, Number 1).

The Benefits Improvement and Protection Act of 2000 made provisions for public hospitals to receive disproportionate share hospital adjustment payments up to 175 percent of their allowable uncompensated care cost. Act 1024 of the 2001 Regular Session directed the Department of Health and Hospitals, as the federally designated Medicaid state agency, to specify in the Medicaid State Plan how uncompensated care is defined and calculated and to determine what facilities qualify for uncompensated care payments and the amount of the payments. In determining payments, the department shall prioritize local access to primary health care for the medically indigent and uninsured, and shall not include unreimbursed costs resulting from excess inpatient hospital capacity. For the period July 1, 2003 through June 30, 2005, the state's Medicaid uncompensated care payments shall be distributed in proportion to the amount and type of uncompensated care reported by all qualified facilities as required by Senate Bill No. 883 of the 2001 Regular Session. Nothing shall be construed to impede or preclude the Department of Health and Hospitals from implementing the provisions in the Rural Hospital Preservation Act. Further, Senate Concurrent Resolution 94 of the 2001 Regular Session and Senate Concurrent Resolution 27 of the 2002 Regular Session of the Louisiana Legislature requested the Department of Health and Hospitals, the Louisiana State University Health Sciences Center-Health Services Division, and the Louisiana State University Health Sciences Center-Shreveport to study and recommend common acute hospital payment methodologies for state and non-state hospitals participating in the Medicaid Program and the Medicaid Disproportionate Share Program. In accordance with the Benefits Improvement and Protection Act of 2000 and the findings and recommendations contained in the final reports of the study committees, the department repealed and replaced all provisions governing disproportionate share hospital

payments (*Louisiana Register*, Volume 29, Number 6). Acts 14, 526 and 1148 of the 2003 Regular Session of the Louisiana Legislature directed the department to amend the qualifying criteria and the payment methodology for disproportionate share payments to small rural hospitals. In compliance with Acts 14, 526 and 1148, the Bureau amended the July 1, 2003 Emergency Rule (*Louisiana Register*, Volume 29, Number 9). This Emergency Rule is being promulgated to continue provisions contained in the July 1, 2003 Rule. This action is being taken to enhance federal revenue.

Effective June 26, 2005 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby repeals and replaces all rules governing disproportionate share hospital payment methodologies.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 3. Disproportionate Share Hospital Payment Methodologies

§301. General Provisions

A. The reimbursement methodology for inpatient hospital services incorporates a provision for an additional payment adjustment for hospitals serving a disproportionate share of low income patients.

B. The following provisions govern the disproportionate share hospital (DSH) payment methodologies for qualifying hospitals.

1. Total cumulative disproportionate share payments under any and all disproportionate share hospital payment methodologies shall not exceed the federal disproportionate share state allotment for Louisiana for each federal fiscal year or the state appropriation for disproportionate share payments for each state fiscal year. The department shall make necessary downward adjustments to hospital's disproportionate share payments to remain within the federal disproportionate share allotment and the state disproportionate share appropriated amount.

2. Appropriate action including, but not limited to, deductions from DSH, Medicaid payments and cost report settlements shall be taken to recover any overpayments resulting from the use of erroneous data, or if it is determined upon audit that a hospital did not qualify.

3. DSH payments to a hospital determined under any of the methodologies described in this Chapter 3 shall not exceed the hospital's net uncompensated cost as defined in §305-313 or the disproportionate share limits as defined in Section 1923(g)(1)(A) of the Social Security Act for the state fiscal year to which the payment is applicable. Any Medicaid profit shall be used to offset the cost of treating the uninsured in determining the hospital specific DHH limits. High Medicaid hospitals can also qualify as other uninsured hospitals. Public hospitals included in §313 shall receive DSH payments up to 175 percent of the hospital's net uncompensated costs.

4. Qualification is based on the hospital's latest filed cost report as of March 31 of the current state fiscal year and related uncompensated cost data as required by the department. Qualification for small rural hospitals is based on the latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including

extensions. Hospitals that fail to timely file Medicare cost reports and related uncompensated cost data will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments with the exception of public state-operated hospitals, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

5. Hospitals shall be notified by letter at least 60 days in advance of calculation of DSH payment to submit documentation required to establish DSH qualification. Only hospitals that timely return DSH qualification documentation will be considered for DSH payments. The required documents are:

- a. obstetrical qualification criteria;
- b. low income utilization revenue calculation;
- c. Medicaid cost report; and
- d. uncompensated cost calculation.

6. Hospitals and/or units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments for the remainder of the current DSH pool payment cycle and thereafter.

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 31:

§303. Disproportionate Share Hospital Qualifications

A. In order to qualify as a disproportionate share hospital, a hospital must:

1. have at least two obstetricians who have staff privileges and who have agreed to provide obstetric services to individuals who are Medicaid eligible. In the case of a hospital located in a rural area (i.e., an area outside of a metropolitan statistical area), the term *obstetrician* includes any physician who has staff privileges at the hospital to perform nonemergency obstetric procedures; or

2. treat inpatients who are predominantly individuals under 18 years of age; or

3. be a hospital which did not offer nonemergency obstetric services to the general population as of December 22, 1987; and

4. have a utilization rate in excess of one or more of the following specified minimum utilization rates:

a. Medicaid utilization rate is a fraction (expressed as a percentage). The numerator is the hospital's number of Medicaid (Title XIX) inpatient days. The denominator is the total number of the hospital's inpatient days for a cost reporting period. Inpatient days include newborn and psychiatric days and exclude swing bed and skilled nursing days. Hospitals shall be deemed disproportionate share providers if their Medicaid utilization rates are in excess of the mean, plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments; or

b. hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of 25 percent. Low-income utilization rate is the sum of:

i. the fraction (expressed as a percentage). The numerator is the sum (for the period) of the total Medicaid patient revenues plus the amount of the cash subsidies for patient services received directly from state and local governments. The denominator is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the cost reporting period from the financial statements; and

ii. the fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in §303.A.4.b.i in the period which are reasonably attributable to inpatient hospital services. The denominator is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero. This numerator shall not include contractual allowances and discounts (other than for indigent patients ineligible for Medicaid), i.e., reductions in charges given to other third-party payers, such as HMOs, Medicare, or Blue Cross; nor charges attributable to Hill-Burton obligations. A hospital providing "free care" must submit its criteria and procedures for identifying patients who qualify for free care to the Bureau of Health Services Financing for approval. The policy for free care must be posted prominently and all patients must be advised of the availability of free care and the procedures for applying. Hospitals not in compliance with free care criteria will be subject to recoupment of DSH and Medicaid payments; or

c. hospitals shall be deemed disproportionate share providers eligible for reimbursement for inpatient services if their inpatient uninsured utilization rates are in excess of 3 percent.

i. Inpatient uninsured utilization rate is a fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for inpatient services furnished to uninsured persons for the period. The denominator is the total amount of the hospital's charges for inpatient services furnished to all persons for the period; or

d. hospitals shall be deemed disproportionate share providers eligible for reimbursement for outpatient services if their outpatient uninsured utilization rates are in excess of 3 percent.

i. Outpatient uninsured utilization rate is a fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for outpatient services furnished to uninsured persons for the period. The denominator is the total amount of the hospital's charges for outpatient services furnished to all persons for the period; or

5. effective November 3, 1997, be a small rural hospital as defined in §311.A.1.a-h; and

6. in addition to the qualification criteria outlined in §303.A.1-5, effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

§305. High Uninsured Hospitals

A. Definitions

High Uninsured Utilization Rate Hospital—a hospital that has an uninsured utilization rate in excess of the mean, plus one standard deviation of the uninsured utilization rates for all hospitals.

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients.

B. DSH payments to individual high uninsured hospitals shall be calculated as follows.

1. Inpatient High Uninsured. Payments shall be equal to 100 percent of the hospital's cost of furnishing inpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients. DSH payments calculated under this payment methodology shall be subject to the adjustment provision below in Subsection E.; and/or

2. Outpatient High Uninsured. Payments shall be equal to 100 percent of the hospital's cost of furnishing outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients. DSH payments calculated under this payment methodology shall be subject to the adjustment provision below in Subsection E.

C. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid, other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an annual attestation that patients whose care is included in the hospitals' net uncompensated cost are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

D. DSH payments to individual high uninsured hospitals shall be equal to 100 percent of the hospital's net uncompensated costs and subject to the adjustment provision in §301.B.

E. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each high uninsured hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying high uninsured hospitals during the state fiscal year; and then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

F. A hospital receiving DSH payments shall furnish emergency and nonemergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

§307. Other Uninsured Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients.

Other Uninsured Utilization Rate Hospital—a qualifying hospital that is not included in §305, §311, §313 or §315.

B. DSH payments to an individual other uninsured hospital shall be calculated as follows:

1. Inpatient Other Uninsured. All qualifying hospitals shall be arrayed from lowest to highest rate according to their inpatient uninsured utilization rate. DSH payments to hospitals in the first quintile of the distribution shall be equal to 25 percent of the hospital's cost of furnishing inpatient hospital services to uninsured persons, supported by patient-specific data, net of payments received from such patients and subject to the adjustment provision below. DSH payments to hospitals in the second through the fifth quintiles of the distribution shall be equal to 40, 55, 70 and 85 percent of the hospital's cost of furnishing inpatient hospital services to uninsured persons, supported by patient-specific data, net of payments received from such patients, respectively and subject to the adjustment provision below in Subsection E.

2. Outpatient Other Uninsured. All qualifying hospitals shall be arrayed from lowest to highest rate according to their outpatient uninsured utilization rate. DSH payments to hospitals in the first quintile of the distribution shall be equal to 25 percent of the hospital's cost of furnishing inpatient hospital services to uninsured persons, supported by patient-specific data, net of payments received from such patients and subject to the adjustment provision below. DSH payments to hospitals in the second through the fifth quintiles of the distribution shall be equal to 40, 55, 70 and 85 percent of the hospital's cost of furnishing inpatient hospital services to uninsured persons, supported by patient-specific data, net of payments received from such patients, respectively and subject to the adjustment provision below in Subsection E.

C. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting

the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an attestation that patients whose care is included in the hospitals' net uncompensated cost are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

D. DSH payments to an individual other uninsured hospital shall be based on the hospital's uninsured utilization rate and the distribution of all other uninsured hospitals uninsured utilization rates. DSH payments to hospitals in the first quintile of the distribution shall be equal to 25 percent of the hospital's net uncompensated costs and subject to the adjustment provision in §301.B. DSH payments to hospitals in the second through the fifth quintiles of the distribution shall be equal to 40, 55, 70 and 85 percent of the hospital's net uncompensated cost, respectively.

E. In the event it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each other uninsured hospital based on the ratio determined by:

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

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

F. A hospital receiving DSH payments shall furnish emergency and non-emergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

§309. High Medicaid Hospitals

A. Definition. *High Medicaid Utilization Rate Hospital*—a hospital that has a Medicaid utilization rate in excess of the mean, plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments and that is not included in §305.

1. Medicaid utilization rate is a fraction (expressed as a percentage). The numerator is the hospital's number of Medicaid (Title XIX) inpatient days. The denominator is the total number of the hospital's inpatient days for a cost-reporting period.

B. DSH payments to individual high Medicaid hospitals shall be based on actual paid Medicaid days for a six-month period ending on the last day of the last month of that period,

but reported at least 30 days preceding the date of payment. Annualization of days for the purposes of the Medicaid days pool is not permitted. The amount will be obtained by DHH from a report of paid Medicaid days by service date.

C. Disproportionate share payments for individual high Medicaid hospitals shall be calculated based on the product of the ratio determined by:

1. dividing each qualifying high Medicaid hospital's actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by DHH from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified high Medicaid hospitals. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days; and

2. all other acute high Medicaid Utilization Rate Hospitals.

D. A pro rata decrease necessitated by conditions specified in §301.B. for high Medicaid hospitals will be calculated based on the ratio determined by:

1. dividing the hospitals' Medicaid days by the Medicaid days for all qualifying high Medicaid hospitals; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

§311. Small Rural Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients. Any uncompensated costs of providing health care services in a rural health clinic licensed as part of a small rural hospital as defined below shall be considered outpatient hospital services in the calculation of uncompensated costs.

Small Rural Hospital—a hospital (excluding a long-term care hospital, rehabilitation hospital, or freestanding psychiatric hospital but including distinct part psychiatric units) that meets the following criteria:

a. had no more than 60 hospital beds as of July 1, 1994, and is located in a parish with a population of less than 50,000 or in a municipality with a population of less than 20,000; or

b. meets the qualifications of a sole community hospital under 42 CFR §412.92(a); or

c. had no more than 60 hospital beds as of July 1, 1999 and is located in a parish with a population of less than 17,000 as measured by the 1990 census; or

d. had no more than 60 hospital beds as of July 1, 1997 and is a publicly-owned and operated hospital that is located in either a parish with a population of less than

50,000 or a municipality with a population of less than 20,000; or

e. had no more than 60 hospital beds as of June 30, 2000 and is located in a municipality with a population, as measured by the 1990 census, of less than 20,000; or

f. had no more than 60 beds as of July 1, 1997 and is located in a parish with a population, as measured by the 1990 and 2000 census, of less than 50,000; or

g. was a hospital facility licensed by the department that had no more than 60 hospital beds as of July 1, 1994, which hospital facility:

i. has been in continuous operation since July 1, 1994;

ii. is currently operating under a license issued by the department; and

iii. is located in a parish with a population, as measured by the 1990 census, of less than 50,000; or

h. has no more than 60 hospital beds or has notified the department as of March 7, 2002 of its intent to reduce its number of hospital beds to no more than 60, and is located in a municipality with a population of less than 13,000 and in a parish with a population of less than 32,000 as measured by the 2000 census; or

i. has no more than 60 hospital beds or has notified DHH as of December 31, 2003, of its intent to reduce its number of hospital beds to no more than 60; and

i. is located, as measured by the 2000 census, in a municipality with a population of less than 7,000;

ii. is located, as measured by the 2000 census, in a parish with a population of less than 53,000; and

iii. is located within 10 miles of a United States military base; or

j. has no more than 60 hospital beds as of September 26, 2002; and

i. is located, as measured by the 2000 census, in a municipality with a population of less than 10,000; and

ii. is located, as measured by the 2000 census, in a parish with a population of less than 33,000; or

k. has no more than 60 hospital beds as of January 1, 2003; and

i. is located, as measured by the 2000 census, in a municipality with a population of less than 11,000; and

ii. is located, as measured by the 2000 census, in a parish with a population of less than 90,000.

B. Payment based on uncompensated cost for qualifying small rural hospitals shall be in accordance with the following three pools:

1. *Public (Nonstate) Small Rural Hospitals*—small rural hospitals as defined in §311.A.1, which are owned by a local government.

2. *Private Small Rural Hospitals*—small rural hospitals as defined in §311.A.1, that are privately owned.

3. *Small Rural Hospitals*—small rural hospitals as defined in §311.A.1.i.-§311.A.1.k.

C. Payment to hospitals included in §311.B.1, §311.B.2, and §311.B.3 is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for each pool. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

D. Pro Rata Decrease

1. A pro rata decrease necessitated by conditions specified in §301.B. for rural hospitals described in this §311 will be calculated using the ratio determined by:

a. dividing the qualifying rural hospital's uncompensated costs by the uncompensated costs for all rural hospitals in §311; then

b. multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state DSH appropriated amount.

2. No additional payments shall be made after the final payment for the state fiscal year is disbursed by the department. Recoupment shall be initiated upon completion of an audit if it is determined that the actual uncompensated care costs for the state fiscal year for which the payment is applicable is less than the actual amount paid.

E. Qualifying hospitals must meet the definition for a small rural hospital contained in §311.A.1. Qualifying hospitals must maintain a log documenting the provision of uninsured care as directed by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

§313. Public State-Operated Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Public State-Operated Hospital—a hospital that is owned or operated by the State of Louisiana.

B. DSH payments to individual public state-owned or operated hospitals shall be up to 175 percent of the hospital's net uncompensated costs. Final payment will be based on the uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

C. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each public state-owned or operated hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public state-owned or operated hospitals during the state fiscal year; and then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

D. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Acute hospitals must maintain a log documenting the provision of uninsured care as directed by

the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an attestation that patients whose care is included in the hospitals' net uncompensated cost are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

§315. Psychiatric Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Psychiatric Hospital—a free standing psychiatric hospital that is not included in §313.

B. DSH payments to individual free-standing psychiatric hospitals shall be based on actual paid Medicaid days for a six-month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Annualization of days for the purposes of the Medicaid days pool is not permitted. The amount will be obtained by DHH from a report of paid Medicaid days by service date.

C. Disproportionate share payments for individual free-standing psychiatric hospitals shall be calculated based on the product of the ratio determined by:

1. dividing each qualifying free-standing psychiatric hospital's actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by DHH from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified free standing psychiatric hospitals. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days; and

2. multiplying by an amount of funds for free-standing psychiatric to be determined by the director of the Bureau of Health Services Financing.

D. A pro rata decrease necessitated by conditions specified in §301.B. for hospitals in §315 will be calculated based on the ratio determined by:

1. dividing the hospitals' Medicaid days by the Medicaid days for all qualifying hospitals in §315; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal

disproportionate share allotment or the state disproportionate share appropriated amount.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

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 Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0506#054

DECLARATION OF EMERGENCY

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

Mental Health Rehabilitation Program
(LAC 50:XV.101, 323, 325, and 335)

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a rule to repeal the existing rules promulgated prior to 2004 and adopt new provisions governing the administration of the Mental Health Rehabilitation Program (*Louisiana Register*, Volume 31, Number 5). The bureau now proposes to promulgate an Emergency Rule to delay the implementation of the provisions contained in the May 20, 2005 Rule until August 1, 2005. In addition, the bureau proposes to rescind the language prohibiting the provision of certain mental health rehabilitation services to children and adolescents in the custody of the Office of Community Services or the Office of Youth Services.

This action is being taken to promote the health and well being of Medicaid recipients who are receiving mental health rehabilitation services by assuring continuity of services during the transition period to the restructured Mental Health Rehabilitation Program. It is anticipated that the implementation of this Emergency Rule will be cost neutral for state fiscal year 2004-2005.

Effective June 1, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing delays the implementation of the provisions

contained in the May 20, 2005 Rule governing the administration of the Mental Health Rehabilitation Program until August 1, 2005. In addition, the bureau rescinds the language prohibiting the provision of certain mental health rehabilitation services to children and adolescents in the custody of the Office of Community Services or the Office of Youth Services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 1. Mental Health Rehabilitation

Chapter 1. General Provisions

§101. Introduction

A. - C. ...

D. Mental Health Rehabilitation services shall be covered and reimbursed for any eligible Medicaid recipient who meets the medical necessity criteria for services. The Department will not reimburse claims determined through the prior authorization or monitoring process to be a duplicated service.

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 31:1082 (May 2005), amended LR 31:

Chapter 3. Covered Services and Staffing

Requirements

Subchapter B. Mandatory Services

§323. Parent/Family Intervention (Counseling)

A. - C.4. ...

D. Service Exclusion. This service may not be combined on a service agreement with Parent/Family Intervention (Intensive).

E. ...

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 31:1084 (May 2005), amended LR 31:

§325. Psychosocial Skills Training—Group (Youth)

A. - B.2. ...

C. Service Exclusions. This service may not be combined on a service agreement with the following services:

1. Parent/Family Intervention (Intensive); or
2. Psychosocial Skills Training-Group (Adult).

D. ...

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 31:1085 (May 2005), amended LR 31:

Subchapter C. Optional Services

§335. Parent/Family Intervention (Intensive)

A. - B.3. ...

C. Service Exclusions. This service may not be combined on a service agreement with the following services:

1. Community Support;
2. Psychosocial Skills Training-Group (Adult);
3. Psychosocial Skills Training-Group (Youth);
4. Individual Intervention/Supportive Counseling;
 - a. an exception may be considered for a recipient with unique needs;

5. Group Counseling; or

6. Parent/Family Intervention (Counseling).

D. ...

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 31:1085 (May 2005), amended LR 31:

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 Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0506#010

DECLARATION OF EMERGENCY

Department of Health and Hospitals

Office of the Secretary

Bureau of Health Services Financing

Pharmacy Benefits Management Program

Parenteral Therapy

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated rules to adopt the provisions governing the Parenteral Nutrition Therapy (*Louisiana Register*, Volume 31, Number 1). In compliance with guidelines established by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, the bureau repeals the provisions governing Parenteral Therapy in the Durable Medical Equipment Program and repromulgates these provisions under the Pharmacy Benefits Management Program.

This action is being taken to avoid federal sanctions. It is anticipated that implementation of this Emergency Rule will be cost neutral for state fiscal year 2005-2006.

Emergency Rule

Effective July 1, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rules for Parenteral Nutrition Therapy in the Pharmacy Benefits Management Program.

Parenteral Nutrition Therapy Description

A. Parenteral Nutrition Therapy is the introduction of nutrients by some means other than through the

gastrointestinal tract, in particular intravenous, subcutaneous, intramuscular, or intramedullary injection. Intravenous nutrition is also referred to as TPN (Total Parenteral Nutrition) or Hyperalimentation Therapy.

Medical Necessity Criteria

A. Parenteral nutrition is covered for a patient with permanent, severe pathology of the alimentary tract which does not allow absorption of sufficient nutrients to maintain weight and strength commensurate with the patient's general condition.

B. Parenteral nutrition is covered in any of the following situations:

1. the patient has undergone recent (within the past three months) massive small bowel resection leaving less than or equal to 5 feet of small bowel beyond the ligament of Treitz; or

2. the patient has a short bowel syndrome that is severe enough that the patient has net gastrointestinal fluid and electrolyte malabsorption such that on an oral intake of 2.5-3 liters/day the enteral losses exceed 50 percent of the oral/enteral intake and the urine output is less than 1 liter/day; or

3. the patient requires bowel rest for at least three months and is receiving intravenously 20-35 cal/kg/day for treatment of symptomatic pancreatitis with/without pancreatic pseudocyst, severe exacerbation of regional enteritis, or a proximal enterocutaneous fistula where tube feeding distal to the fistula is not possible; or

4. the patient has complete mechanical small bowel obstruction where surgery is not an option; or

5. the patient is significantly malnourished (10 percent weight loss over three months or less and serum albumin less than or equal to 3.4 gm/dl) and has very severe fat malabsorption (fecal fat exceeds 50 percent of oral/enteral intake on a diet of at least 50 gm of fat/day as measured by a standard 72 hour fecal fat test); or

6. the patient is significantly malnourished (10 percent weight loss over three months or less and serum albumin less than or equal to 3.4 gm/dl) and has a severe motility disturbance of the small intestine and/or stomach which is unresponsive to prokinetic medication (prokinetic medication is defined as the presence of daily symptoms of nausea and vomiting while taking maximal doses) and is demonstrated either:

a. scintigraphically (solid meal gastric emptying study demonstrates that the isotope fails to reach the right colon by six hours following ingestion); or

b. radiographically (barium or radiopaque pellets fail to reach the right colon by six hours following administration).

Note: These studies must be performed when the patient is not acutely ill and is not on any medication which would decrease bowel motility.

7. For criteria in B.1-6.b above, the conditions are deemed to be severe enough that the patient would not be able to maintain weight and strength on only oral intake or tube enteral nutrition.

C. Maintenance of weight and strength commensurate with the patient's overall health status must require intravenous nutrition and must not be possible utilizing all of the following approaches:

1. modifying the nutrient composition of the enteral diet (e.g., lactose free, gluten free, low in long chain triglycerides, substitution with medium chain triglycerides, provision of protein as peptides or amino acids, etc.); and

2. utilizing pharmacologic means to treat the etiology of the malabsorption (e.g., pancreatic enzymes or bile salts, broad spectrum antibiotics for bacterial overgrowth, prokinetic medication for reduced motility, etc.).

D. Patients who do not meet criteria in B.1-6 above must meet criteria in C.1-2 above (modification of diet and pharmacologic intervention) plus:

1. the patient is malnourished (10 percent weight loss over three months or less and serum albumin less than or equal to 3.4 gm/dl); and

2. a disease and clinical condition has been documented as being present and it has not responded to altering the manner of delivery of appropriate nutrients (e.g., slow infusion of nutrients through a tube with the tip located in the stomach or jejunum).

E. The following are some examples of moderate abnormalities which would require a failed trial of tube enteral nutrition before parenteral nutrition would be covered:

1. moderate fat malabsorption - fecal fat exceeds 25 percent of oral/enteral intake on a diet of at least 50 gm fat/day as measured by a standard 72 hour fecal fat test;

2. diagnosis of malabsorption with objective confirmation by methods other than 72 hour fecal fat test (e.g., Sudan stain of stool, dxylose test, etc.);

3. gastroparesis which has been demonstrated:

a. radiographically or scintigraphically as described in Subsection B above with the isotope or pellets failing to reach the jejunum in three to six hours; or

b. by manometric motility studies with results consistent with an abnormal gastric emptying, and which is unresponsive to prokinetic medication.

4. a small bowel motility disturbance which is unresponsive to prokinetic medication, demonstrated with a gastric to right colon transit time between three to six hours.

5. small bowel resection leaving greater than 5 feet of small bowel beyond the ligament of Treitz.

6. short bowel syndrome which is not severe (as defined in B.2);

7. mild to moderate exacerbation of regional enteritis, or an enterocutaneous fistula;

8. partial mechanical small bowel obstruction where surgery is not an option.

F. Documentation must support that a concerted effort has been made to place a tube. For gastroparesis, tube placement must be post-pylorus, preferably in the jejunum. Use of a double lumen tube should be considered. Placement of the tube in the jejunum must be objectively verified by radiographic studies or fluoroscopy. Placement via endoscopy or open surgical procedure would also verify location of the tube.

G. A trial with enteral nutrition must be documented, with appropriate attention to dilution, rate, and alternative formulas to address side effects of diarrhea.

H. Parenteral nutrition can be covered in a patient with the ability to obtain partial nutrition from oral intake or a

combination of oral/enteral (or oral/enteral/parenteral) intake as long as the following criteria are met:

1. a permanent condition of the alimentary tract is present which has been deemed to require parenteral therapy because of its severity;

2. a permanent condition of the alimentary tract is present which is unresponsive to standard medical management; and

3. the person is unable to maintain weight and strength.

I. If the coverage requirements for parenteral nutrition are met, medically necessary nutrients, administration supplies and equipment are covered. Parenteral nutrition solutions containing little or no amino acids and/or carbohydrates would be covered only in situations stated in B.1, 2, or 4 above.

J. Documentation Requirements

1. Patients covered under Paragraph B.4 should have documentation of the persistence of their condition. Patients covered under B.5–D.2 should have documentation that sufficient improvement of their underlying condition has not occurred which would permit discontinuation of parenteral nutrition. Coverage for these patients would be continued if the treatment has been effective as evidenced by an improvement of weight and/or serum albumin. If there has been no improvement, subsequent claims will be denied unless the physician clearly documents the medical necessity for continued parenteral nutrition and any changes to the therapeutic regimen that are planned, e.g., an increase in the quantity of parenteral nutrients provided.

2. A total caloric daily intake (parenteral, enteral and oral) of 20-35 cal/kg/day is considered sufficient to achieve or maintain appropriate body weight. The ordering physician must document in the medical record the medical necessity for a caloric intake outside this range in an individual patient.

3. Parenteral nutrition would usually be noncovered for patients who do not meet criteria in H.1-3, but will be considered on an individual case basis if detailed documentation is submitted.

4. Patients covered under criteria in B.1 or 2 should have documentation that adequate small bowel adaptation had not occurred which would permit tube enteral or oral feedings.

5. Patients covered under B.3 should have documentation of worsening of their underlying condition during attempts to resume oral feedings.

6. The ordering physician must document the medical necessity for protein orders outside of the range of 0.8-1.5 gm/kg/day, dextrose concentration less than 10 percent, or lipid use greater than 15 units of a 20 percent solution or 30 units of a 10 percent solution per month.

7. If the medical necessity for special parenteral formulas is not substantiated, authorization of payment will be denied.

Exclusionary Criteria

A. Parenteral nutrition will be denied as noncovered in situations involving temporary impairments. The patient must have:

1. a condition involving the small intestine and/or its exocrine glands which significantly impairs the absorption of nutrients;

2. disease of the stomach and/or intestine which is a motility disorder and impairs the ability of nutrients to be transported through the GI system. There must be objective evidence supporting the clinical diagnosis.

B. Parenteral nutrition is noncovered for the patient with a functioning gastrointestinal tract whose need for parenteral nutrition is only due to:

1. a swallowing disorder;

2. a temporary defect in gastric emptying such as a metabolic or electrolyte disorder;

3. a psychological disorder impairing food intake such as depression;

4. a metabolic disorder inducing anorexia such as cancer;

5. a physical disorder impairing food intake such as the dyspnea of severe pulmonary or cardiac disease;

6. a side effect of a medication; or

7. renal failure and/or dialysis.

Prior Authorization

A. Parenteral Nutrition Therapy may be approved by Prior Authorization Unit (PAU) at periodic intervals not to exceed six months. However, Medicaid will pay for no more than one month's supply of nutrients at any one time. All requests to the PAU shall include:

1. the prognosis, as well as the diagnosis;

2. the date the recipient was first infused;

3. whether the recipient has been trained to use parenteral equipment;

4. a statement that the recipient is capable of operating the parenteral equipment;

5. either the Medicaid certificate of medical necessity form for TPN, or the Medicare certificate of medical necessity form, Form DMERC 10.02A, completed and signed by the treating physician;

6. documentation showing that the patient has a permanent impairment. Permanence does not require a determination that there is no possibility that the patient's condition may improve sometime in the future. Medical documentation must substantiate that the condition is expected to last a long and indefinite duration (at least three months).

B. Additional documentation must be included with the initial request for parenteral nutrition.

1. In situations covered in B.1-4 of Medical Necessity, the documentation should include copies of the operative report and/or hospital discharge summary and/or x-ray reports and/or a physician letter which document the condition and the necessity for parenteral therapy.

2. For situations in B.5 and D.2 of Medical Necessity (when appropriate), include the results of the fecal fat test and dates of the test.

3. For situations in B.6 and D.2 of Medical Necessity, include a copy of the report of the small bowel motility study and a list of medications that the patient was on at the time of the test.

4. For situations in B.5 – D.2 of Medical Necessity, include results of serum albumin and date of test [within one week prior to initiation of parenteral nutrition (PN)] and a copy of a nutritional assessment by a physician, dietitian or other qualified professional within one week prior to initiation of PN, to include the following information:

- a. current weight with date and weight one – three months prior to initiation of PN;
- b. estimated daily calorie intake during the prior month and by what route (e.g., oral, tube);
- c. statement of whether there were caloric losses from vomiting or diarrhea and whether these estimated losses are reflected in the calorie count;
- d. description of any dietary modifications made or supplements tried during the prior month (e.g., low fat, extra medium chain triglycerides, etc.).

5. For situations described in D.2 of Medical Necessity, include:

- a. a statement from the physician;
- b. copies of objective studies; and
- c. excerpts of the medical record giving the following information:
 - i. specific etiology for the gastroparesis, small bowel dysmotility, or malabsorption;
 - ii. a detailed description of the trial of tube enteral nutrition including the beginning and ending dates of the trial, duration of time that the tube was in place, the type and size of tube, the location of tip of the tube, the name of the enteral nutrient, the quantity, concentration, and rate of administration, and the results;
 - iii. a copy of the x-ray report or procedure report documenting placement of the tube in the jejunum;
 - iv. prokinetic medications used, dosage, and dates of use;
 - v. nondietary treatment given during prior month directed at etiology of malabsorption (e.g., antibiotic for bacterial overgrowth);
 - vi. any medications used that might impair GI tolerance to enteral feedings (e.g., anticholinergics, opiates, tricyclics, phenothiazines, etc.) or that might interfere with test results (e.g., mineral oil, etc.) and a statement explaining the need for these medications.

6. Any other information which supports the medical necessity for parenteral nutrition may also be included.

Intradialytic Parenteral Nutrition

A. Intradialytic Parenteral Nutrition Therapy (IDPN) is parenteral nutrition therapy provided to an end stage renal disease (ESRD) patient while the patient is being dialyzed.

B. In order to cover intradialytic parenteral nutrition (IDPN), documentation must be clear and precise to verify that the patient suffers from a permanently impaired gastrointestinal tract and that there is insufficient absorption of nutrients to maintain adequate strength and weight. The supporting documentation must substantiate that the patient cannot be maintained on oral or enteral feedings and that due to severe pathology of the alimentary tract, the patient must be intravenously infused with nutrients.

C. Infusions must be vital to the nutritional stability of the patient and not supplemental to a deficient diet or deficiencies caused by dialysis. Physical signs, symptoms and test results indicating severe pathology of the alimentary tract must be clearly evident in any documentation submitted. Patients receiving IDPN must also meet the criteria for parenteral nutrition.

D. If the coverage requirements for parenteral nutrition are met, one supply kit and one administration kit will be

covered for each day that parenteral nutrition is administered, if such kits are medically necessary and used.

Additional Documentation

A. For the initial request and for revised requests or reconsiderations involving a change in the order, there must be additional documentation to support the medical necessity of the following orders, if applicable.

- 1. the need for special nutrients;
- 2. the need for dextrose concentration less than 10 percent;
- 3. the need for lipids more than 15 units of a 20 percent solution or 30 units of a 10 percent solution per month.

B. After the first six months, the PA request must include a physician's statement describing the continued need for parenteral nutrition. For situations in B.5-D.2 of Medical Necessity, the PA request must include the results of the most recent serum albumin (within two weeks of the request date) and the patient's most recent weight with the date of each. If the results indicate malnutrition, there should be a physician's statement describing the continued need for parenteral nutrition and any changes to the therapeutic regimen that are planned.

Equipment and Supplies

A. Infusion pumps are covered for patients for whom parenteral nutrition is covered. Only one pump (stationary or portable) will be covered at any one time. Additional pumps will be denied as not medically necessary.

B. An IV pole is a device to suspend fluid to be administered by gravity or pump. An IV pole will be covered when a patient is receiving enteral or parenteral fluids and the patient is not using an ambulatory infusion pump.

C. Parenteral pumps are used to deliver nutritional requirements intravenously. Parenteral pumps are covered for parenteral nutrition for those patients who cannot absorb nutrients by the gastrointestinal tract.

D. Infusion pumps, ambulatory and stationary, are indicated for the administrative of parenteral medication in the home when parenteral administrative of the medication in the home is reasonable and medically necessary, and an infusion pump is necessary to safely administer the medication.

E. An external ambulatory infusion pump is a small portable electrical device that is used to deliver parenteral medication. It is designed to be carried or worn by the patient.

F. A stationary infusion pump is an electrical device, which serves the same purpose as an ambulatory pump, but is larger and typically mounted on a pole.

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

Frederick P. Cerise, M.D., M.P.H.
Secretary

0506#053

DECLARATION OF EMERGENCY

Department of Social Services Bureau of Licensing

Family Foster Care Services—Re-Certification
(LAC 48:I.4113)

The Department of Social Services, Bureau of Licensing has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to adopt the following standard in the certification of foster homes.

The effective date of this Emergency Rule is June 1, 2005 and it shall remain in effect for 120 days or until the final Rule takes effect through the normal promulgation process, whichever is shortest.

The Emergency Rule is necessary because Office of Community Services is unable to conduct an annual re-certification evaluation of each family foster home which could cause a potential loss of federal funds.

Title 48

SOCIAL SERVICES

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 41. Minimum Licensing Requirements for Child Placing Agencies with and without Adoption Programs

§4113. Family Foster Care Services

A. - F.3. ...

G. Monitoring and Periodic Re-Certification Services

1. ...

2. The agency shall conduct periodic re-certification evaluations of each family foster home to determine continued compliance with family home regulations, its maximum usefulness and limitations

G.3. - N.12.c. ...

O. Professional Responsibilities of the Foster Parent(s)

1. - 6.a.xvii. ...

7. Re-certification

a. Foster parent(s) shall cooperate with the child placing agency conducting the family foster home periodic re-certification study to verify compliance with family foster home regulations.

P. - V.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401.1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 15:546 (July 1989), amended by the Department of Social Services, Bureau of Licensing, LR 31:

Ann Silverberg Williamson
Secretary

0506#013

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Earned Income Tax Credit (EITC) Program
(LAC 67:III.5581)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt §5581, Earned Income Tax Credit as a new TANF Initiative. This Emergency Rule effective June 11, 2005, will remain in effect for a period of 120 days. This declaration effective June 11, 2005, is necessary to extend the original Emergency Rule of February 11, 2005, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in July 2005).

Pursuant to Act 1 of the 2004 Regular Session of the Louisiana Legislature, the agency proposes to adopt Section 5581 to provide public awareness, education and targeted outreach strategies regarding the benefits of claiming the Earned Income Tax Credit (EITC) Program, state tax credit programs, and free taxpayer assistance.

The authorization for emergency action in this matter is contained in HB 1 of the 2004 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

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

Chapter 55. TANF Initiatives

§5581. Earned Income Tax Credit (EITC) Program

A. The agency has entered into contracts to provide public awareness, education and targeted outreach strategies regarding the benefits of claiming the Earned Income Tax Credit (EITC) Program, state tax credit programs, and free taxpayer assistance effective January 1, 2005. Strategies include collaboration with the IRS, various state departments and the targeted expansion of existing outreach activities to assure that free taxpayer assistance is available statewide.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is not limited to needy families.

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

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 31:

Ann Silverberg Williamson
Secretary

0506#046

Rules

RULE

Department of Agriculture and Forestry State Market Commission

Meat Grading and Certification (LAC 7:V.513)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, State Market Commission amends regulations governing fees assessed for meat grading and certification.

For the last two years the State Market Commission, Meat Grading and Certification Program budget has ended in a deficit. The department has used other funds to make up for each years deficit. The department cannot continue to find funds from other areas to make up this continuing deficit.

Louisiana is experiencing an unprecedented shortfall in state finances. The legislature has cut the department's budget; therefore, using other department funds to cover the deficit of the Meat Grading and Certification Program is not a continuing option.

The department, however, cannot discontinue the Meat Grading and Certification Program because the program provides state institutions and school food service systems with consistent grade quality and product uniformity to these users of the service.

The State Market Commission has amended the rules increasing fees to insure that the program will have adequate funding for the remaining fiscal year and beyond.

This Rule is enabled by R.S. 3:405.

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing and Processing

Chapter 5. Market Commission—Meat Grading and Certification

§513. Contractor's Obligation

A. Contractors furnishing products under these regulations must furnish such assistance as may be necessary to expedite the grading, examination, and acceptance of products.

B. Contractors desiring grading/certification services must notify the Department of Agriculture and Forestry at least 24 hours in advance of need. Contractors who fail to give at least 24 hours notice in advance of need will be subject to a penalty of \$50, regardless of the time required for the service or the fee assessed on a poundage basis.

C. The costs of all grading, examination, acceptance, and certification of meat and meat products, poultry and poultry products, and seafood shall be paid by the contractor at the rate of \$0.04 per pound of meat or meat products, poultry and poultry products and seafood graded, examined, or certified, which amount shall be due and payable to the Department of Agriculture and Forestry upon presentation of statement(s) for services rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405 and R.S. 3:412.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 7:262 (May 1981), amended by the Department of Agriculture and Forestry, State Market Commission, LR 31:1227 (June 2005).

Bob Odom
Commissioner

0506#030

RULE

Department of Civil Service Board of Ethics

Executive Branch Lobbying (LAC 52:I.Chapters 1, 3, 12, 17, 19 and 21)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Civil Service, Louisiana Board of Ethics, has adopted rules concerning the registration and reporting requirements pursuant to the executive branch lobbying laws pursuant to R.S. 49:71, et seq.

Title 52 ETHICS

Part I. Board of Ethics

Chapter 1. Definitions

§101. Definitions

Executive Branch Lobbyist Disclosure Act—refers to 49:71, et seq.

Legislative Branch Lobbyist Disclosure Act—refers to R.S. 24:50, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1288 (October 1997), amended LR 24:1893 (October 1998), LR 30:2668, 2687 (December 2004), LR 31:1227 (June 2005).

Chapter 3. Duties of the Executive Secretary

§301. Duties of the Executive Secretary

A.1. - 9. ...

10. receive all reports filed pursuant to the provisions of the Legislative Branch Lobbyist Disclosure Act and the Executive Branch Lobbyist Disclosure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1290 (October 1997), amended LR 31:1227 (June 2005).

Chapter 12. Penalties

§1204. Late Filing; Fee Schedule

A. - B.1. ...

2. The late filing fees for any reports filed by a lobbyist registered pursuant to the Legislative Branch Lobbyist Disclosure Act shall be as provided in R.S.

24:58(D) and for any reports filed by a lobbyist registered pursuant to the Executive Branch Lobbyist Disclosure Act shall be as provided in R.S. 49:78(D).

B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 26:628 (April 2000), LR 31:1227 (June 2005).

Chapter 17. Code of Governmental Ethics

§1701. Exception Contained in Section 1123(13);

Sporting and Cultural Events

A. An elected official may not receive a ticket or other fee or payment made in connection with a sporting or cultural event the value of which exceeds \$100. If two or more persons pay for the ticket or other fee or payment made in connection with a sporting or cultural event, the total amount of the fee or payment may not exceed \$100.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 31:1228 (June 2005).

Chapter 19. Legislative Branch Lobbyist Disclosure Act

§1901. In General

A. The Legislative Branch Lobbyist Disclosure Act provides that the Board of Ethics shall administer and enforce the provisions of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:624 (April 1999), amended LR 31:1228 (June 2005).

§1913. Reserved.

NOTE: Formerly Executive Lobbying Registration/Renewal, redesignated as §2131.

§1915. Reserved.

NOTE: Formerly Executive Lobbying Supplemental Registration, redesignated as §2133.

§1917. Reserved.

NOTE: Formerly Executive Lobbying Expenditure Reporting Designation, redesignated as §2135.

Chapter 21. Executive Branch Lobbyist Disclosure Act

§2101. In General

A. The Executive Branch Lobbyist Disclosure Act provides that the board shall administer and enforce the provisions of R.S. 49:71 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 31:1228 (June 2005).

§2103. Registration and Reporting Forms

A. The staff shall prepare and provide, upon request, forms for the registration and reporting of executive branch lobbyists. Forms may be provided on paper or in electronic format.

B. No registration, report or designation filed by a lobbyist or other person will be dated and filed with the board unless the registration, report or designation is on the form promulgated by the board in this Chapter.

C. If the form is electronically filed, the method of signature shall be as provided in §1803.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 31:1228 (June 2005).

§2105. Registration and Reporting; Dating, Numbering and Filing

A. The staff shall establish a procedure for the dating, indexing, and filing of all lobbyist registrations, lobbyist disclosure reports, designations, and employer/principal disclosure reports received by the board.

B. The method of determining the date of filing shall be as provided in R.S. 42:1157.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 31:1228 (June 2005).

§2107. Filing Fees

A. A fee, as set forth by the Legislature in R.S. 49:74(G), shall be remitted to the board with each registration or renewal required to be filed by a lobbyist.

B. All fees paid in compliance with this Chapter shall be by check or money order and made payable to the Louisiana Board of Ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 31:1228 (June 2005).

§2109. Definitions

A. The following definitions supplement those contained in R.S. 49:71 et seq.

Aggregate Amount or *Aggregate Expenditure*—the total amount of money spent on behalf of an individual executive branch official on any one occasion or during a six-month reporting period.

Aggregate Total—the total of all expenditures for a reporting period or a calendar year.

Employer—any person which employs an individual for the purpose of lobbying.

Principal—any person who retains the services of a lobbyist to represent its interests on a contractual basis.

Schedule A—part of the promulgated expenditure report form which is used to report the name and agency of an executive branch official and the amount spent on the individual when such information is required by R.S. 49:76E.

Schedule B—part of the promulgated expenditure report form which is used to report the name of the group or groups of persons invited to a function, the date and location of the function and expenditures made in connection with the function when such information is required by R.S. 49:76F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 31:1228 (June 2005).

§2111. Executive Branch Agencies

A. A lobbyist shall report the total amount of expenditures spent on employees in every individual department of the executive branch during the applicable reporting period on the forms promulgated by the board in this Chapter.

B. A lobbyist shall report the total amount of expenditures spent on employees in every individual agency within an executive branch department during the applicable reporting period on the forms promulgated by the board in this Chapter.

C. The board has promulgated the following roman numerical list of each department of the executive branch followed by the numerical list of agencies within each executive branch department.

I. Office of the Governor

1. Executive Office of the Governor
2. Advisory Council for Technology Access by Individuals with Disabilities
3. Board of Examiners of Certified Shorthand Reporters
4. Board of Tax Appeals
5. Board of Trustees of the State Employees Group Benefits Program
6. Cabinet Advisory Group on Economic Development
7. Children's Cabinet and Children's Cabinet Advisory Board
8. Coordinating Council on Telemedicine and Distance Education
9. Council on Peace Officers Standards and Training
10. Crime Victims Reparation Board
11. Governor's Advisory Commission on Coastal Restoration and Conservation
12. Governors Office of Indian Affairs
13. Indigent Defense Assistance Board
14. Juvenile Justice Reform Act Implementation Commission
15. Louisiana Animal Welfare Commission
16. Louisiana Architects Selection Board
17. Louisiana Auctioneers Licensing Board
18. Louisiana Cemetery Board
19. Louisiana Commission on HIV and AIDS
20. Louisiana Commission on Human Rights
21. Louisiana Commission on Law Enforcement and Administration of Criminal Justice
22. Louisiana Economic Development Council
23. Louisiana Engineers Selection Board
24. Louisiana Governor's Mansion Commission
25. Louisiana Landscape Architects Selection Board
26. Louisiana Manufactured Housing Commission
27. Louisiana Motor Vehicle Commission
28. Louisiana Real Estate Appraisers Board
29. Louisiana Real Estate Commission
30. Louisiana Sentencing Commission
31. Louisiana Stadium and Exposition District, Board of Commissioners
32. Louisiana State Board of Cosmetology
33. Louisiana State Board of Home Inspectors
34. Louisiana State Interagency Coordinating Council for Child Net: Louisiana's Early Intervention Program for Infants and Toddlers with Special Needs and their Families
35. Louisiana State Racing Commission
36. Louisiana State Radio and Television Technicians Board
37. Louisiana Technology and Innovations Council
38. Louisiana Used Motor Vehicle and Parts Commission
39. Louisiana Workforce Commission
40. Mental Health Advocacy Service and its Board of Trustees
41. Military Department, State of Louisiana
42. Occupational Forecasting Conference
43. Office of Disability Affairs
44. Office of Elderly Affairs and the Louisiana Executive Board on Aging
45. Office of Environmental Education
46. Office of Financial Institutions
47. Office of Lifelong Learning
48. Office of Louisiana Oil Spill Coordinator
49. Office of Rural Development
50. Office of Women's Policy
51. Ozarks Regional Commission
52. Patient's Compensation Fund Oversight Board
53. Pet Overpopulation Advisory Council

54. Policy Coordinating Council
55. Polygraph Board
56. Small Business Entrepreneurship Commission
57. State Board of Architectural Examiners
58. State Board of Certified Public Accountants of Louisiana
59. State Board of Examiners of Interior Designers
60. State Boxing and Wrestling Commission
61. State Licensing Board for Contractors
62. The Drug Policy Board
63. The Wetlands Conservation and Restoration Authority
64. Any board, commission, or task force created by the Governor or by the Office of the Governor

II. Department of Agriculture and Forestry

1. Executive Office of the Commissioner
2. Office of Management and Finance
3. Office of Solar and Water Conservation
4. Office of Marketing
5. Office of Agro-Consumer Services
6. Office of Agriculture and Environmental Sciences
7. Office of Animal Health Services
8. Office of Forestry
9. Advisory Commission on Pesticides
10. Boll Weevil Eradication Commission
11. Dairy Industry Promotion Board
12. Dairy Stabilization Board
13. Fertilizer Commission
14. Horticulture Commission of Louisiana
15. Livestock Brand Commission
16. Louisiana Agricultural Commodities Commission
17. Louisiana Agricultural Finance Authority
18. Louisiana Aquaculture Coordinating Council
19. Louisiana Beef Industry Council
20. Louisiana Crawfish Market Development Authority
21. Louisiana Crawfish Promotion and Research Board
22. Louisiana Egg Commission
23. Louisiana Feed Commission
24. Louisiana Forestry Commission
25. Louisiana Pork Commission Board
26. Louisiana Rice Commission Board
27. Louisiana Rice Research Board
28. Louisiana Soy Bean Commission Board
29. Louisiana State Livestock Sanitary Board
30. Louisiana Strawberry Marketing Board
31. Louisiana Sweet Potato Advertising and Development Commission
32. New Orleans Food Center Authority
33. Seed Commission
34. State Market Commission
35. State Soil and Water Conservation Committee
36. Structural Pest Control Commission
37. Weights and Measures Commission

III. Department of Culture, Recreation, and Tourism

1. Office of the Lieutenant Governor
2. Executive Office of the Secretary
3. Office of Management and Finance
4. Office of Tourism
5. Office of State Library
6. Office of the State Museum
7. Office of Cultural Development
8. Office of State Parks
9. Atchafalaya Trace Advisory Board
10. Atchafalaya Trace Commission
11. Atchafalaya Trace Heritage Area Development Zone Review Board
12. Board of Commissioners of the State Library of Louisiana
13. Board of Directors of the Louisiana State Museum
14. Council of 100
15. Kenner Naval Museum Commission
16. Louisiana Archaeological Survey and Antiquities

- Commission
- 17. Louisiana Byways Commission
- 18. Louisiana Folk Life Commission
- 19. Louisiana Naval War Memorial Commission
- 20. Louisiana Purchase Bicentennial Commission
- 21. Louisiana Purchase Commemorative Act Commission
- 22. Louisiana Retirement Development Commission
- 23. Louisiana Serve Commission
- 24. Louisiana State Arts Council
- 25. Louisiana Tourism Development Commission
- 26. Louisiana Unmarked Burial Sites Board
- 27. Manchac Parkway Commission
- 28. Mississippi River Road Commission
- 29. National Register Review Committee
- 30. New Orleans City Park Improvement Association and its Board of Commissioners
- 31. Red River Development Council
- 32. State Board of Library Examiners
- 33. State Parks and Recreation Commission

IV. Department of Economic Development

- 1. Executive Office of the Secretary
- 2. Office of Management and Finance
- 3. Office of Business Development
- 4. Advisory Committee of Louisiana Applied Polymer Technology Extension Consortium
- 5. Board of Commerce and Industry
- 6. Board of Directors of Louisiana Applied Polymer Technology Consortium
- 7. Louisiana Biomedical Research and Development Park Commission
- 8. Louisiana Economic Development Corporation
- 9. Louisiana International Trade Development Board
- 10. Louisiana Music Commission

V. Department of Education

- 1. State Board of Elementary and Secondary Education
- 2. Advisory Councils to Pro-Secondary Vocational Technical Schools
- 3. Executive Office of the Superintendent
- 4. Office of Management and Finance
- 5. Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance
- 6. Office of School and Community Support
- 7. Office of Student and School Performance
- 8. Office of Quality Educators
- 9. Board of Regents
- 10. Board of Supervisors for the University of Louisiana System
- 11. Any College/University under the supervision of the Board of Supervisors for the University of Louisiana System shall be considered its own agency.
- 12. Board of Supervisors of Louisiana State University and Agricultural and Mechanical College
- 13. Any College/University/Center under the supervision of the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College shall be considered its own agency.
- 14. Board of Supervisors of Southern University and Agricultural and Mechanical College
- 15. Any College/University/Center under the supervision of the Board of Supervisors of Southern University and Agricultural and Mechanical College shall be considered its own agency.
- 16. Administrative Leadership Academy
- 17. Advisory Commission on Proprietary Schools
- 18. Board of Directors of Minority Health Professions Education Foundation
- 19. Council for the Development of Spanish in Louisiana

- 20. Council for the Development of French in Louisiana
- 21. Council of Louisiana Universities Marine Consortium for Research and Education
- 22. Governor's Program for Gifted Children
- 23. Louisiana Educational Assessment Testing Commission
- 24. Louisiana Educational Television Authority
- 25. Louisiana Higher Education Executive Advisory Committee
- 26. Louisiana HIPPY Advisory Board
- 27. Louisiana School for Gifted and Talented Students and its Board of Directors
- 28. Louisiana Systemic Initiatives Program Council
- 29. New Orleans Center for Creative Arts/Riverfront and Advisory Board
- 30. Office of Instructional Technology
- 31. Quality Science and Mathematics Council
- 32. Recovery School District
- 33. State Advisory Commission on Teacher Education and Certification
- 34. Task Force on Student Proficiency
- 35. Teaching Internship Program Commission

VI. Department of Environmental Quality

- 1. Executive Office of the Secretary
- 2. Office of Management and Finance
- 3. Office of Environmental Assessment
- 4. Office of Environmental Compliance
- 5. Office of Environmental Services
- 6. Board of Certification and Training for Solid Waste Management
- 7. Louisiana Small Business Compliance Advisory Panel

VII. Department of Health and Hospitals

- 1. Executive Office of the Secretary
- 2. Office of Management and Finance
- 3. Office of Public Health
- 4. Office of Mental Health
- 5. Office of Citizens with Developmental Disabilities
- 6. Office for Addictive Disorders
- 7. Any hospital/institution/ developmental center, including regional or parish offices, under the supervision of the Department of Health and Hospitals shall be considered its own agency.
- 8. Advisory Committee on Hospice Care
- 9. Advisory Committee on Respiratory Care
- 10. Allied Health Professionals Supply and Demand Commission
- 11. Ambulance Standards Committee of Emergency Medical Services Task Force
- 12. Board of Examiners for Nursing Home Administrators
- 13. Clinical Laboratory Personnel Committee
- 14. Commission on Perinatal Care and Prevention of Infant Mortality
- 15. Fluoridation Advisory Board
- 16. Governor's Council on Physical Fitness and Sports
- 17. Health Education Authority of Louisiana
- 18. Louisiana Access to Better Care Medicaid Insurance Demonstration Project Oversight Board
- 19. Louisiana Advisory Committee on Assisted Living
- 20. Louisiana Advisory Committee on Populations and Geographic Regions with Excessive Cancer Rates
- 21. Louisiana Advisory Committee on Midwifery
- 22. Louisiana Board for Hearing Aid Dealers
- 23. Louisiana Board of Examiners for Speech-Language Pathology and Audiology
- 24. Louisiana Board of Massage Therapy
- 25. Louisiana Board of Pharmacy
- 26. Louisiana Board of Wholesale Drug Distributors
- 27. Louisiana Commission on Alcohol and Drug Abuse
- 28. Louisiana Emergency Medical Services Certification Commission

29. Louisiana License Professional Counselors Board of Examiners
30. Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners
31. Louisiana Medical Assistance Trust Fund Advisory Council
32. Louisiana Medical Disclosure Panel
33. Louisiana State Board of Certification for Substance Abuse Counselors
34. Louisiana State Board of Certified Social Work Examiners
35. Louisiana State Board of Chiropractic Examiners
36. Louisiana State Board of Dentistry
37. Louisiana State Board of Embalmers and Funeral Directors
38. Louisiana State Board of Examiners for Sanitarians
39. Louisiana State Board of Examiners in Dietetics and Nutrition
40. Louisiana State Board of Medical Examiners
41. Louisiana State Board of Nurse Examiners
42. Louisiana State Board of Optometry Examiners
43. Louisiana State Board of Physical Therapy Examiners
44. Louisiana State Board of Practical Nurse Examiners
45. Louisiana State Planning Council on Developmental Disabilities
46. Medical Education Commission
47. Minority Health Affairs Commission
48. Nursing Supply and Demand Commission
49. Physicians Assistance Advisory Committee
50. Radiologic Technology Board of Examiners
51. Southern Louisiana Drinking Water Study Commission
52. State Board of Electrolysis
53. State Board of Examiners for Psychologists
54. State Board of Veterinary Medical Examiners
55. State Office of Comprehensive Health Planning
56. Statewide Health Coordinating Council
57. The Medicaid Drug Program Committee
58. Water Supply and Sewerage Systems Certification Committee

VIII. Department of Insurance

1. Office of the Commissioner of Insurance
2. Office of Management and Finance
3. Division of Legal Services
4. Division of Public Affairs
5. Division of Minority Affairs
6. Office of Receivership
7. Office of Licensing and Compliance
8. Office of Property and Casualty
9. Office of Health Insurance
10. Office of Financial Solvency
11. Advisory Committee of the Louisiana Consortium Insurance and Financial Services
12. Advisory Committee on Equal Opportunity
13. Advisory Committee to the Basic Health Insurance Plan Pilot Program Development Council
14. Board of Directors of the Property Insurance Association of Louisiana
15. Examination Review Council
16. Governing Committee of the Louisiana Automobile Insurance Plan
17. Governing Committee of the Louisiana Insurance Underwriting Plan
18. Governing Committee of the Louisiana Joint Reinsurance Plan
19. Insurance Education Advisory Council
20. Louisiana Health Care Commission
21. Louisiana Insurance Rating Commission
22. The Board of Directors of the Louisiana Consortium of Insurance and Financial Services

IX. Department of Justice

1. Executive Office of the Attorney General
2. Administrative Services Division
3. Public Protection Division
4. Litigation Division
5. Civil Division
6. Criminal Division
7. Investigation Division
8. Gaming Division
9. Law Enforcement Officers and Firemen's Survivor Benefit Review Board

X. Department of Labor

1. Executive Office of the Secretary
2. Office of Management and Finance
3. Office of Occupational Information Services
4. Office of Workers' Compensation Administration
5. Office of Workforce Development
6. Office of Regulatory Services
7. Apprenticeship Council
8. Board of Barber Examiners
9. Employment Security Board of Review
10. Governor's State Manpower Services Council
11. Louisiana Private Employment Service Advisory Council
12. Louisiana Workers' Compensation Second Injury Board
13. State Board of Examiners of Journeymen Plumbers
14. Workers' Compensation Advisory Council

XI. Department of Natural Resources

1. Executive Office of the Secretary
2. Office of Management and Finance
3. Office of Mineral Resources
4. Office of Coastal Restoration and Management
5. Office of Conservation
6. The Oil Field Site Restoration Commission
7. Atchafalaya Basin Advisory Committee
8. State Mineral Board
9. Louisiana-Mississippi Tangipahoa River Waterway Compact
10. Atchafalaya Basin Program
11. Atchafalaya Basin Research and Promotion Board
12. Ground Resource Commission
13. Oyster Lease Damage Evaluation Board

XII. Department of Public Safety and Corrections

1. Executive Office of the Secretary
2. Office of Management and Finance for Correction Services
3. Office of Management and Finance for Public Safety Services
4. Office of Legal Affairs
5. Office of State Police
6. Office of Motor Vehicle
7. Office of State Fire Marshal, Code Enforcement and Building Safety
8. Office of Adult Services
9. Office of the Youth Development
10. Any prison, detention center, or corrections facility under the supervision of the Department of Public Safety and Corrections shall be considered its own agency.
11. Board of Pardons
12. Board of Parole
13. Board of Review for Extra Compensation for Municipal Police Officers
14. Board of Review to the Fire Marshal
15. Emergency Response Commission
16. Fire Prevention Board of Review
17. Firemen's Supplemental Pay Board

18. Interagency Recreation Board
19. Liquefied Petroleum Gas Commission
20. Louisiana Alarm Services Advisory Board
21. Louisiana Gaming Control Board
22. Louisiana Gaming Control Board Hearing Office
23. Louisiana Highway Safety Commission
24. Louisiana Medical Advisory Council
25. Louisiana Motor Carrier Advisory Committee
26. Louisiana State Board of Private Investigator Examiners
27. Louisiana State Board of Private Security Examiners
28. Prison Enterprises Board
29. Weights and Standards Mobile Police Force

XIII. Department of Public Service—Public Service Commission

XIV. Department of Revenue

1. Executive Office of the Secretary
2. Office of Management and Finance
3. Office of Tax Administration-Group 1
4. Office of Tax Administration-Group 2
5. Office of Tax Administration-Group 3
6. Office of Alcohol and Tobacco Control
7. Office of Legal Affairs
8. Office of Charitable Gaming
9. Louisiana Tax Commission
10. Louisiana Tax Free Shopping Commission
11. Public Administrators Appointed Pursuant to R.S. 9:1581
12. Uniform Electronic Local Returns and Remittance Advisory Committee

XV. Department of Social Services

1. Executive Office of the Secretary
2. Office of Management and Finance
3. Office of Family Support
4. Office of Community Services
5. Any regional, parish, or district office under the supervision of the Department of Social Services shall be considered its own agency.
6. Blind Vendor's Trust Fund Advisory Board
7. Interpreters Certification Board
8. Louisiana Advisory Committee on Licensing of Child Care Facilities and Child Placing Agencies
9. Louisiana Child Care Challenge Committee
10. Louisiana Children's Trust Fund Board
11. Louisiana Commission for the Deaf
12. Louisiana Committee on Private Child Care
13. Louisiana Welfare Reform Coordinating Committee
14. Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board

XVI. Department of the State

1. Secretary of the State
2. First Stop Shop
3. Office of the Uniform Commercial Code
4. Historical Records Advisory Commission
5. First Stop Shop Coordinating Council
6. Advisory Board of the Old State Capitol
7. Eddie G. Robinson Museum Commission
8. State Board of Elections Supervisors
9. Regional Museum Governing Board of Louisiana State Exhibit Museum
10. Louisiana State Exhibit Museum
11. Louisiana State Cotton Museum
12. Tioga Heritage Park and Museum and Governing Board
13. Jean Lafitte Marine Fisheries Museum and Governing Board
14. Louisiana Military Museum and Governing Board
15. Louisiana Delta Music Museum and Governing Board

16. Mansfield Women's Museum and Governing Board
17. Louisiana State Oil and Gas Museum
18. Garyville Timber Mill Museum
19. Livingston Parish Museum and Cultural Center

XVII. Department of State Civil Service

1. State Civil Service Commission
2. State Civil Service
3. Advisory Board on Inservice Education and Training
4. Board of Ethics
5. State Police Service
6. Division of Administrative Law
7. State Examiner of Municipal Fire and Police Civil Service and the Office of the State Examiner of Municipal Fire and Police Civil Service

XVIII. Department of Transportation and Development

1. Executive Office of the Secretary
2. Office of Management and Finance
3. Office of Highways
4. Office of Planning and Programming
5. Office of Operations
6. Office of Public Works and Intermodal Transportation
7. Allen Parish Reservoir District
8. Louisiana High Speed Rail Transportation Advisory Council
9. Louisiana Investment in Infrastructure for Economic Prosperity Commission
10. Louisiana Professional Engineering and Land Surveying Board
11. Louisiana Transportation Authority
12. Mississippi River Bridge Authority
13. Mississippi River Parkway Commission of Louisiana
14. Mississippi-Louisiana Rapid Transit Commission
15. Offshore Terminal Authority
16. Poverty Point Reservoir District
17. Sabine River Authority
18. Washington Parish Reservoir District
19. West Ouachita Reservoir Commission

XIX. Department of the Treasury

1. Executive Office of the State Treasurer
2. Office of Management and Finance
3. Office of the State Bond Commission
4. Office of the State Depository Control and Investment
5. Assessors' Retirement Fund and their Board
6. Clerks of Court Retirement System and their Board
7. District Attorney's Retirement System and their Board
8. Firefighters' Retirement System and their Board
9. Interim Emergency Board
10. Louisiana Deferred Compensation Commission
11. Louisiana Housing Finance Agency
12. Louisiana Infrastructure Bank
13. Louisiana Infrastructure Bank Board of Directors
14. Louisiana School Employees' Retirement System and their Board
15. Louisiana State Employees' Retirement System and their Board
16. Medical Disability Board
17. Municipal Employees' Retirement System and their Board
18. Municipal Police Employees' Retirement System and their Board.
19. Parochial Employees' Retirement System and their Board
20. State Bond Commission
21. State Police Retirement Fund and their Board

22. Teachers Retirement System of Louisiana and their Board
23. The Registrars of Voters Employees' Retirement System and their Board
24. The Sheriff's Pension and Relief Fund and their Board

XX. Department of Veterans Affairs

1. Executive Office of the Secretary
2. Office of Management and Finance
3. Veterans Affairs Commission
4. Any Veteran Home under the jurisdiction of the Department shall be considered its own agency.

XXI. Department of Wildlife and Fisheries

1. Executive Office of the Secretary
2. Office of Management and Finance
3. Office of Fisheries
4. Office of Wildlife
5. Louisiana Artificial Reef Development Council
6. Louisiana Fur and Alligator Advisory Council
7. Wildlife and Fisheries Commission
8. Iatt Lake State Game and Fish Preserve
9. Saline Lake Game and Fish Preserve
10. Louisiana Seafood Promotion and Marketing Board
11. Gulf States Marine Fisheries Commission
12. Nantachie Lake State Game and Fish Preserve
13. Northwest Louisiana Game and Fish Preserve
14. Crab Task Force
15. Mullet Task Force
16. Oyster Task Force

XXII. Division of Administration

1. Executive Office of the Commissioner
2. Office of Community Development
3. Comprehensive Public Training Program
4. Office of Computing Services
5. Office of Contractual Review
6. Office of Electronic Services
7. Office of Facility Planning and Control
8. Office of Finance and Support Services
9. Office of Group Benefits
10. Office of Human Resources
11. Office of Information Services
12. Office of Information Technology
13. Office of the Inspector General
14. Louisiana Property Assistance Agency
15. Office of Planning and Budget
16. Office of Risk Management
17. Office of State Buildings
18. State Land Office
19. Office of State Mail Operations
20. Office of State Printing and Forms Management
21. Office of State Purchasing and Travel
22. Office of the State Register
23. Office of the State Uniform Payroll
24. Office of Statewide Reporting and Accounting Policy
25. TANF Executive Office of Oversight & Evaluation
26. Office of Telecommunications Management

XXIII. Agencies not placed within a specific executive branch department

1. Advisory Board of the Old State Capital Museum
2. Associated Branch Pilots for the Port of Lake Charles Fee Commission
3. Associated Branch Pilots for the Port of New Orleans Fee Commission
4. Advisory Committee on Regulation of Water Well Drillers
5. Advisory Council for Early Identification of Hearing Impaired Infants
6. Agricultural Education Advisory Committee

7. Berwick Port Pilotage Fee Commission
8. Board of Commissioners of the South Terrebonne Parish Tidewater Management and Consolidated District
9. Board of Commission of Tri-Parish Drainage and Water Conservation District
10. Board of Commissioner for the Amite River Basin Drainage
11. Board of Commissioner of the Louisiana Airport Authority
12. Board of Commissioners for the Millennium Port Authority
13. Board of Commissioners for the Port of New Orleans
14. Board of Commissioners of the Poverty Point Reservoir District
15. Board of Commissioners of the Ascension-St. James Airport and Transportation Authority
16. Board of Commissioners of the Atchafalaya Basin Levee District
17. Board of Commissioners of the Bayou D'Arbonne Lake Watershed District
18. Board of Commissioners of the Bayou Lafourche Freshwater District
19. Board of Commissioners of the Bossier Levee District
20. Board of Commissioners of the Caddo Levee District
21. Board of Commissioners of the Capital Area Groundwater Conservation District
22. Board of Commissioners of the East Jefferson Levee District
23. Board of Commissioners of the Ernest N. Morial-New Orleans Exhibition Hall Authority
24. Board of Commissioners of the Fifth Louisiana Levee District
25. Board of Commissioners of the Grand Isle Levee District
26. Board of Commissioners of the John K. Kelly Grand Bayou Reservoir District
27. Board of Commissioners of the Lafourche Basin Levee District
28. Board of Commissioners of the Lake Borgne Basin Levee District
29. Board of Commissioners of the Lake Charles Harbor and Terminal District
30. Board of Commissioners of the Morgan City Harbor and Terminal District
31. Board of Commissioners of the Natchitoches Levee and Drainage District
32. Board of Commissioners of the Nineteenth Louisiana Levee District
33. Board of Commissioners of the North Bossier Levee District
34. Board of Commissioners of the North Lafourche Conservation, Levee and Drainage District
35. Board of Commissioners of the North Terrebonne Parish Drainage and Conservation District
36. Board of Commissioners of the Orleans Levee District
37. Board of Commissioners of the Pontchartrain Levee District
38. Board of Commissioners of the Red River Levee and Drainage District
39. Board of Commissioners of the Red River, Atchafalaya and Bayou Boeuf Levee District
40. Board of Commissioners of the South Lafourche Levee District
41. Board of Commissioners of the St. Bernard Port Harbor and Terminal District
42. Board of Commissioners of the West Jefferson Levee District
43. Board of Control for Southern Regional Education
44. Board of Directors to the eight regional service centers of the Department of Education
45. Board of Directors for the Louisiana Tourism Promotion District

46. Board of Directors of the Louisiana State Lottery Corporation
47. Board of Examiners of Bar Pilots for the Port of New Orleans
48. Board of Morgan City, Berwick Port Pilot Commissioners and Examiners
49. Board of New Orleans and Baton Rouge Steamship Pilot Commissioner for the Mississippi River
50. Board of River Port Pilot Commissioners and Examiners for the Port of New Orleans
51. Board of River Port Pilot Commissioners and Examiners for the Port of Lake Charles
52. Board of Trustees of the Harbor Police Employees' Retirement System
53. Board of Trustees of the Louisiana Imports and Exports Trust Authority
54. Board of Trustees of the Louisiana Public Facilities Authority
55. Bossier Parish Pari-Mutuel Live Racing Facility Economic Redevelopment & Gaming Control Assistance District Board of Directors
56. Cane Waterway Commission
57. Cash Management Review Board
58. Child Death Review Panel
59. Choose Life Advisory Council
60. Commercial Building Energy Conservation Code Advisory Committee
61. Compensation Review Commission
62. Correctional Facilities Corporation
63. Correctional Institutions
64. Crescent City Connection Oversight Authority
65. Crescent River Port Pilots Association Fee Commission
66. Education Commission of the States
67. Election Board of the Louisiana Hall of Fame of the Arts
68. Emergency Medical Services for Children Advisory Council
69. Environmental Services Commission of St. Tammany Parish
70. Flood Control Project Evaluation Committee
71. Governing Board of the Caddo Pine Island Oil and Historical Museum
72. Governing Board of the Edward Douglass White Historic Site Museum
73. Governing Board of the Capital Area Human Services District
74. Grand Isle Port Commission
75. Greater Baton Rouge Port Commission
76. Greater Lafourche Port Commission
77. Henderson Poor Fund
78. Homeowner's Insurance and Property Insurance Task Force
79. Integrated Criminal Justice Information System Policy Board
80. Interstate Compact for the Supervision of Paroles and Probationers
81. Interstate Compact on Juveniles
82. Jefferson Parish Human Services Authority
83. Judicial Compensation Commission
84. Judiciary Commission of Louisiana
85. Louisiana Cancer and Lung Trust Fund Board
86. Louisiana Commission on Addictive Disorders
87. Louisiana Data Base Commission
88. Louisiana Environmental Education Commission
89. Louisiana Executive Board on Aging
90. Louisiana Film and Video Commission
91. Louisiana Geographic Information Systems Council
92. Louisiana Historical Jazz Society
93. Louisiana Historical Records Advisory Board
94. Louisiana Home Instruction Program for Youngsters
95. Louisiana Judicial College
96. Louisiana Litter Reduction and Public Action Commission
97. Louisiana Music Commission
98. Louisiana Naval War Memorial Commission
99. Louisiana Pan African Commission
100. Louisiana Recreational Fishing Development Board
101. Louisiana Resource Recovery and Development Authority
102. Louisiana School Asbestos Abatement Commission
103. Louisiana Seafood Promotion and Marketing Board
104. Louisiana Soybean and Grain Research and Promotion Board
105. Louisiana State Board of Practical Nurse Examiners
106. Louisiana State Office of Rural Health
107. Louisiana State Polygraph Board
108. Louisiana Tuition Trust Authority
109. Natchitoches Parish Port Commission
110. New Orleans and Baton Rouge Steamship Pilotage Fee Commission
111. Office Facilities Corporation
112. Red River Compact Commission
113. Red River Parish Port Commission
114. Red River Waterway Commission
115. Regional and state advisory councils for community and family support services
116. Residential Building Contractors Subcommittee
117. Rev. Avery C. Alexander Memorial Commission
118. River Region Cancer Screening and Early Detection District Commission
119. Sabine River Compact Administration
120. School and District Accountability Advisory Council
121. Secondary School Redesign Study Commission
122. South Central Regional Transportation Authority
123. South Louisiana Port Commission
124. South Tangipahoa Parish Port Commission
125. Southern Growth Policies Board
126. Southern Rapid Rail Transit Compact
127. Sparta Groundwater Conservation District Board of Commissioners
128. St. Landry Par. Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Assistance Board of Directors
129. State Artist Laureate
130. State Plumbing Board
131. State Technology Advisory Committee
132. Telephone Access Program Board
133. Board of Supervisors of Community and Technical Colleges
134. Any technical college or community college under the supervision of the Board of Supervisors of Community and Technical Colleges shall be considered its own agency.

D. In the event the agency of an executive branch official is not listed in the above list, the lobbyist shall exercise due diligence to identify the department and agency of the executive branch official and properly report the expenditure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 31:1228 (June 2005).

§2113. Registration

A. Any individual who is employed as a lobbyist or who receives compensation to act in a representative capacity for the purpose of lobbying shall register, on forms provided by the board, as an executive branch lobbyist with the board within five days of making expenditures of \$500 or more on executive branch officials in a calendar year for the purpose of lobbying.

B. Any individual who does not make expenditures of \$500 or more on executive branch officials but who registers as an executive branch lobbyist with the board shall file expenditure reports as required by the Lobbyist Disclosure

Act and shall be liable for any late fee assessed for the late filing of a report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 31:1234 (June 2005).

§2114. Registration; Disclosure

A. A lobbyist is required to list on his registration form the name and address of each person by whom he is employed and, if different, whose interests he represents, including the business in which that person is engaged, if expenditures are made by either the lobbyist, his employer or the principal with respect to lobbying on behalf of that person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 31:1235 (June 2005).

§2115. Reporting; In General

A. An expenditure should be reported by the lobbyist who would be required to account for the expenditure as an ordinary and necessary expense directly related to the active conduct of the lobbyist's, his employer's or the principal's trade or business.

B. Any expenditure made by a lobbyist on an executive branch official shall be reported regardless of a pre-existing personal or familial relationship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 31:1235 (June 2005).

§2117. Reporting; Additional Disclosure Requirements under R.S. 49:76(E)

A. If the expenditures for an individual executive branch official exceeds \$50 on any one occasion or exceeds an aggregate of \$250 during a six-month reporting period, then R.S. 49:76E requires that the name and agency of the executive branch official and the total amount of expenditures spent on that individual in a reporting period be disclosed on Schedule A of the expenditure report.

B. Any expenditure made in connection with a sporting or cultural event as permitted by R.S. 42:1123(13) shall be included in calculating the amount spent on an elected executive branch official and in determining whether additional reporting as required by R.S. 49:76E is necessary.

C. Any expenditure subject to additional reporting under R.S. 49:76F shall not be included in calculating the amount spent on an individual executive branch official for purposes of determining whether additional reporting is required by R.S. 49:76E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 31:1235 (June 2005).

§2119. Reporting; Additional Disclosure Requirements under R.S. 49:76(F)

A. If more than 25 executive branch officials are invited to a reception, social gathering or other function during a reporting period, then R.S. 49:76(F) requires that the following information be disclosed on Schedule B of the expenditure report:

1. the name of the group or groups of persons invited;
2. the date of the function;

3. the location of the function;
4. all expenditures made in connection with the function.

B. An executive branch official is considered to be invited only if he receives an invitation specifically addressed to him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 31:1235 (June 2005).

§2121. Election by Employer or Principal to Report for Lobbyists

A. An employer or principal may elect, pursuant to R.S. 49:76G(2)(a), to file a single expenditure report.

B. If an employer or principal elects to file such reports, an Employer/Principal Designation form, as promulgated in this Chapter, must be completed and submitted to the board by January 31. The designation shall be effective for one year and requires the employer or principal to report all expenditures made by all lobbyists representing its interests during that calendar year.

C. In the event an employer or principal files an expenditure report which does not include a statement of expenditures for one of its lobbyists, the report shall not be timely filed until a complete report disclosing the expenditures of all of its lobbyists is filed.

D. Late fees shall continue to accumulate until a complete report is filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 31:1235 (June 2005).

§2123. Expenditures made directly by the Principal or Employer

A. An expenditure made directly by an employer or principal in a lobbyist's presence shall be attributed to and reported by the lobbyist. If more than one lobbyist is present, then the employer or principal shall designate which lobbyist shall report the total amount of the expenditure.

B. An employer or principal who makes such an expenditure is required to provide the following information to the lobbyist no later than two business days after the close of each reporting period:

1. the total amount of the expenditure;
2. the amount of the expenditure that has been attributed to the lobbyist and which must be reported by the lobbyist;
3. the nature of the expenditure;
4. the names of the executive branch officials involved; and
5. the agencies of the executive branch officials involved.

C. Failure by the employer or principal to provide the necessary information to its lobbyist regarding such expenditure will cause the employer or principal to be required to register and report as a lobbyist and may subject the employer or principal to penalties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 31:1235 (June 2005).

§2131. Executive Lobbying Registration/Renewal

**EXECUTIVE LOBBYING REGISTRATION/
RENEWAL FOR
THE YEAR OF _____**
(Fill in year.)

Executive Lobbyist Registration No.

FOR OFFICE USE ONLY
Postmark Date: _____

Instructions

- Print in ink or type.
- Complete form and return with **\$110** registration fee to the Board of Ethics, 2415 Quail Dr., 3rd Floor, Baton Rouge LA 70808, or fax to (225) 763-8787. For information or assistance, call (225) 763-8777 or (800) 842-6630.
- Initial registrations must be submitted within 5 days of (1) employment as a lobbyist or (2) first action requiring registration. Registrations expire as of December 31 unless a renewal is submitted between December 1 and January 31.

1. NAME _____
Last
First
MI

2. BUSINESS PHONE _____
Area Code and Phone Number

3. FAX NUMBER _____

4. BUSINESS ADDRESS _____
Street and No.
City
State
Zip

MAILING ADDRESS _____
Street and No.
City
State
Zip

5. EMPLOYER _____

6. EMPLOYER'S ADDRESS _____
Street and No.
City
State
Zip

7. LIST BELOW (a) Names of persons, groups, or organizations which you represent and on whose behalf expenditures are made; (b) the address of each such person, group, or organization you represent; (c) the type of business each is engaged in or the purpose or function of the organization or group; (d) whether or not the client or someone else pays you to lobby.

1. Name _____

Address _____

Business or purpose _____

Does this person pay you? _____

If No, who pays you? _____

**EXECUTIVE LOBBYING
REGISTRATION FORM**

Executive Lobbyist Registration No. _____

2. Name _____

Address _____

Business or purpose _____

Does this person pay you? _____

If No, who pays you? _____

3. Name _____

Address _____

Business or purpose _____

Does this person pay you? _____

If No, who pays you? _____

4. Name _____

Address _____

Business or purpose _____

Does this person pay you? _____

If No, who pays you? _____

CERTIFICATION OF ACCURACY

I hereby certify that the information contained herein is true and correct to the best of my knowledge, information, and belief; and that no information required by LSA-R.S. 49:71 et seq. has been deliberately omitted.

Signature of Lobbyist

ATTACH
2" x 2"
PHOTOGRAPH
HERE

Page _____ of _____

**EXECUTIVE LOBBYING
REGISTRATION/RENEWAL
ATTACHMENT FORM**

Executive Lobbyist Registration No. _____

Instructions:

- Please make as many copies of this form as necessary in order to complete Question 7 of the Executive Lobbying Registration/Renewal Form.
- Fill in your Executive Lobbyist Registration No. in the space provided in the upper right hand corner of the page.
- Please identify each page with a page number and indicate the total number of pages being submitted.

1. Name _____

Address _____

Business or purpose _____

Does this person pay you? _____

If No, who pays you? _____

2. Name _____

Address _____

Business or purpose _____

Does this person pay you? _____

If No, who pays you? _____

3. Name _____

Address _____

Business or purpose _____

Does this person pay you? _____

If No, who pays you? _____

4. Name _____

Address _____

Business or purpose _____

Does this person pay you? _____

If No, who pays you? _____

Page _____ of _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:2689 (December 2004), repromulgated LR 31:1236 (June 2005).

§2133. Executive Lobbying Supplemental Registration

EXECUTIVE LOBBYING
SUPPLEMENTAL REGISTRATION FORM

Executive Lobbyist Registration No. _____

Instructions

- Print in ink or type.
- Complete form and return to Board of Ethics, 2415 Quail Dr., 3rd Floor, Baton Rouge LA 70808, or fax to (225) 763-8787. For information or assistance, call (225) 763-8777 or (800) 842-6630. No fee is required.
- This form must be submitted within 5 days of any changes in your registration form or to add employers or those you represent. It must be submitted within 10 days of any termination of employment or representations.

FOR OFFICE USE ONLY
Postmark Date: _____

1. NAME _____
Last First MI

NAME CHANGE _____
Last First MI

2. BUSINESS PHONE _____
(Area Code) Phone Number

3. FAX PHONE _____

4. BUSINESS ADDRESS _____
Street and No. City State Zip

MAILING ADDRESS _____
Street and No. City State Zip

5. EMPLOYER _____

6. EMPLOYER'S ADDRESS _____
Street and No. City State Zip

7. Have you ceased or terminated **all** lobbying activities requiring registration? Yes _____ No _____

8. LIST BELOW (a) Names of persons, groups, or organizations which you are adding or eliminating; (b) the address of each such person, group, or organization listed; (c) the type of business each is engaged in or the purpose or function of the organization or group; (d) whether or not the client or someone else pays you to lobby; and (e) the date of termination if applicable.

1) Name _____

Address _____

Business or purpose _____

G New Representation
Does this person pay you? _____

If No, who pays you? _____

G Terminated Representation as of _____

**EXECUTIVE LOBBYING
SUPPLEMENTAL REGISTRATION FORM**

Executive Lobbyist Registration No. _____

2) Name _____

Address _____

Business or purpose _____

GNew Representation
Does this person pay you? _____

If No, who pays you? _____

GTerminated Representation as of _____

3) Name _____

Address _____

Business or purpose _____

GNew Representation
Does this person pay you? _____

If No, who pays you? _____

GTerminated Representation as of _____

CERTIFICATION OF ACCURACY

I hereby certify that the information contained herein is true and correct to the best of my knowledge, information, and belief; and that no information required by LSA-R.S. 49:71 et seq. has been deliberately omitted.

Signature of Lobbyist

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:2692 (December 2004), repromulgated LR 31:1239 (June 2005).

§2135. Executive Lobbying Expenditure Reporting Designation

**EXECUTIVE LOBBYING EXPENDITURE
REPORTING DESIGNATION**

Pursuant to LSA-R.S. 49:76G(2)(a), an employer or principal of a lobbyist may elect to file the Lobbying Expenditure Reports as required by Title 49 on behalf of **all** of its lobbyists. The designation form is to be completed and submitted by **January 31st** of each year. This designation will be effective for the reporting of all expenditures made during that calendar year. This form must include a listing of all persons for whom you will be reporting. Also, please list a contact person who will be responsible for completing such reports and for receiving any correspondence regarding reporting deadlines and late fees. Failure to fully complete this form may render your designation ineffective.

Hand deliver or mail to: **2415 Quail Drive, 3rd Floor, Baton Rouge, LA 70808**

OR

Fax to: **(225) 763-8787 or (225) 763-8780**

**FOR OFFICE USE
ONLY**

Postmark
Date _____

1. EMPLOYER/PRINCIPAL _____

2. BUSINESS ADDRESS _____

Street and No. City State Zip

MAILING ADDRESS _____

Street and No. City State Zip

3. CONTACT PERSON: _____

Last First MI

4. MAILING ADDRESS _____

(If different from above) Street and No. City State Zip

5. PHONE NUMBER _____

Area Code and Phone Number

6. FAX NUMBER _____

Area Code and Fax Number

7. Names of Lobbyists who are employed by or who represent the interests of the Principal listed above:

1) Name: _____ EXEC.ID.# _____

Last First MI

2) Name: _____ EXEC.ID.# _____

Last First MI

3) Name: _____ EXEC.ID.# _____

Last First MI

- 4) Name: _____ EXEC.ID.# _____
 Last First MI
- 5) Name: _____ EXEC.ID.# _____
 Last First MI
- 6) Name: _____ EXEC.ID.# _____
 Last First MI
- 7) Name: _____ EXEC.ID.# _____
 Last First MI
- 8) Name: _____ EXEC.ID.# _____
 Last First MI
- 9) Name: _____ EXEC.ID.# _____
 Last First MI
- 10) Name: _____ EXEC.ID.# _____
 Last First MI

Pursuant to LSA-R.S. 49:76G(2)(a), _____ (name of employer or principal) is exercising the option of filing expenditure reports for all executive lobbying expenditures made on my/its behalf by persons representing my/its interests during the year of _____. I hereby certify that the information contained herein is true and correct to the best of my knowledge, information and belief; and that no information required by LSA-R.S. 49:71 et seq. has been deliberately omitted.

Signature of Employer/Principal or Representative

Print on Type Full Name

§2137. Executive Lobbying Expenditure Report

**EXECUTIVE LOBBYING EXPENDITURE REPORT
FORM 507**

G COVERING JANUARY 1- JUNE 30, ____ - DUE AUGUST 15

G COVERING JANUARY 1 - DECEMBER 31, ____ - DUE FEBRUARY 15

Mail to: The Board of Ethics, 3415 Quail Drive, Third Floor, Baton Rouge, LA 70808

OR

Fax to: (225) 763-8787 or (225) 763-8780

Executive Lobbyist Registration No.

FOR OFFICE USE ONLY

Postmark
Date _____

1. NAME _____
Last
First
MI

NAME CHANGE _____
Last
First
MI

2. BUSINESS ADDRESS _____
Street and No.
City
State
Zip

MAILING ADDRESS _____
Street and No.
City
State
Zip

3. BUSINESS PHONE _____
Area Code and Phone Number

4. Total of all executive lobbying expenditures made January 1 through June 30: \$ _____
 (Include expenditures from Schedules A and B)

5. Total of all executive lobbying expenditures made July 1 through December 30: \$ _____
 (When Applicable) (Include expenditures from Schedules A and B)

6. Total of all executive lobbying expenditures made during calendar year: \$ _____
 (Line 4 added to Line 5 should equal Line 6)

7. Did you make an expenditure exceeding \$50 on one occasion for an executive branch official:

From January 1 through June 30? **G**Yes **G**No
 From July 1 through December 31? **G**Yes **G**No **G**NA

If the answer to either question in Number 7 above is YES, complete Schedule A and attach.

8. Did you make expenditures exceeding the sum of \$250 for an executive branch official:

From January 1 through June 30? **G**Yes **G**No
 From July 1 through December 31? **G**Yes **G**No **G**NA

If the answer to either question in Number 8 above is YES, complete Schedule A and attach.

9. Did you expend funds for any reception, social gathering, or other function to which more than twenty-five executive branch officials were invited during this reporting period?

Yes **G** No **G**

If the answer to Number 9 above is YES, complete Schedule B and attach.

EXECUTIVE LOBBYING EXPENDITURE REPORT

Executive Lobbyist Registration No.

10. PROVIDE BELOW (a) the name of the executive branch department as listed in the executive branch schedule; (b) the aggregate total of all expenditures attributable to the department made during the January 1 - June 30 reporting period; (c) the aggregate total of all expenditures attributable to the department made during the July 1 - December 31 reporting period when applicable; (d) the aggregate total of all expenditures made in a calendar year attributable to the department.

- 1) a. Name of Department: _____
- b. Total of all expenditures made January 1 through June 30: \$ _____
- c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
- d. Total of all expenditures made during the calendar year: \$ _____

- 2) a. Name of Department: _____
- b. Total of all expenditures made January 1 through June 30: \$ _____
- c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
- d. Total of all expenditures made during the calendar year: \$ _____

- 3) a. Name of Department: _____
- b. Total of all expenditures made January 1 through June 30: \$ _____
- c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
- d. Total of all expenditures made during the calendar year: \$ _____

11. PROVIDE BELOW (a) the name of the executive branch department and the individual agency as listed in the executive branch schedule; (b) the aggregate total of all expenditures attributable to the agency made during the January 1 - June 30 reporting period; (c) the aggregate total of all expenditures attributable to the agency made during the July 1 - December 31 reporting period when applicable; (d) the aggregate total of all expenditures made in a calendar year attributable to the agency.

- 1) a. Name of Department and Individual Agency: _____
- b. Total of all expenditures made January 1 through June 30: \$ _____
- c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
- d. Total of all expenditures made during the calendar year: \$ _____

- 2) a. Name of Department and Individual Agency: _____
- b. Total of all expenditures made January 1 through June 30: \$ _____
- c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
- d. Total of all expenditures made during the calendar year: \$ _____
- 3) a. Name of Department and Individual Agency: _____
- b. Total of all expenditures made January 1 through June 30: \$ _____
- c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
- d. Total of all expenditures made during the calendar year: \$ _____

CERTIFICATION OF ACCURACY

I hereby certify that the information contained herein is true and correct to the best of my knowledge, information, and belief; that all reportable expenditures have been included herein; and that no information required by LSA-R.S. 49:71 et seq. has been deliberately omitted.

Signature of Lobbyist

SCHEDULE A: EXPENDITURES FOR EXECUTIVE BRANCH OFFICIALS

This schedule must be completed if you answered YES to either question 7 or 8 on the Executive Lobbying Expenditure Report. If, during the period January 1 through June 30 or the period July 1 through December 31, you made either a) an expenditure for any executive branch official exceeding \$50 on any one occasion or b) aggregate expenditures exceeding \$250 for any one executive branch official during a reporting period, then you must provide the aggregate total of expenditures made on that individual in that reporting period. **NOTE: Report covering July - December is cumulative. You must include reportable expenditures from the first half of the year in Column #3.**

1. EXECUTIVE OFFICIAL'S NAME	2. OFFICIAL'S AGENCY AS LISTED IN THE EXECUTIVE BRANCH SCHEDULE	3. AMOUNT OF EXPENDITURES MADE ON AN OFFICIAL FOR WHOM YOU EITHER SPENT OVER \$50 ON ONE OCCASION OR MADE EXPENDITURES EXCEEDING \$250 BETWEEN JANUARY 1 AND JUNE 30	4. AMOUNT OF EXPENDITURES MADE ON AN OFFICIAL FOR WHOM YOU EITHER SPENT OVER \$50 ON ONE OCCASION OR MADE EXPENDITURES EXCEEDING \$250 BETWEEN JULY 1 AND DECEMBER 31	5. TOTAL OF COLUMNS 3 AND 4

SCHEDULE B: EXPENDITURES FOR RECEPTIONS, ETC.

This Schedule must be completed if you answered YES to question 9 on the Executive Lobbying Expenditure Report. The following information must be provided for all receptions, social gatherings, or other functions to which more than twenty-five executive branch officials were invited. List the name of the group or groups invited, the date of the event, physical location of the event including the city, and the total amount expended.

1. NAME(S) OF GROUP(S) INVITED	2. DATE OF RECEPTION	3. LOCATION OF RECEPTION	4. TOTAL AMOUNT OF EXPENDITURES

**EXECUTIVE LOBBYING EXPENDITURE REPORT
ATTACHMENT**

Executive Lobbyist Registration No.

Instructions:

- Please make as many copies as necessary to complete Item #11 of your executive lobbying expenditure report.
- Fill in your executive lobbyist registration number in the space provided in the upper right hand corner of the page.
- Identify each page with a page number and indicate the total number of pages being submitted.

- 1) a. Name of Department and Individual Agency: _____
- b. Total of all expenditures made January 1 through June 30: \$ _____
- c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
- d. Total of all expenditures made during the calendar year: \$ _____
- 2) a. Name of Department and Individual Agency: _____
- b. Total of all expenditures made January 1 through June 30: \$ _____
- c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
- d. Total of all expenditures made during the calendar year: \$ _____
- 3) a. Name of Department and Individual Agency: _____
- b. Total of all expenditures made January 1 through June 30: \$ _____
- c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
- d. Total of all expenditures made during the calendar year: \$ _____
- 4) a. Name of Department and Individual Agency: _____
- b. Total of all expenditures made January 1 through June 30: \$ _____
- c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
- d. Total of all expenditures made during the calendar year: \$ _____

Page _____ of _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 31:1243 (June 2005).

§2139. Executive Lobbying Employer/Principal's Expenditure Report

**EXECUTIVE LOBBYING
EMPLOYER/PRINCIPAL'S EXPENDITURE REPORT
Form 508**

G COVERING JANUARY 1 THROUGH JUNE 30, ____ - DUE AUGUST 15
G COVERING JANUARY 1 THROUGH DECEMBER 31, ____ - DUE FEBRUARY 15

Pursuant to LSA-R.S. 49:76G(2)(a), an employer or principal of a lobbyist may elect to file the Lobbying Expenditure Reports as required by Title 49 on behalf of **all** of its lobbyists. This reporting form is to be used by principals or employers who have exercised this option by timely filing the Executive Lobbying Expenditure Reporting Designation Form and are reporting on behalf of their registered executive lobbyists.

Hand deliver or mail to: 2415 Quail Drive, 3rd Floor, Baton Rouge, LA 70808
OR
Fax to: (225) 763-8787 or (225) 763-8780

FOR OFFICE USE ONLY

Postmark
Date _____

1. EMPLOYER/PRINCIPAL _____

2. BUSINESS ADDRESS _____
 Street and No. City State Zip

MAILING ADDRESS _____
 Street and No. City State Zip

3. CONTACT PERSON: _____
 Last First MI

4. MAILING ADDRESS _____
(If different from above) Street and No. City State Zip

5. PHONE NUMBER _____
 Area Code and Phone Number

6. Names of Lobbyists who are employed by or who represent the interests of the Principal listed above:

1) Name: _____ EXEC.ID.# _____
 Last First MI

2) Name: _____ EXEC.ID.# _____
 Last First MI

3) Name: _____ EXEC.ID.# _____
 Last First MI

- 4) Name: _____ EXEC.ID.# _____
 Last First MI
- 5) Name: _____ EXEC.ID.# _____
 Last First MI
- 6) Name: _____ EXEC.ID.# _____
 Last First MI
- 7) Name: _____ EXEC.ID.# _____
 Last First MI
- 8) Name: _____ EXEC.ID.# _____
 Last First MI
- 9) Name: _____ EXEC.ID.# _____
 Last First MI
- 10) Name: _____ EXEC.ID.# _____
 Last First MI

7. PROVIDE BELOW (a) the aggregate total of all expenditures during the January 1 - June 30 reporting period; (b) the aggregate total of all expenditures during the July 1 - December 31 reporting period when applicable; (c) the aggregate total of all expenditures made by the principal/employer in a calendar year.

- a. Total of all executive lobbying expenditures made January 1 through June 30: \$ _____
 (Include expenditures from Schedules A and B)
- b. Total of all executive lobbying expenditures made July 1 through December 31: \$ _____
 (When applicable) (Include expenditures from Schedules A and B)
- c. Total of all executive lobbying expenditures made during the calendar year: \$ _____
 (Line "a" added to Line "b" should equal Line "c")

8. COMPLETE AN ATTACHMENT FORM for each of your registered executive lobbyists.

CERTIFICATION OF ACCURACY

I hereby certify that the information contained herein is true and correct to the best of my knowledge, information and belief; and that no information required by LSA-R.S. 49:71 et seq. has been deliberately omitted.

 Signature of Employer/Principal or Representative

 Print or Type Full Name

SCHEDULE A: EXPENDITURES FOR EXECUTIVE BRANCH OFFICIALS

This schedule must be completed if during the period January 1 through June 30 or the period July 1 through December 31, one of your registered executive lobbyists made either a) an expenditure for any executive branch official exceeding \$50 on any one occasion or b) aggregate expenditures exceeding \$250 for any one executive branch official during a reporting period, then you must provide the aggregate total of expenditures made on that individual in that reporting period. Make as many copies as are necessary. Each lobbyist should have his own Schedule A if one is required. **NOTE: Report covering July - December is cumulative. You must include reportable expenditures from the first half of the year in Column #3.**

1. EXECUTIVE OFFICIAL'S NAME	2. OFFICIAL'S AGENCY AS LISTED IN THE EXECUTIVE BRANCH SCHEDULE	3. AMOUNT OF EXPENDITURES MADE ON AN OFFICIAL FOR WHOM YOU EITHER SPENT OVER \$50 ON ONE OCCASION OR MADE EXPENDITURES EXCEEDING \$250 BETWEEN JANUARY 1 AND JUNE 30	4. AMOUNT OF EXPENDITURES MADE ON AN OFFICIAL FOR WHOM YOU EITHER SPENT OVER \$50 ON ONE OCCASION OR MADE EXPENDITURES EXCEEDING \$250 BETWEEN JULY 1 AND DECEMBER 31	5. TOTAL OF COLUMNS 3 AND 4

SCHEDULE B: EXPENDITURES FOR RECEPTIONS, ETC.

This Schedule must be completed if on of your executive lobbyists expended funds for any receptions, social gatherings, or other functions to which more than twenty-five executive branch officials were invited. List the name of the group or groups invited, the date of the event, physical location of the event including the city, and the total amount expended. Make as many copies as are necessary. Each lobbyist should have his own Schedule B if one is required.

1. NAME(S) OF GROUP(S) INVITED	2. DATE OF RECEPTION	3. LOCATION OF RECEPTION	4. TOTAL AMOUNT OF EXPENDITURES

**EXECUTIVE LOBBYING
EMPLOYER/PRINCIPAL'S EXPENDITURE REPORT
ATTACHMENT**

This attachment is to be used to complete Item #8 of Form 508, the report form for principals and employers who have elected to report on behalf of their executive lobbyists. Make as many copies of this form as needed for the completion of the expenditure report. Identify each page with a number and indicate the total number of page being submitted.

1) LOBBYIST: _____ EXEC ID # _____

A. Total of all executive lobbying expenditures made January 1 through June 30: \$ _____
(Include expenditures from Schedules A and B)

Total of all executive lobbying expenditures made July 1 through December 30: \$ _____
(When Applicable) (Include expenditures from Schedules A and B)

Total of all executive lobbying expenditures made during calendar year: \$ _____
(Adding above expenditure lines should equal this total)

B. Did this lobbyist make an expenditure exceeding \$50 on one occasion for an executive branch official:

From January 1 through June 30?	G Yes	G No	
From July 1 through December 31?	G Yes	G No	G NA

If the answer to either question in "B" above is YES, complete Schedule A and attach.

C. Did you make expenditures exceeding the sum of \$250 for an executive branch official:

From January 1 through June 30?	G Yes	G No	
From July 1 through December 31?	G Yes	G No	G NA

If the answer to either question in "C" above is YES, complete Schedule A and attach.

D. Did you expend funds for any reception, social gathering, or other function to which more than twenty-five executive branch officials were invited during this reporting period?

Yes **G** No **G**

If the answer to "D" above is YES, complete Schedule B and attach.

E. PROVIDE BELOW (a) the name of the executive branch department as listed in the executive branch schedule; (b) the aggregate total of all expenditures attributable to the department made by this lobbyist during the January 1 - June 30 reporting period; (c) the aggregate total of all expenditures attributable to the department made by this lobbyist during the July 1 - December 31 reporting period when applicable; (d) the aggregate total of all expenditures made by this lobbyist in a calendar year attributable to the department.

1) a. Name of Department: _____

b. Total of all expenditures made January 1 through June 30: \$ _____

c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)

d. Total of all expenditures made during the calendar year: \$ _____

2) a. Name of Department: _____

b. Total of all expenditures made January 1 through June 30: \$ _____

c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)

d. Total of all expenditures made during the calendar year: \$ _____

3) a. Name of Department: _____

b. Total of all expenditures made January 1 through June 30: \$ _____

c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)

d. Total of all expenditures made during the calendar year: \$ _____

4) a. Name of Department: _____

b. Total of all expenditures made January 1 through June 30: \$ _____

c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)

d. Total of all expenditures made during the calendar year: \$ _____

F. PROVIDE BELOW (a) the name of the executive branch department and individual agency as listed in the executive branch schedule; (b) the aggregate total of all expenditures attributable to the agency made by this lobbyist during the January 1 - June 30 reporting period; (c) the aggregate total of all expenditures attributable to the agency made by this lobbyist during the July 1 - December 31 reporting period when applicable; (d) the aggregate total of all expenditures made by this lobbyist in a calendar year attributable to the agency.

1) a. Name of Department and Individual Agency: _____
b. Total of all expenditures made January 1 through June 30: \$ _____
c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
d. Total of all expenditures made during the calendar year: \$ _____

2) a. Name of Department and Individual Agency: _____
b. Total of all expenditures made January 1 through June 30: \$ _____
c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
d. Total of all expenditures made during the calendar year: \$ _____

3) a. Name of Department and Individual Agency: _____
b. Total of all expenditures made January 1 through June 30: \$ _____
c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
d. Total of all expenditures made during the calendar year: \$ _____

4) a. Name of Department and Individual Agency: _____
b. Total of all expenditures made January 1 through June 30: \$ _____
c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
d. Total of all expenditures made during the calendar year: \$ _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 31:1249 (June 2005).

R. Gray Sexton
Ethics Administrator

0506#048

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.4303 and 4313)

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

These changes take advantage of new flexibility in guidance for No Child Left Behind and address situations that were not considered when the accountability policy was initially written.

Title 28 EDUCATION

Part LXXXIII. Bulletin 111—Louisiana School, District, and State Accountability

Chapter 43. District Accountability

§4303. Indicator 1—Summer School

A. The Louisiana Department of Education shall use two statistics when calculating an index score for summer school.

1. Part A—The percentage passing summer LEAP 21 tests.

a. The Louisiana Department of Education shall calculate the percentage passing summer LEAP 21 tests by using the number of students who scored unsatisfactory failed high-stakes testing in the previous spring as the denominator. The scores results of first-time students shall be included (i.e., not students who are repeating the grade because of a score of unsatisfactory failure in the previous year). This statistic shall include grades 4 and 8 and shall be weighted by the number of students failing each test high-stakes testing in the previous spring. English language arts (ELA) and mathematics shall be counted separately. The numerator and denominator shall be the sum of counts in grade 4 ELA and mathematics plus grade 8 ELA and mathematics. Students' summer school results shall be attributed to the district in which they took the summer test.

b. Formula for converting Part A to an index:
2.5* (percent passing + 5). Implications of index for Part A:

i. 35 percent passing of summer tests shall yield an index of 100;

ii. 55 percent passing of summer tests shall yield an index of 150.

2. Part B—The change in scale scores on LEAP 21 from spring to summer for scores that are unsatisfactory of students who failed high-stakes testing in the spring.

a. The Louisiana Department of Education shall use the mean change in scale scores on LEAP 21 from the spring to the summer administration, for all scores that were unsatisfactory contributing to the students' failures in the spring administration. The scores of first-time students shall be included (i.e., not students who are repeating the grade because of a score of unsatisfactory in the previous year). If a student is tested in the spring but not in the summer, the change for that student's score shall be "0." If a student is tested in the summer but not in the spring, the spring score shall be assumed to be the 10th percentile of students tested in the spring. Four averages shall be computed for each district, ELA and mathematics for both 4th and 8th grades. The district score shall be the weighted average of the four results. Students' summer school results shall be attributed to the district in which they took the summer test.

b. Formula for converting Part B to an index:5* (average scale score gain). Implications of index Part B:

i. a scale score gain of 20 points shall yield an index of 100;

ii. a scale score gain of 30 points shall yield an index of 150.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2755 (December 2003), amended LR 31:1256 (July 2005).

§4313. Corrective Actions

A. - B.2. ...

3. Beginning in 2004, districts that fail to achieve adequate yearly progress will complete a self-assessment only after being identified for district improvement as described below in Subsection C.

C. Districts that receive a DRI Index label of "unresponsive" for a second consecutive year and/or are identified for improvement by the subgroup component shall write district improvement plans based on the prior years' self-assessments and submit those plans to the LDE.

1. A district is identified for improvement when it fails in all grade-clusters, in the same subject, to achieve subgroup AYP for two consecutive years.

a. For 2004 only, districts that failed subgroup AYP in 2003 and who fail all three grade-clusters in the same subject as they failed in 2003, will be identified for district improvement.

C.2. - E. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2757 (December 2003), amended LR 30:1449 (July 2004), LR 31:424 (February 2005), LR 31:635 (March 2005), LR 31:1256 (July 2005).

Weegie Peabody
Executive Director

0506#007

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28: CXV.Chapters 1-37)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted Bulletin 741—Louisiana Handbook for School Administrators. Bulletin 741 will be printed in codified format as Part CXV of the Louisiana Administrative Code. This document replaces any previously advertised versions. Bulletin 741—Louisiana Handbook for School Administrator contains all BESE policies and state laws required for the normal operation of districts and schools that are not included in other bulletins. The purpose of this project was to:

- clarify wording of policies;
- ensure that all Rules approved by BESE are included;
- eliminate contradictory policies;
- update Bulletin 741 with current legislation;
- make the bulletin more user-friendly;
- codify the bulletin as is required by the Administrative Procedure Act.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 1. Foreword

§101. Purpose

A. Policies passed by the Board of Elementary and Secondary Education (BESE) govern the operation of public elementary, middle, and secondary schools. *Bulletin 741—Louisiana Handbook for School Administrators*, contains these policies.

B. The contents of this bulletin have been revised and reorganized for more efficient use as a reference document for district and school administrators. The bulletin has been extensively reviewed by members of BESE, the Department of Education (DOE), and a statewide review committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1257 (June 2005).

§103. Revisions

A. *Bulletin 741—Louisiana Handbook for School Administrators* will be updated monthly as new rules are adopted by BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1257 (June 2005).

Chapter 3. Operation and Administration

§301. General Authority

A. The public school system established under the Louisiana Constitution shall operate in accordance with the standards set by BESE. Measurable standards of operation have been established for the approval of schools, stating the responsibility of the local educational governing authority.

B. Educational programs shall be in accordance with the Constitution of the United States, the Constitution of

Louisiana, the Louisiana Revised Statutes, applicable state and federal regulations, and policies of BESE.

C. Each local education agency (LEA) shall ensure that all eligible persons, regardless of race, creed, sex or disability, have access to educational programs supported by public funds.

D. Any allowable deviations in the implementation of a policy or standard shall be authorized by BESE.

E. Each LEA shall have a signed statement of assurance that the preschool, elementary, and secondary programs operated by the system are currently in compliance with the applicable state and federal regulations when such statements are required for the purpose of funding.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. VIII §1 and §3; R.S. 17:6; R.S. 17:7; R.S. 17:111; R.S. 17: 151; R.S 17:172; R.S. 17:1941, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1257 (June 2005).

§303. General Powers of Local Educational Governing Authorities

A. Each city and parish school board shall determine the number and location of schools to be opened, and the number and selection of teachers and other certified personnel from recommendations made by the local superintendent.

B. Each city and parish school board is authorized to adopt rules and regulations for its own governance that are consistent with law and with the regulations of BESE.

1. Each member of a city and parish school board shall receive a minimum of six hours of training and instruction in the school laws of this state, in the laws governing the school boards, and in educational trends and research.

2. The training shall be provided by an institution of higher education, the DOE, or the local school board central office staff.

C. Each city and parish school board shall apply for, receive and expend all funds destined for the support of the schools according to the provisions of R.S. 17:81.

D. Each city and parish school board shall have full and final authority and responsibility for the assignment, transfer and continuance of all students among and within the public schools within its jurisdiction, and shall prescribe rules and regulations pertaining to those functions.

E. Any city or parish school board member shall have the right to examine any or all records of the school system except employee records relative to evaluations, observations, formal complaints, and grievances.

F. A public trust having a city or parish school board as its beneficiary may be created to be funded by surplus revenues of the beneficiary school board and with the use of income produced by the trust restricted to meeting the capital outlay needs of the school system.

G. Individual school board members shall not use the authority of their office to coerce or compel any personnel decisions or any school employee decisions concerning benefits, work assignment, or membership in any organization.

H. No city or parish school board shall accept any funds or grants for any new curricular or pilot programs unless the board has received the prior approval of BESE.

I. Each city and parish school board shall develop and adopt rules and policies regarding the dismissal and

discipline of school employees including but not limited to the following issues:

1. dismissing teachers at any time a reduction in force is instituted by the school board;
2. dismissing school employees who have not attained tenure;
3. the investigation of employees accused of impermissible corporal punishment or moral offenses involving students;
4. the investigation of any employee in any case in which there is a public announcement by the board that the employee may be disciplined, whether or not there is an accompanying reduction in employee pay; and
5. grievance procedures for teachers and school employees.

J. No city or parish school board shall adopt any policy which forbids or discourages any teacher or other school board employee from reporting directly to any appropriate law enforcement authority any apparent criminal activity by any person involving, or appearing to involve, controlled dangerous substances, or any other apparent illegal activity.

1. No parish or city school board shall adopt any policy that would have the effect of preventing or hindering the response of law enforcement officials on school board property, to reports of illegal activity.

K. Each city and parish school board may enter into voluntary compacts with other LEAs for the purpose of providing multiparish education programs of all kinds in accordance with R.S. 17:100.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:53; R.S. 17:81; 17:81.2 17:81.4-8; R.S. 17:100.2; R.S. 17:104; R.S. 17:151.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1257 (June 2005).

§305. Administration

A. The organization and administration of education in each LEA and school shall be that which best meets the needs of the students, the community, and the society, and shall fulfill the purpose for which the school system and school were organized.

B. Coordination of school instructional programs shall be planned and arranged to ensure effective program operation. All activities shall conform to policies adopted by the local education governing authority, or of the school system, or of other applicable educational governing authorities.

C. Each LEA and school shall develop effective administrative procedures with respect to opening and closing the school year, office management, and daily administration and LEA activities.

D. The superintendent of each LEA shall faithfully carry out the requirements of the state school laws and the rules and regulations made for the schools by BESE.

E. The principal shall be responsible for coordinating and directing all activities of the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81; R.S. 17:91; R.S. 17:105; R.S. 17:414.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1258 (June 2005).

§307. Philosophy and Purposes

A. It shall be the responsibility of each LEA and school to formulate a written statement of its philosophy and purposes and/or mission statement. This statement shall give

direction to the education program. The philosophy and purposes shall be on a system-wide basis and shall be adapted to meet the needs of each school within the system.

1. Copies of the statement of philosophy and purposes shall be on file at the offices of the superintendent and the principal.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. VIII Preamble and R.S. 17:6; R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1258 (June 2005).

§309. Learning Environment

A. The learning environment shall be conducive to the educational and overall well being of students.

AUTHORITY NOTE: Promulgated in accordance with Louisiana Constitution Art. VIII Preamble.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1258 (June 2005).

§311. System Accreditation

A. Each school system shall participate in a program of system accreditation and receive a classification granted by the DOE based upon a fifth-year, on-site verification of the Annual System and School Reports.

B. All school systems shall receive an accreditation classification.

C. Schools systems shall be classified according to the following categories based upon the fifth-year, on-site visitation:

1. Accredited

a. Accredited. The programs offered by the school system are in compliance with the policies and standards of BESE.

b. Accredited Provisionally. One or more programs offered by the school system has deficiencies in standards other than those stated in the probational category, and the system is being advised and requested to make corrections. Improvement is expected prior to the next school year.

c. Accredited Probationally. One or more programs offered by the school system has major deficiencies in one or more of the following areas:

i. at least one member of the professional staff does not hold a valid Louisiana teaching certificate;

ii. the school system does not offer a curriculum to meet graduation requirements or a balanced elementary curriculum as prescribed in this bulletin;

iii. the school system has a student who is currently enrolled in a special education program and whose last individual evaluation occurred three or more years ago;

iv. the school has an identified exceptional student who does not have a current Individualized Education Program (IEP);

v. the school system does not adhere to and implement the various sections of the Revised Statutes of Louisiana as they affect the health and safety of the students and staff. (These include fire prevention and drills, provisions for a healthful environment, and safety regulations for transportation.);

vi. the physical facilities do not conform to the current federal, state, and local building fire, safety, and health codes; and

vii. if deficiencies are cited, after being accredited provisionally for one year, the system shall be accredited probationally.

2. Unaccredited

a. If deficiencies are cited, after being accredited probationally for one year, the system shall be unaccredited.

B. A school system's accreditation status may be altered (either upgraded or downgraded) based upon either the on-site verification of the implementation of the action plan and/or the on-site verification of the Annual School and System Reports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.9.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1258 (June 2005).

§313. Special Education Compliance Monitoring

A. Each school system shall participate in a system of special education compliance monitoring. The school system shall receive a formal compliance document that describes any corrective actions that must be taken and timelines for correction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1259 (June 2005).

§315. School Approval

A. In order to benefit from state and federal funds, each elementary and secondary, career/technical, and special school under the jurisdiction of BESE shall participate in a program of school approval and receive an approved classification category from the DOE based upon information submitted to the DOE by the school.

B. Schools shall be classified according to the following categories.

1. Approved—school meets the standards of BESE.

2. Approved Provisionally—school has some deficiencies in standards other than those stated in the probational category and is being advised and requested to make corrections; or the school and/or the LEA on behalf of the school:

a. fail to complete the actions required of schools in School Improvement 1 as defined in Bulletin 111 after being identified for School Improvement 1; or

b. fail to respond to the findings of a data audit of School Performance Score indicators conducted by the DOE or a third party contracted by the DOE; or

c. the school is in School Improvement 3.

3. Approved Probationally—school has one or more of the following deviations from standards:

a. the principal is not certified;

b. at least one member of the professional staff does not hold a valid Louisiana teaching certificate;

c. the school does not offer a curriculum to meet graduation requirements or a balanced elementary curriculum as prescribed in this bulletin;

d. the school has a student who is currently enrolled in a special education program and whose last individual evaluation occurred three or more years ago;

e. the school has an identified exceptional student who does not have a current IEP;

f. the school does not adhere to and implement the various sections of the Revised Statutes of Louisiana as they affect the health and safety of the students and staff. (These include fire prevention and drills, provisions for a healthful environment, and safety regulations for transportation.);

g. the physical facilities do not conform to the current federal, state, and local building fire, safety, and health codes;

h. the school has been on provisional approval for at least two years; or

i. the school and/or the LEA on behalf of the school:

i. fail to complete the actions required of schools in School Improvement 2 or 3 as defined in Bulletin 111: Louisiana School, District, and State Accountability after being identified for School Improvement 2 or 3; or

ii. fail to implement the school's/district's proposed plan to correct the findings of a data audit of School Performance Score indicators conducted by the DOE or a third party contracted by the DOE; or

j. the school is in School Improvement 4, 5, or 6.

4. Unapproved—any school shall be unapproved if the school has not corrected the stated deficiencies within the time fixed by the DOE; or the school and/or the LEA on behalf of the school:

a. fail to complete the actions required of schools in School Improvement 4, 5, or 6 as defined in Bulletin 111: Louisiana School, District, and State Accountability after being identified as being in School Improvement 4, 5, or 6; or

b. submit a Reconstitution Plan that BESE does not approve as defined in Bulletin 111.

C. The DOE shall set the guidelines and fix the period of time for corrections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1259 (June 2005).

§317. School and District Accountability

A. Every school shall participate in a school accountability program based on student achievement as approved by BESE. Refer to *Bulletin 111—Louisiana School, District, and State Accountability*.

B. Every school district shall participate in a district accountability program based on school performance as approved by BESE. Refer to *Bulletin 111—Louisiana School, District, and State Accountability*.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1259 (June 2005).

§319. Classification of Established Schools

A. The local superintendent shall require from the principal of each school, on or before the date established by the DOE, the completed Annual School Report based upon minimum requirements for school approval.

B. The local superintendent shall submit to the State Superintendent of Education, on or before the date established by the DOE, an Annual School Report for each school in the system showing the extent to which each school is meeting the minimum requirements for classification.

C. A composite report of the findings and ratings of the schools by the DOE shall be presented to the State Superintendent of Education for final action. A final report shall be submitted to BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:92.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1259 (June 2005).

§321. Review and Evaluation

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

1. Provisions for evaluating the school, the students, the teachers, the methods and materials, the curricular content, and the organization shall be made.

2. The principal shall have the responsibility of providing the leadership for school self-evaluations.

B. Instructional programs of the school system shall be continually reviewed and analyzed for the purpose of making improvements.

1. Each school shall, with the assistance of the LEA, show evidence of continuous review, study, research, and analysis aimed at school improvement.

2. A file on all self-evaluation procedures and results shall be accessible in the principal's office.

3. Test results and other data on student potential and achievement shall be used in efforts to improve instruction.

C. Follow-up studies shall be conducted by the school for in-school students, out-of-school graduates, and/or school dropouts when mandated by federal directives.

D. The school system shall assist schools in conducting follow-up studies for in-school students, out-of-school graduates, and/or school dropouts when mandated by federal directives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7; R.S. 17:22.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1260 (June 2005).

§323. Louisiana Educational Assessment Program

A. Each LEA shall participate in the Louisiana Educational Assessment Program.

B. Performance standards for LEAP for the 21st Century (LEAP 21) and Graduation Exit Examination for the 21st Century (GEE 21) are equal to the rigor of the National Assessment of Educational Progress (NAEP) performance standards.

C. Achievement Level Labels

Label and Short Description	Policy Definition
Advanced	A student at this level has demonstrated superior performance beyond the mastery level.
Mastery (Exceeding the Standard)	A student at this level has demonstrated competency over challenging subject matter and is well prepared for the next level of schooling.
Basic (Meeting the Standard)	A student at this level has demonstrated only the fundamental knowledge and skills for the next level of schooling.
Approaching Basic (Approaching the Standard)	A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.
Unsatisfactory	A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling.

D. District-wide test results, but not scores or rankings of individual students, shall be reported to the local educational governing authority at least once a year at a regularly scheduled local educational governing authority meeting.

E. LEAP Alternate Assessment participation criteria shall be used by IEP teams to document that a student meets the criteria to participate in LEAP Alternate Assessment.

F. Schools shall ensure that student participation is documented on the LEAP Alternate Assessment Participation Criteria form as approved by BESE.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1260 (June 2005).

§325. Kindergarten and Prekindergarten

A. All LEAs shall provide kindergarten programs for all eligible students of appropriate age. The placement of students shall be clearly communicated to parents by the school.

B. Each LEA shall provide for and offer in every school having a first grade, or in a kindergarten center, a full-day kindergarten program in accordance with standards set in this bulletin.

1. School systems may establish a registration deadline for student entry into the kindergarten program. This date shall not apply to those students previously enrolled in a kindergarten program.

C. Each LEA shall require that every child entering kindergarten for the first time be given a nationally recognized readiness screening. The results of this screening shall be used in placement and for planning instruction. The pupil progression plan for each LEA shall include criterion for placement.

1. The parent or guardian of each child shall be advised of the nature of the child's level of readiness.

2. Each LEA shall report to the DOE screening results by school on an annual basis by December first of each year.

D. Each LEA may develop and offer prekindergarten instruction.

1. The goal of prekindergarten instruction shall be to improve academic readiness, individual development skills and social skills.

2. Prior to implementing prekindergarten instruction, an LEA shall set forth a statement of the needs the program is intended to address, the anticipated results, the basis upon which the results are expected, an outline of the implementation steps, a detailed plan for staff usage, a detailed budget, and a plan for the evaluation of the program results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.8; R.S. 17:151.3; R.S. 17:391.11.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1260 (June 2005).

§327. Pupil Progression

A. Each LEA shall develop a Pupil Progression Plan consisting of all policies and procedures for the placement of students grades K-12.

NOTE: Refer to *Bulletin 1566—Guidelines for Pupil Progression*, and the addendum to *Bulletin 1566—Regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program, Regular School Year*.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1260 (June 2005).

§329. Remedial Education Programs

A. A program of remedial education shall be put into place by LEAs following regulations adopted by the DOE and approved by BESE. All eligible students shall be provided with appropriate remedial instruction.

B. Each LEA shall describe in writing its proposed remedial education program in its Pupil Progression Plan according to regulations adopted by BESE.

C. Each LEA shall participate in the DOE's remedial education program evaluation.

NOTE: Refer to *Bulletin 1566—Guidelines for Pupil Progression*, and the addendum to *Bulletin 1566—Regulations for the Implementation of Remedial Education Programs* Related to the LEAP/CRT Program, Regular School Year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:394 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005).

§331. Special Education Programs

A. Each LEA shall provide special education programs for all exceptional students.

B. The exceptional students shall be maintained in the least restrictive environment appropriate to the students' needs.

C. Each LEA shall ensure that the placement of exceptional students in special education services and settings is determined by the student's IEP placement committee and occurs only with the written consent of the parent(s) or legal guardian for the initial IEP.

NOTE: Refer to *Bulletin 1706—Regulations for Implementation of the Exceptional Children's Act*.

D. Children who have been receiving special education in another state or in another school system within Louisiana, and children who possess a severe, low-incidence impairment documented by a qualified professional may be initially enrolled in a special education program concurrent with the conduct of the remainder of the evaluation according to the requirements of Bulletin 1508—Pupil Appraisal Handbook.

E. The enrollment shall occur in accordance with §416 and §416 of Bulletin 1706—Regulations for Implementation of the Exceptional Children's Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005).

§333. Instructional Time

A. Each LEA shall adopt a calendar for a minimum school year of 182 days, of which at least 177 days shall be scheduled to provide the required instructional time. Two days shall be for staff development; the remaining days may be used for emergencies and/or other instructional activities. Each LEA may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year, provided that 63,720 minutes of instructional time per year are met.

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

C. Each LEA has the option to make the determination regarding the length of the school day for high school seniors.

D. General election day shall be designated by each LEA as a holiday every four years for the presidential election.

E. Each instance of an LEA not meeting the minimum number of 177 days of required instructional time or the equivalent (63,720 minutes per year) shall be examined by the DOE and reported by the DOE or LEA to BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005).

§335. Program Evaluation for State Board Approval Programs

A. Anyone who accepts and executes responsibility for planning, implementing, and reporting evaluations of educational programs and projects approved by BESE shall have a valid Louisiana program evaluator's certificate.

B. The evaluations of educational programs and projects approved by BESE shall demonstrate the application of the Standards for Educational Evaluations.

NOTE: Refer to Joint Committee on Standards for Educational Evaluation as approved by BESE on January 20, 1981.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7; R.S. 17:391.6; R.S. 17:391.10.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005).

§337. Written Policies and Procedures

A. Each LEA shall have written policies governing all school activities as they relate to students, the instructional program, staff, buildings, services, and the curriculum.

B. Each LEA shall have policies and procedures stated in written form for instructional programs, graduation ceremonies, student activity programs, and student services.

C. Each LEA shall have policies and procedures that address, but are not limited to, the following:

1. the establishment of the number of school days, length of the school day, and other necessary guidelines for the operation of the schools;
2. provision of special educational and related services to exceptional students in accordance with the IEP for no fewer than 177 days or the equivalent during the normal 182-day school cycle;
3. the operation of special departments and special programs in each school;
4. the admittance of students to and the dismissal of students from special educational programs;
5. the exclusion of students with communicable diseases and their readmittance them following their recovery (Refer to §1131.);
6. the control of communicable problems such as lice and scabies (Refer to §1131.);
7. the care of sick or injured students, including notification of parents, in cases of emergencies that occur while students are under the jurisdiction of the school;
8. the administration of medication in schools (Refer to §1129.);
9. The operation of summer schools and extended school year programs for eligible exceptional students (Refer to Chapter 25.);
10. the disciplining of students with disabilities (Refer to §1313.);

11. the use of standard universal precaution by personnel when individuals have direct contact with blood or other body fluids and the provision of sanctions, including discipline if warranted, for failure to use standard universal precautions;

12. the use of school buildings outside of regular school hours;

13. student access to the Internet. (Refer to §1709.);

14. the prohibition against use of tobacco in schools, on school grounds, and on school busses. (Refer to §1143.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:81; R.S.17:240.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005).

§339. Emergency Planning and Procedures

A. Each LEA shall have written policies and procedures that address the immediate response to emergency situations that may develop in the schools.

B. The school shall maintain and use contingency plans for immediate responses to emergency situations.

C. The school shall establish and use procedures for reporting accidents to parents and/or the central office.

D. In the absence of a principal, another individual(s) at the school shall be delegated the necessary authority to use emergency procedures.

E. Procedures for the cancellation of school shall be established; communicated to students, teachers, and parents; and followed when necessary.

F. The school shall establish procedures for special calls to police, fire departments, and hospitals, and practice drills shall be used to ensure the effectiveness of the procedure.

G. The school shall establish procedures for the evacuation of the building in the event of fire, severe weather conditions, or bomb threats. Practice drills shall be used to ensure the effectiveness of the procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.16.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1262 (June 2005).

§341. Homeless Children and Youth

A. Each LEA shall establish a written policy to provide for the placement in school and for the education of any child temporarily residing within the jurisdiction of the board who has no permanent address, who has been abandoned by his parents, or who is in foster care pursuant to placement through the Department of Social Services. However, this does not require the enrollment of any child not permitted by another school system to attend school, either permanently or temporarily, as a result of disciplinary action(s).

B. The term *homeless child and youth* means the following:

1. children and youth who lack a fixed, regular, and adequate nighttime residence, and includes children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

2. children and youth who have a primary nighttime residence that is a private or public place not designed for or

ordinarily used as a regular sleeping accommodation for human beings;

3. children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings;

4. migratory children who qualify as homeless because they are living in circumstances described above.

C. According to a child or youth's best interest, each district must either continue the child/youth's education in the school of origin, or enroll the child in school in any public school that nonhomeless students who live in the attendance area where the child/youth is actually living are eligible to attend.

1. *School of origin* is defined as the school the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.

2. In determining best interest, the district must, to the extent feasible, keep children/youth in the school of origin unless it is against the wishes of the parent/guardian.

3. A homeless child or youth's right to attend his/her school of origin extends for the duration of homelessness.

4. If a child or youth becomes permanently housed during the academic year, he or she is entitled to stay in the school of origin for the remainder of the academic year.

5. Children and youth who become homeless in between academic years are entitled to attend their school of origin for the following academic year.

6. If the district sends the child/youth to a school other than the school of origin or the school requested by the parent or guardian, the district must provide written explanation to the parent or guardian, including the right to appeal under the enrollment disputes provision.

D. In the case of an unaccompanied youth (i.e., a youth not in the physical custody of a parent or guardian), the district's homeless liaison must assist in placement/enrollment decisions, consider the youth's wishes, and provide notice to the youth of the right to appeal under the enrollment disputes provisions. The choice regarding placement must be made regardless of whether the child or youth resides with the homeless parent or has been temporarily placed elsewhere.

E. The school selected shall immediately enroll the child/youth in school, even if the child or youth lacks records normally required for enrollment, such as previous academic records, medical records, proof of residency or other documentation.

1. The terms *enroll* and *enrollment* are defined to include attending classes and participating fully in school activities. The enrolling school must immediately contact the last school attended to obtain relevant academic and other records.

2. If a child or youth lacks immunizations or immunization or medical records, the enrolling school must refer the parent/guardian to the liaison, who shall help obtain necessary immunizations or immunization or medical records.

3. Districts may require parents or guardians to submit contact information.

F. If a dispute arises over school selection or enrollment, the child/youth must be immediately admitted to the school in which he/she is seeking enrollment, pending resolution of the dispute (five days).

1. The parent or guardian must be provided with a written explanation of the school's decision on the dispute, including the right to appeal.

2. The parent/guardian/youth must be referred to the homeless liaison, who will carry out the state's grievance procedure as expeditiously as possible after receiving notice of the dispute.

3. In the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute.

G. Each LEA shall keep and have immediately available any records ordinarily kept by the school, including immunization records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, of each homeless child or youth.

H. Each LEA shall provide services comparable to services offered to other students in the school selected, including transportation services, educational services for which the child or youth meets the eligibility criteria (Title I, special education, limited English proficiency), programs in career and technical education, programs for the gifted and talented, and school nutrition programs.

1. School districts are required to adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of origin.

2. If the homeless child or youth continues to live in the area served by the LEA in which the school of origin is located, that LEA must provide or arrange for the child's or youth's transportation to or from the school of origin.

3. If the homeless child or youth continues his or her education in the school of origin but begins living in an area served by another LEA, the LEA of origin and the LEA in which the homeless child or youth is living must agree upon a method to apportion the responsibility and costs for providing the child with the transportation to and from the school of origin. If the LEAs cannot agree upon such a method, the responsibility and costs must be shared equally.

I. Each LEA shall designate an appropriate staff person, who may also be a coordinator for other federal programs, to serve as a homeless advocate to coordinate services and ensure that there are no barriers to the enrollment, transportation, attendance, and success in school for homeless children and youth. Additionally, the homeless advocate will promptly solve disputes regarding educational placement.

J. Each LEA shall ensure the prompt resolution (within five school days) of disputes regarding the educational placement of homeless children and youth following the procedures in the Louisiana State Plan for Educating Homeless Children and Youth.

K. Each LEA that receives a homeless direct grant award from the SEA Office of Education for Homeless Children and Youth (EHCY) must coordinate the services provided and designate a homelessness liaison to carry out certain mandates.

L. Each LEA shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth. Further, LEAs must adopt policies and practices to ensure that homeless children and youth are not isolated or stigmatized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:238; 20 USCS 6311, 6312, 6313, and 6315.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1262 (June 2005).

§343. Unsafe Schools

A. Students who are the victims of violent crime shall be afforded the opportunity to transfer to a different school.

1. A student at a public elementary school, middle school or high school who becomes a victim of a crime of violence, as defined by R.S. 14:2, while on school property, on a school bus or at a school-sponsored event, shall be given the option to transfer to a public school within the school district in which the student's current school is located, which offers instruction at the student's grade level and which is not persistently dangerous, if there is such a school within that school district.

2. A student who is enrolled in an alternative school or a special school and who becomes a victim of a crime of violence, as defined by R.S. 14:2, while on school property, on a school bus or at a school-sponsored event, shall be given the option to transfer to another such public school within the school district in which the student's current school is located, which offers instruction at the student's grade-level for which the student meets the admission requirements, and which is not persistently dangerous, if there is such a school within that school district.

3. A student who has been assigned to a particular school, such as an alternative school or a special school, by court order shall not have the option to transfer.

4. A student who has been the victim of a crime of violence and who must be given the option to transfer should generally be given the option to transfer within 10 calendar days from the date on which the crime of violence occurred.

B. Students attending a school that has been identified as a persistently dangerous school shall be afforded the opportunity to transfer to different school.

1. Students attending an elementary, middle, or high school that has been identified as persistently dangerous shall be given the option to transfer to a public school within the school district in which the student's current school is located, which offers instruction at the students' grade level and which is not persistently dangerous, if there is such a school within that school district.

2. A student who is enrolled in an alternative school or a special school which has been identified as persistently dangerous shall be given the option to transfer to another such public school within the school district in which the student's school is located, which offers instruction at the student's grade-level, for which the student meets the admission requirements and which is not persistently dangerous, if there is such a school within that school district.

3. A student who has been assigned to a particular school, such as an alternative school or a special school, by court order shall not have the option to transfer.

4. The LEA in which the persistently dangerous school is located shall, in a timely manner, notify parents of each student attending the school that the school has been identified as persistently dangerous, offer the students the opportunity to transfer and complete the transfer. Although timely implementation of these steps depends on the specific circumstances within the school district, students should generally be offered the option to transfer within 20 school

days from the time the school district is notified that the school has been identified as persistently dangerous. Although the transfer may be temporary or permanent, the transfer must remain in effect for at least as long as the school is identified as persistently dangerous.

5. Schools must meet two of the following criteria for two consecutive school years to be identified as persistently dangerous. For purposes of these criteria, *enrolled student body* means the number of students enrolled in a school as of the October 1 student enrollment count, and *firearm* means a firearm as defined by the federal Gun-Free Schools Act.

a. One percent or more of the enrolled student body is expelled for possession of a firearm on school property, on a school bus, or for actual possession of a firearm at a school-sponsored event.

b. Four percent or more of the enrolled student body has been expelled for a crime of violence as defined by R.S. 14:2 occurring on school property, on a school bus or at a school-sponsored event.

c. Six percent or more of the enrolled student body has been expelled pursuant to R.S. 17:416 for the following types of misconduct in the aggregate occurring on school property, on a school bus or at a school-sponsored event:

- i. immoral or vicious practices;
- ii. conduct or habits injurious to associates;
- iii. possession of or use of any controlled dangerous substance, in any form, governed by the Uniform Controlled Dangerous Substances Law;
- iv. possession of or use of any alcoholic beverage;
- v. cutting, defacing or injuring any part of a school building, any property belonging to the buildings or any school buses owned by, contracted to or jointly owned by any city or parish school board;
- vi. possession of knives or other implements which can be used as weapons, the careless use of which might inflict harm or injury;
- vii. throwing missiles liable to injure others; or
- viii. instigating or participating in fights.

6. An LEA with one or more schools meeting two of these three criteria during one school year shall identify the problem, submit a corrective action plan to the DOE for approval and implement the corrective action. A school system should generally develop a corrective action plan within 20 school days from the time it is notified of the need for the corrective action plan.

7. An LEA with one or more schools identified as persistently dangerous must submit a new corrective action plan to the DOE for approval and must implement the new corrective action. An LEA should generally develop a corrective action plan within 20 calendar days from the date the school district is notified of the need for the corrective action plan.

8. The DOE shall annually reassess persistently dangerous schools. If a school no longer meets the criteria for a persistently dangerous school, taking into account the most recent completed school year and the school year immediately preceding the most recent completed school year, the school will not be deemed persistently dangerous.

C. Nothing herein shall prohibit LEAs from entering into agreements with one another allowing students who become the victims of crimes of violence while on school property,

on a school bus, or at a school-sponsored event or who are attending persistently dangerous schools in one school district the option to transfer to a school, which is not persistently dangerous, in another school district. A student who has been assigned to a particular school, such as an alternative school or a special school, by court order shall not have the option to transfer.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS 7912.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1263 (June 2005).

§345. Requesting Waivers of BESE Policy

A. The superintendent of the LEA requesting deviation of any standard in this Bulletin shall submit documentation to the DOE, Division of Student Standards and Assessments, justifying the request.

B. Technical assistance for meeting the policy as stated in this Bulletin shall be provided to the LEA by the DOE.

C. When a deviation cannot be corrected by technical assistance, the DOE may consider a waiver of policy using the following guidelines.

1. Waivers for Class Size

a. Waivers granted by the DOE in the following categories will be considered only when the citation would place the school in an approved probational category.

b. The DOE may waive class size requirements up to two students over the maximum allowable upon receipt of the following:

- i. a letter from the local superintendent detailing each class that exceeds the class size;
- ii. documentation from the principal and the superintendent showing how efforts have been made to comply with standards;
- iii. a copy of the school's master schedule, with class sizes included; and
- iv. class sizes above the limit of two will go directly to the appropriate board committee with an executive recommendation from the DOE.

2. School Counselor/Librarian Ratios Waivers

a. Waivers granted by the DOE in the following categories will be considered only when the citation would place the school in an approved probational category.

b. The DOE may waive the required school counselor and librarian ratios upon receipt of the following:

- i. a letter of justification from the local superintendent;
- ii. a list of all administrative personnel in the school (part-time and full-time); and
- iii. a detailed plan stating how the services will be provided to students.

3. Course Requirement Waivers

a. The DOE may waive up to one Carnegie unit required for graduation in the following circumstances:

- i. waivers for students who transfer to Louisiana from another state during their senior year, are on course to graduate in their previous state of residence, and are unable to schedule and complete the needed course; and
- ii. waivers due to administrative errors.

b. In each situation, the district must provide

- i. a letter of justification from the local superintendent; and

ii. a copy of the student's transcript.

D. The DOE will report to the appropriate BESE committee bi-annually in June and December on the waivers that have been granted.

E. Requests that do not meet BESE-approved guidelines for an administrative action shall be submitted by the State Superintendent of Education to the appropriate BESE committee with an executive recommendation for action.

F. The agenda of the appropriate BESE committee shall have a standing item for submission of reports from the State Superintendent of Education required in Paragraph E above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.2(B)(5); R.S. 17:24.10(C)(1)(c); R.S. 17:151(B)(2); R.S. 17:192(B)(2); R.S.17:274(D); R.S. 17:416.2(B).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1264 (June 2005).

§347. School Size

A. No school with an average attendance below 10 pupils shall be opened or maintained in any locality, except upon recommendation of the local educational governing authority, giving its reason for such recommendation, and upon approval by BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:152.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005).

Chapter 5. Personnel

§501. Criminal Background Checks

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

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

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

3. A person who has submitted his or her fingerprints to the bureau may be temporarily hired pending the report from the bureau as to any convictions of, or pleas of *nolo contendere* to, by the person to a crime listed in R.S. 15:5871.

B. No person who has been convicted of or has pled *nolo contendere* to a crime listed in R.S. 15:5871.1 shall be hired by 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 school principal shall submit a copy of the

statement of approval to the State Superintendent of Education.

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:15; R.S. 17:587.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005).

§503. Staff Organization

A. The professional staff of the local LEA's central office shall be organized with assigned roles, responsibilities and authority to provide a structure for implementing local school policies.

B. Each LEA shall be required to employ certified personnel as required by state/federal law:

1. superintendent;
2. special education supervisor;
3. Title IX coordinator;
4. child welfare and attendance supervisor;
5. school nurse;
6. school food services supervisor.

C. The LEA shall assign principals to schools as appropriate.

D. For LEAs in any parish having a population of at least 475,000 persons, a full-time social worker shall be employed in each school which has been identified as a failing school.

E. There shall be alcohol, drug, and substance abuse counselors who regularly visit every secondary school and elementary school at a maximum ratio of four schools to one counselor, for the purpose of counseling students who have been identified as having an alcohol, drug, or substance abuse problem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:15, R.S. 17:28, R.S. 17:29, R.S. 17:54, R.S. 17:81, R.S. 17:228, R.S. 17:403, R.S. 17:1947(F); Title 34, Sect. 1068; Fed. Reg. 7CFR 210.3(a).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005).

§505. Certification of Personnel

A. To be eligible legally for teaching, administrative, supervisory, or other professional services in the public schools of Louisiana, personnel shall hold a valid Louisiana certificate appropriate to the services rendered or shall

receive annual approval in accordance with provisions allowed by BESE.

NOTE: Refer to *Bulletin 741—Louisiana Standards for State Certification of School Personnel*.

B. In the event that an LEA in Louisiana, through its locally authorized governing board, chooses to select a superintendent who does not hold a valid State-issued teaching certificate, such LEA may appoint the candidate, provided that:

1. the appointment is to a district with a K-12 population in excess of 45,000 students;
2. the district appoints a chief academic officer whose primary and substantial job description shall govern the academics of the district including curriculum and instruction;
3. the chief academic officer possesses a valid state-issued teaching certificate;
4. the chief academic officer also meets all criteria required of a superintendent set forth in existing BESE policy;
5. the chief academic officer is appointed no later than 120 days after the appointment of the superintendent candidate;

C. Effective with the 2006-2007 School Year

1. Teachers in core academic subject areas (English, reading/language arts, mathematics, science, foreign languages, arts, and social studies) must meet the highly qualified requirements in order to teach in any core academic subject.

2. For the non-core academic subject areas, full-time secondary certified teachers in schools including grades 6 through 12 (or any combination thereof) may be allowed to teach a maximum of two periods in one subject out of their field of certification if they have earned 12 hours in that subject. Secondary certified teachers shall not teach below the sixth grade level.

D. Prior to the 2006-2007 school year,

1. Full-time secondary certified teachers in schools including grades 6 through 12 (or any combination thereof) may be allowed to teach a maximum of two periods in one subject out of their field of certification if they have earned 12 hours in that subject. Secondary certified teachers shall not teach below the sixth grade level.

2. Certified elementary teachers may teach Reading I and Reading II at the high school level.

E. Each LEA shall ensure that supervision is provided for school psychologists, school social workers, speech therapists, and any other personnel not certified or licensed to practice their respective discipline without supervision and who are provisionally employed contingent upon such specific documented supervision in accordance with policy in Bulletin 746.

F. Any employee of any LEA whose duty is to transport students in any city or parish activity in a school bus shall meet State Department of Education requirements.

NOTE: Refer to *Bulletin 1191—School Transportation Handbook*.

G. Each LEA shall establish standards for certification of special education paraprofessionals and shall issue permits based on these standards.

H. School food service managers and food production managers shall be certified through the Division of Nutrition Assistance of the DOE.

I. Teachers certified at the secondary level shall be allowed to teach at the sixth grade level in their respective areas of certification. This provision shall in no way be applied to the policies relative to teachers who teach two hours per day out of their field of certification by virtue of completion of 12 hours in a field.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:7.1; R.S. 17:24.10; R.S. 17:81; R.S. 17:491; 17:497.2; R.S. 17:1974.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005).

§507. Principal/Assistant Principal Induction Program

A. All newly appointed principals and assistant principals with standard or provisional certification shall participate in the Principal/Assistant Principal Induction Program. The program shall include the following.

1. Individuals appointed to a principalship or an assistant principalship after October 1 shall be enrolled in the Principal Induction Program at the beginning of the following year.

2. Principal/Assistant Principal Induction Program requirements shall also apply to individuals serving in the following leadership capacities:

a. Administrative Assistant—fully certified and serving in a full-time, full-year administrative capacity;

b. Acting Principal or Assistant Principal—fully certified and serving in a full-time, full-year administrative capacity.

3. A newly appointed principal who successfully completed the Assistant Principal Induction Program in 1999-2000 shall complete both years of the Principal Internship.

4. A newly appointed principal who successfully completed the Assistant Principal Induction Program in 2000-2001 shall complete only the Year Two requirements of the Principal Induction Program.

5. A newly appointed principal who did not complete the Assistant Principal Induction Program or completed the program in 1998 or before shall complete the two-year requirements of the Principal Induction Program.

B. Upon successful completion of two years of the Induction Program requirements, an individual may request to have the provisional status removed from their certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1266 (June 2005).

§509. Personnel Evaluation

A. Each LEA shall adopt a system of personnel evaluation for all certified and other professional personnel.

NOTE: Refer to *Bulletin 1525—Personnel Evaluation Accountability: A Guide for Implementation*, Revised 2001.

B. The LEA's personnel evaluation programs shall be monitored periodically by the DOE, when requested by BESE as deemed necessary, to determine whether such programs have been implemented, to what extent they have been implemented, and whether such programs comply with the provision of the law and DOE guidelines.

NOTE: Refer to *Bulletin 1525—Personnel Evaluation Accountability: A Guide for Implementation*, Revised 2001.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3881et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1266 (June 2005).

§511. Personnel Evaluation Plan Dissemination

A. The LEA shall disseminate copies of the personnel evaluation plan, adopted by the local educational governing authority and approved by the DOE, to all employees affected by the educational accountability program.

NOTE: Refer to *Bulletin 1525—Personnel Evaluation Accountability: A Guide for Implementation*, Revised 2001.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: 3881 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1267 (June 2005).

§513. Professional Staff Development

A. The LEA shall provide opportunities for teachers and other staff members to participate in the development of policies and professional development activities to improve instruction and the administration of educational programs.

B. Teachers and other staff members may participate in the development of school policies that improve instruction and the administration of educational programs.

C. All staff members shall be provided opportunities to participate in professional development activities.

D. There shall be a continuing program of orientation of new personnel during their first year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.2; R.S. 17: 3881 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1267 (June 2005).

§515. Teachers' Retirement System-Part-Time, Seasonal or Temporary Classroom Teacher

A. R.S. 11:162(C) provides that membership in Teachers' Retirement System of Louisiana shall be required of part-time, seasonal, or temporary employees, as defined in 26 CFR 31.3121(b)(7)-2, who are classroom teachers and who have or earn five or more years of creditable service in the Teachers' Retirement System of Louisiana.

B. Classroom Teacher

1. For the purposes of R.S. 11:162(C), classroom teacher shall mean:

a. An employee of an LEA under the control of BESE or any educational institution supported by and under the control of BESE, or any LEA:

i. whose job description and assigned duties include the instruction of pupils in courses in traditional or nontraditional classroom situations for which daily pupil attendance figures for the school system are kept; and

ii. who is classified under Object Code 112, as provided in Bulletin 1929, Louisiana Administrative Code Title 28, Part XLI §901.B.1.b, or is performing the functions, on a substitute basis, of an individual classified under Object Code 112.

b. Instruction of pupils, as used in Subparagraph B.1.a.i, shall include activities dealing directly with the interaction between teachers and pupils. Instruction may be provided for students in a school classroom, in another location such as a home or hospital, and in other learning situations such as those involving co-curricular activities. Instruction may also be provided through some other approved medium such as television, radio, telephone, and correspondence.

c. Classroom teachers shall include, but not be limited to:

i. traditional subject area;

ii. special education;

iii. library media;

iv. resource;

v. itinerant;

vi. music;

vii. band;

viii. chorus;

ix. physical education;

x. home economics;

xi. agriculture;

xii. industrial arts;

xiii. computer science; and

xiv. business teachers.

d. A teacher's status as an "employee," as used in Paragraph B.1.a, shall be consistent with the employment classification made by his or her employing agency, pursuant to applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:162(C).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1267 (June 2005).

§517. Acceptable Work Experience for Teacher Pay

A. Conditions of Employment. For purposes of determining salary, Louisiana public schools shall grant credit for work experience in compliance with the following criteria.

1. Louisiana Public Schools

a. Full-time/half-time satisfactory teaching experience at an LEA. Experience in a position that requires a valid Louisiana teaching/ancillary certificate. Proper certification for the position held; this is to include a temporary certificate, temporary teaching assignment, temporary employment permit, emergency permit, provisional certificate, and/or Circular 665 experience after regular certificate/licensure is secured.

b. Full-time college/university satisfactory teaching experience, not to include graduate assistantship.

c. Technical college teaching/instructional, full-time satisfactory experience when certified as a teacher for public elementary or secondary schools or technical colleges; proper temporary certification will count.

d. Full-time satisfactory work experience acquired by ancillary personnel while employed by an organization or institution if such personnel held the credentials required for ancillary certification at the time work was performed. This is not to include private practice.

2. Louisiana Nonpublic Approved Schools

a. The crediting of elementary and secondary teaching/instructional experience for Louisiana nonpublic teachers/ instructional employees, shall be in accordance with R.S. 17:424.2. Full-time college/university, career/technical, and ancillary experience shall be credited according to the standards stated in Subparagraphs A.1.b-d above. Experience must have been in a position requiring teaching/ancillary certificate or licensure. Proper temporary certification will count after regular certificate/licensure is secured.

3. Out-of-State Public Schools

a. The crediting of public elementary and secondary teaching/instructional experience for out-of-state teachers/instructional employees shall be in accordance with R.S. 17:424.3. Full-time college/university, career/technical and ancillary experience shall be credited according to the

standards stated in Subparagraphs A.1.b-d above. Experience must have been in a position requiring teaching/ ancillary certificate or licensure; this does not include experience under temporary certification/ licensure.

4. Out-of-State Nonpublic Approved Schools

a. The crediting of elementary and secondary teaching/instructional experience for out-of-state nonpublic teachers/instructional employees is optional and shall be determined by each local school board.

5. Military

a. Credit for military service shall be in accordance with R.S. 17:423.

B. Length of Employment. An LEA may credit a full year of teaching/instructional service if the employee has provided teaching/instructional service for a minimum of 90 school days or one semester in one school year, in compliance with the above requirements. This credit will be given in the following year of employment except for individuals hired at mid-term who may be given credit for the fall semester of experience. The maximum credit for a school year is one year of experience.

C. This policy will not affect years of credit granted to individuals prior to its adoption by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:423; R.S. 17:424; R.S. 17:424.1; R.S. 17:424.2; R.S. 17:424.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1267 (June 2005).

§519. Educators' Right to Teach

A. Each LEA shall provide a copy of the following Educators' Right to Teach Act to all teachers at the beginning of each school year.

1. A teacher has the right to teach free from the fear of frivolous lawsuits, including the right to indemnification by the employing school board, pursuant to R.S. 17:416.1(C), 416.4, 416.5, and 416.11, for actions taken in the performance of duties of the teacher's employment.

2. A teacher has the right to appropriately discipline students in accordance with R.S. 17:223 and R.S. 17:416 through 416.16 and any city, parish, or other local public school board regulation.

3. A teacher has the right to remove any persistently disruptive student from his classroom when the student's behavior prevents the orderly instruction of other students or when the student displays impudent or defiant behavior and to place the student in the custody of the principal or his designee pursuant to R.S. 17:416(A)(1)(c).

4. A teacher has the right to have his or her professional judgment and discretion respected by school and district administrators in any disciplinary action taken by the teacher in accordance with school and district policy and with R.S.17:416(A)(1)(c).

5. A teacher has the right to teach in a safe, secure, and orderly environment that is conducive to learning and free from recognized dangers or hazards that are causing or likely to cause serious injury in accordance with R.S. 17:416.9 and 416.16.

6. A teacher has the right to be treated with civility and respect as provided in R.S. 17:416.12.

7. A teacher has the right to communicate with and involve parents in appropriate student disciplinary decisions pursuant to R.S. 17:235.1 and 416(A).

8. A teacher has the right to be free from excessively burdensome disciplinary paperwork.

B. No LEA shall establish policies that prevent teachers from exercising the rights listed above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.18.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1268 (June 2005).

Chapter 7. Records and Reports

§701. Maintenance and Use of System Records and Reports

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

B. The maintenance, use, and dissemination of information included in system and school records and reports shall be governed by written policies adopted by the local educational governing authority and/or other applicable educational governing authorities. The policies shall conform to the requirements of all applicable state and federal laws, including, but not limited to, the Louisiana Public Records Act, R.S. 44:1 et seq., the Family Educational Rights and Privacy Act, 20 U.S.C. 1232q and 45 CFR 99.1 et seq., the Individual with Disabilities Education Act, 20 U.S.C. 1400 et seq., 17:1941 et seq. and R.S. 17:1237.

C. Information files and reports shall be stored with limited accessibility and shall be kept reasonably safe from damage and theft.

D. Each parish superintendent shall keep a record of all business transacted by him or her as parish superintendent; the names, numbers, and description of school districts; the tabulation of reports made monthly to him or her by the principals of his or her schools; and all other papers, books, and documents of value connected with said office, which shall be at all times subject to inspection and examination by the State Superintendent of Education, or by any officer, or citizen. In addition to the annual report to the State Superintendent of Education, s/he shall furnish such narrative, and such information as the State Superintendent of Education or BESE may from time to time require of him or her.

1. Parish superintendents and teachers of the public schools of the state shall make and keep such school records as required by the State Superintendent of Education, prior to receiving their monthly salaries.

2. Each principal of a school shall make reports to the parish superintendent of schools as required. If any principal willfully neglects or fails to do this, the parish superintendent of schools may withhold the salary due until the report is satisfactorily made.

E. Each LEA/school shall maintain necessary records for the effective operation of the LEA/school. These records shall be retained by the LEA for not less than three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:93; R.S. 17:415.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1268 (June 2005).

§703. Student Records

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

1. Student cumulative records shall continually be updated and, when applicable, contain the following:

- a. name, gender, social security number or a state-assigned identification number, date of admission, and date of birth;
- b. name and address of parents, legal guardian, and/or next of kin;
- c. language or means of communication, spoken or understood;
- d. a cumulative record of the student's progress through the curriculum;
- e. health history;
- f. student grades;
- g. attendance records;
- h. results of vision and hearing screening;
- i. all immunizations given in accordance with the requirements of the State Department of Public Health recorded on a cumulative health record;
- j. scores on LEAP 21 tests and scores on local testing programs and screening instruments necessary to document the local criteria for promotion;
- k. information (or reasons) for student placement, including promotion, retention, and/or remediation and acceleration;
- l. information on the outcome of student participation in remedial and alternative programs; and
- m. a copy of the letter informing the parent of either the placement of the student in or the removal of the student from a remedial education program.

2. The following are applicable to students eligible under IDEA or Section 504:

- a. records of parent/teacher conferences prior to referral to pupil appraisal;
- b. results of all educational screening information;
- c. educational interventions and their results;
- d. multi-disciplinary evaluation reports;
- e. a copy of the IEP, including least restrictive environment justification;
- f. a copy of the Individualized Accommodation Program (IAP);
- g. a copy of the parent's written consent for the student to be moved from an alternative to a regular placement program;
- h. documentation of contact with School Building Level Committee prior to referral to pupil appraisal;
- i. access sheet for special education confidentiality; and
- j. LEAP 21 Individual Student Reports.

B. Each teacher shall be provided with record forms or materials on which the roster of each class taught shall be kept and on which all data used to determine student progress shall be recorded.

1. This record is and shall remain the property of the school and shall be filed with the principal at the end of the school.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:170; R.S. 17:182; R.S. 17:232; R.S. 17:391.3; R.S. 17:391.4; R.S. 17:400; R.S. 17:1944; R.S. 17:2112.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1268 (June 2005).

§705. Student Academic Records and Reports

A. A report of each student's progress in school shall be provided to parents or guardians at intervals designated by the local educational governing authority and shall contain a report of progress made by the student in each subject or area.

B. Schools shall prepare a progress report related to the short-term objectives in the IEP/Placement document for each exceptional child and must provide the report to the parent at the same time as report cards are provided to all regular students.

C. Parents shall be informed of the results of statewide assessment tests.

D. No education record of any student may be withheld as a result of lack of payment of any fine, debt or other outstanding obligation.

E. An education record of a student may be inspected by the student or his or her parents in accordance with the federal Family Education Rights and Privacy Act.

F. Each LEA shall submit to the president of the Senate and the speaker of the House of Representatives a list of students in grades 9-12 who have attained a grade point average of at least a 3.5 on a 4.0 scale or the equivalent grade point in any LEA which uses a different grading scale for the work done during that school year in order that such students may receive the Legislative Academic Achievement Award.

AUTHORITY NOTE: Promulgated in accordance with USCS 1232g; R.S. 17:112; R.S. 17:177; R.S. 17:391.7(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1269 (June 2005).

§707. Evaluation of Transfer Students' Records

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

1. Records, including evaluation information for exceptional students transferring from another system, shall be reviewed by pupil appraisal and approved by the Supervisor of Special Education before the student is enrolled in a special education program.

2. Students in grades five and nine transferring to the public school system from any in-state nonpublic school (state approved and unapproved), or home schooling program, or Louisiana resident transferring from any out-of-state school, shall be required to pass the English language arts and Mathematics components portions of the state-developed LEAP 21 placement test.

B. Local school officials from any state-approved school receiving a student from an unapproved school, in- or out-of-state, approved home study programs, or foreign schools will determine the placement and/or credits for the student through screening, evaluations, and/or examinations.

1. The principal and/or superintendent may require the student to take an examination on any subject matter for which credit is claimed.

2. The school issuing the high school diploma shall account for all credits required for graduation, and its records will show when and where the credit was earned.

3. Students in grades five and nine transferring to the public school system from any in-state nonpublic school (state approved and unapproved), or home schooling program, or Louisiana resident transferring from any out-of-state school, shall be required to pass the English language arts and Mathematics components of the state-developed LEAP 21 placement test.

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

NOTE: Refer to *Bulletin 1566—Guidelines for Pupil Progression*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1269 (June 2005).

§709. Transfer of Student Records

A. The principal shall provide for the transfer of the education records, including special education records, of any student who was enrolled at the school upon the written request of any authorized person on behalf of an educational facility within or outside of the state of Louisiana, where the student has become enrolled or is seeking enrollment.

1. The transfer of such records, whether by mail or otherwise, shall occur not later than 10 business days from the date of receipt of the written request.

2. If a student has been expelled, the transferred records shall include the dates of the expulsion and the reasons for which the student was expelled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112; R.S. 17:221.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005).

§711. Textbook Records

A. The school and LEA shall keep a record of all textbooks on hand at the beginning of the session, as well as records of those added and those worn out.

B. Refer to §1703 for more policies related to textbooks.

C. Refer to *Bulletin 1794—Policy and Procedure Manual—Textbooks (LAC 28:XXXIII)* for information on the disposal of old textbooks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:8; R.S. 17:8.1; R.S. 17:93.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005).

§713. Attendance Records

A. The attendance of all school students shall be checked each school day and at the beginning of each class period and shall be verified by the teacher keeping such records which shall be open to inspection by the visiting teacher, or supervisor of child welfare and attendance, or duly authorized representative, at all reasonable times. All schools shall immediately report to the visiting teacher, or supervisor of child welfare and attendance, any unexplained, unexcused, or illegal absence, or habitual tardiness.

B. No public elementary or secondary school student who has not been emancipated by judicial decree or by marriage shall be permitted for any reason to leave school during the school day on his or her own authority.

1. The school principal or the principal's designee shall make all reasonable efforts to notify the parent or other person responsible for the student's school attendance of any such prohibited absence by a student.

2. For the purposes of notification as required by this Paragraph, a parent or other person responsible for a

student's school attendance may designate in writing with the school principal one or more alternative contact persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:232; R.S. 17:235.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005).

§715. System and School Reports

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

B. On a date specified by the DOE, the local superintendent shall forward the Annual System Report to the DOE.

C. On a date specified by the DOE, the principal shall forward the Annual School Report, through the local superintendent's office, to the DOE.

1. The certification form shall be signed by the superintendent verifying that all data submitted are accurate.

D. Each local superintendent shall keep a record of all business transacted by him as superintendent.

E. On dates specified by the DOE, the local superintendent shall forward the information required for the completion of the Annual Financial and Statistical Report to the DOE.

1. Schools shall furnish information required for the completion of the Annual Financial and Statistical Report on report forms supplied by the LEA.

F. Each LEA shall provide reports as required by the DOE for the review of the status and needs for additional construction and/or renovation of the physical facilities of the physical facilities of the LEA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.5; R.S. 17:92; R.S. 17:93.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005).

§717. Reports of High School Credit

A. A finalized list of graduates and PreGED/Skills Options Program completers shall be submitted by the state-approved high school accompanied by the assurance statement signed by both the principal and the superintendent of the LEA in order to receive diplomas.

1. Prior to February 15 for mid-term graduates and PreGED/Skills Options Program completers and prior to June 15 for spring graduates and PreGED/Skills Options Program completers, a certificate of high school credits for each graduate and each PreGED/Skills Options Program completer shall be submitted by each state-approved high school as required.

2. A certificate of high school credits (transcript) shall be submitted by the state-approved high school in order for a diploma or an Options Program skill certificate to be issued to those students graduating or exiting at times other than mid-term and spring.

3. Upon receipt of the finalized list of graduates and PreGED/Skills Options Program completers, the DOE will issue the diplomas and the Options Program skill certificates.

B. Prior to the date of graduation or Options Program completion, the DOE shall have the authority to determine the issuance of a diploma or an Options Program skill certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(11).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005).

§719. Reports to the Supervisors of Child Welfare and Attendance

A. The principals, or administrators, and the teachers of all schools shall report the names, birth dates, race, parents, and residence of all students in attendance at their schools or classes in writing to the central office within 30 days after the beginning of the school term or session, and at such other times as may be required by BESE or the DOE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:232.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005).

§721. School and School System Financial Records

A. Each local educational governing authority shall submit to the State Superintendent of Education a copy of its adopted budget no later than September 30 of each year, which shall include the same line items as prescribed by BESE for inclusion in the financial and statistical report as well as a general summary of the adopted budget.

B. Each school shall have an accounting system and an annual audit of all activity funds.

1. All expenditures from activity funds shall be approved by the principal or a designated staff member.

2. The principal of the school shall be bonded.

C. Funds shall be budgeted and expended and facilities assigned to ensure advantageous educational opportunities at all grade levels throughout the community.

1. All funds shall be used in accordance with provisions of the agency providing such funds.

2. LEAs shall maintain an accurate audit trail of allocated state and federal funds.

3. Each LEA shall allocate annually to each secondary school in the school system, in addition to any other funding, not less than \$50 per student enrolled at the school in a vocational agriculture, agribusiness, or agriscience program for use in providing adequate instructional materials and supplies for such students.

D. Each public school principal shall maintain a school fund as provided in R.S. 17:414.3 for the management of any money that accrues to the benefit of the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:88; R.S. 17:181; R.S. 17:414.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005).

§723. Other Reports

A. Any other records and reports applicable to the LEA and to schools as required by BESE or the DOE shall be submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005).

Chapter 9. Scheduling

§901. Scheduling

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

1. A copy of the daily/weekly schedule of work providing for all subject areas in the curriculum shall be on file in the principal's office and shall be posted at all times.

B. Prior to student scheduling each year, each middle, junior, or high school shall provide the parent/guardian/legal custodian with a listing of course offerings, the content of each, and high school graduation requirements where appropriate.

1. By the end of the eighth grade, each student shall develop, with the input of his family, a Five Year Educational Plan. Such a plan shall include a sequence of courses that is consistent with the student's stated goals for one year after graduation.

2. Each student's Five Year Educational Plan shall be reviewed annually thereafter by the student, parents, and school advisor and revised as needed.

3. Every middle, junior, or high school shall require that the parent/guardian/legal custodian sign his/her child's schedule form and the Five Year Educational Plan for students in grades 8-12.

C. Student scheduling shall be individually appropriate and flexible to allow entry into and exit from courses and course sequences that are available for meeting curricular requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:175; R.S. 17:183.2; R.S. 17:391.13; R.S. 17:401.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005).

§903. Exceptional Students

A. Exceptional students shall not be placed in alternative educational settings that exceed the maximum pupil/teacher ratio or the three-year chronological age span. The age span requirement does not apply to programs for secondary-aged students (students aged 14 through 21).

B. Special class, separate schooling, or other removal of students with disabilities from the regular educational environment shall occur only when the nature or severity of the individual's needs is such that education in regular class with the use of supplementary aids and services cannot be achieved satisfactorily. Reasons for selecting a more restrictive environment may not be based solely on category of disability, severity of disability, availability of educational or related services, administrative convenience or special equipment. Refer to *Bulletin 1706—Subpart A-Regulations for Students with Disabilities*, §446.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151; R.S. 17:1946.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005).

§905. Elementary—Grades Per Class

A. Elementary teachers shall teach no more than two grades in a combined group except in band, music, and art.

1. This policy shall not apply to teachers of exceptional students whose IEP committees have determined their placement to be the regular education classroom.

2. Waivers may be granted to allow for multi-age, multi-ability groupings when appropriate justification and documentation have been provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7; R.S. 17:151; R.S. 17:174.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005).

§907. Secondary—Class Times and Carnegie Credit

A.1. Since each school shall provide 63,720 minutes of instructional time per year, the minimum amount of

instructional time required for one Carnegie credit to be earned shall be as follows:

- a. 10,620 minutes for a six-period schedule;
- b. 9,103 minutes for a seven-period schedule; and
- c. 7,965 minutes for eight-period or 4 x 4 block schedules.

2. For other schedule configurations, a minimum of 7,965 minutes of instructional time must be met for one Carnegie credit to be earned.

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

C. The minimum length of any high school class in which one-half (1/2) Carnegie unit of credit is earned shall be within ± 120 minutes of one-half (1/2) of the total minutes required for one full Carnegie unit of credit.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005).

§909. Length of School Day Requirements

A. For grades prekindergarten-12, the minimum school day shall include 360 minutes of instructional time, exclusive of recess, lunch, and planning periods.

B. The minimum instructional day for a full-day prekindergarten and kindergarten program shall be 360 minutes.

C. Each LEA may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year provided that 63,720 minutes of instructional time per year are met.

D. Each LEA has the option to make the determination regarding the length of the school day for high school seniors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1272 (June 2005).

§911. Planning Time and Lunch Periods

A. Subject to the availability of state funds for this purpose, LEAs shall provide a minimum of 45 minutes daily planning time, or its weekly equivalent, and a minimum of 30 minutes for lunch each day which shall be duty-free for every teacher actively engaged in the instruction and supervision of students in the public schools. Implementation of planning time and lunch periods for teachers as required in this Section shall not result in a lengthened school day.

B. This Section shall not apply to a local educational governing authority operating under the terms of a collective bargaining agreement applicable to teachers employed by the local educational governing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:434.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1272 (June 2005).

§913. Class Size and Ratios

A. The maximum enrollment in a class or section in grades K-3 shall be 26 students and in grades 4-12, 33 students, except in certain activity types of classes in which the teaching approach and the materials and equipment are appropriate for large groups.

B. No teachers at the secondary level shall instruct more than 750 student hours per week, except those who teach the activity classes.

1. When a number of staff members are involved in a cooperative teaching project, the amount of each person's involved time may be counted in computing the individual teacher's load.

C. The maximum class size for Health and Physical Education in grades K-8 and in Physical Education I and II shall be 40. No class may be combined with Physical Education I or II if the total number of students taught is more than 40.

D. The system-wide, student classroom teacher ratio in grades K-3 shall be a maximum of 20 students to one classroom teacher.

NOTE: Refer to *Bulletin 1706—Subpart A-Regulations for Students with Disabilities* for pupil/teacher ratios for special education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: 151; R.S. 17:174.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1272 (June 2005).

§915. Student Activities

A. Each school shall have a well-balanced and effectively administered student activity program.

B. Each LEA shall adopt a written policy on student activities that shall:

1. distinguish between co-curricular and extracurricular activities within the context of the definitions below:

a. co-curricular activities are those activities that are relevant, supportive, and an integral part of the course of study in which the student is enrolled and which are under the supervision and/or coordination of the school instructional staff;

b. extracurricular activities are those activities which are not directly related to the program of studies and which are under the supervision and/or coordination of the school instructional staff and which are considered valuable for the overall development of the student;

2. define an appropriate place for such activities in the school's program;

3. limit and control interruptions of instructional time in the classroom;

4. limit the number of absences allowed for such activities; and

5. specify student eligibility requirements.

C. Extracurricular activities shall not be scheduled during instructional time.

D. Extracurricular services and activities shall be offered to all exceptional students in a manner that allows them equal opportunity to participate in services and activities.

E. No school shall permit the existence or functioning of any fraternity, sorority, or secret society.

F. The Scholastic Rule of the Louisiana High School Athletic Association (LHSAA) shall be adhered to by all high schools under its jurisdiction.

NOTE: See for reference the LHSAA Web site at www.lhsaa.org.

G. All athletic contests shall be scheduled after school hours.

1. When possible, no instructional time should be missed by student athletes when traveling to athletic events.

2. If teams are allowed to be released from school early to attend these events, released time should be kept to a minimum and the LHSAA's Regular Season Released-Time Plan must be followed when determining the released time to be used.

3. All class work missed by student athletes while attending athletic events must be made up as soon as possible in the same manner that would be required of other students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:176.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1272 (June 2005).

Chapter 11. Student Services

§1101. Student Services Design

A. Each LEA shall maintain a balanced, comprehensive, interdisciplinary, and coordinated program of student services. The student services program shall be identified with appropriate functions to assure leadership in accordance with an organizational plan.

B. The goals of student services shall be similar and related to those of the instructional program.

1. These services shall be designed to provide a cooperative approach to problems that require a specialized, individualized service not generally provided within the regular classroom setting and to provide resources to other school personnel, parents, and others concerned with the student and his or her development.

2. Student advocacy shall be the ultimate and foremost goal of all student services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:251; R.S. 17:252; R.S. 17:416.17.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1273 (June 2005).

§1103. Compulsory Attendance

A. Students who have attained the age of seven years shall attend a public or private day school or participate in an approved home study program until they reach the age of 18 years. Any child below the age of seven who legally enrolls in school shall also be subject to compulsory attendance. Refer to Chapter 33 for information on home study programs.

B. Students between the ages of 17 and 18 may withdraw from school prior to graduation with the written consent of their parents, tutors, or legal guardians. A parent, tutor, or legal guardian who has given written consent for a student under his or her control or charge to withdraw from school prior to graduation, or who has a student who is under the age of 17 and is attending or is seeking admission to a National Guard Youth Challenge Program in this state, shall not be considered to be in violation of the compulsory attendance law.

1. The parent, tutor, or other person responsible for the school attendance of a student who is under age 18 and who is enrolled in school beyond his sixteenth birthday may request that the student be allowed to attend an alternative education program or a career and technical education

program. In the case of a student who has no parent, tutor, or other person responsible for his school attendance, the superintendent of the LEA may act on behalf of the student in making such a request. Upon such request, the superintendent of the LEA in which the student is enrolled shall be responsible for determining whether the student remains in the regular school setting or attends an alternative education program or a career and technical education program, and for developing and implementing an individualized plan of education for such student.

2. The compulsory attendance law does not prohibit a student who is at least 16 years of age and who meets the criteria in §2703 from attending an adult education program approved by BESE. A parent, tutor, or other person responsible for the school attendance of a child who is at least 16 years of age but under age 18 and who is enrolled in and is fulfilling the attendance requirements of an adult education program that is approved by BESE shall be considered to be in compliance with the compulsory attendance law.

C. Students shall be expected to be in attendance every student-activity day scheduled by the local educational governing authority.

D. A student is considered to be in attendance when he or she is physically present at a school site or is participating in an authorized school activity and is under the supervision of authorized personnel.

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

a. Half-Day Attendance. Students are considered to be in attendance for one-half day when they:

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

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

b. Whole-Day Attendance. Students are considered to be in attendance for a whole day when they:

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

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

E. A student who is enrolled in regular education and who, as a result of health care treatment, physical illness, accident, or the treatment thereof, is temporarily unable to attend school, shall be provided instructional services in the home or hospital environment (Homebound Instruction).

F. The LEA shall provide educational and related services to exceptional students in accordance with the IEP for no fewer than 177 days, or the equivalent, during the normal 182-day school cycle.

G. In order to be eligible to receive grades, high school students shall be in attendance a minimum of 81 days, or the equivalent, per semester or 162 days a school year for schools not operating on a semester basis. Elementary students shall be in attendance a minimum of 160 days a school year.

H. Each LEA shall develop and implement a system whereby a student's parent, tutor, or legal guardian is given oral notification, or if oral notification cannot be provided, then written notification when that child has been absent from school for five school days in schools operating on a semester basis and for 10 days in schools not operating on a semester basis.

I. The only exception to the attendance regulation shall be the enumerated extenuating circumstances that are verified by the Supervisor of Child Welfare and Attendance. Students shall be temporarily excused from the attendance regulation for the following reasons:

1. extended personal physical or emotional illness as verified by a physician or dentist;
2. extended hospital stay as verified by a physician or dentist;
3. extended recuperation from an accident as verified by a physician or dentist; or
4. extended contagious disease within a family as verified by a physician or dentist.

J. For any other extenuating circumstances, the student's parents or legal guardian must make a formal appeal in accordance with the due process procedures established by the LEA.

K. The only other exception to the attendance regulations shall be other absences that are verified by the principal or his/her designee as stated below:

1. prior school system-approved travel for education;
2. death in the family (not to exceed one week); or
3. natural catastrophe and/or disaster.

L. Students who are verified as meeting extenuating circumstances, and therefore eligible to receive grades, shall not receive those grades if they are unable to complete makeup work or pass the course.

M. Students participating in school-approved field trips or other instructional activities that necessitate their being away from school shall be considered to be present and shall be given the opportunity to make up work.

NOTE: Refer to §1117.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:221; R.S. 17:226; R.S. 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1273 (June 2005).

§1105. Types of Absences

A. The days absent for elementary and secondary school students shall include temporarily excused absences, unexcused absences, and suspensions.

B. Students shall be considered temporarily excused from school for personal illness, serious illness in the family, death in the family (not to exceed one week), or for recognized religious holidays of the student's own faith and shall be given the opportunity to make up work.

C. Students shall not be excused for any absences other than those listed in §1105 B, shall be given failing grades in those subjects for those days missed, and shall not be given an opportunity to make up work.

D. Students shall not be excused from school to work on any job, including agriculture and domestic services, even in their own homes or for their own parents or tutors, unless it is part of an approved instructional program.

E. Students absent from school as a result of any suspension shall be counted as absent, shall be given failing

grades for those days suspended, and shall not be given an opportunity to make up work.

AUTHORITY NOTE: Promulgated in accordance with R. S. 17:226; R.S. 17:235.2; R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1274 (June 2005).

§1107. Entrance Requirements

A.1. All students, upon entering Louisiana schools for the first time, shall present:

a. an official birth certificate (Children born in Louisiana will be given a 15 day grace period to secure a copy of their birth record. Children born out of this state will be given 30 days' grace in which to produce a copy of their birth record);

b. a record of immunization; and

c. an official Social Security card.

2. In cases where birth certificates and/or birth verification forms cannot be obtained, the school principal may accept whatever positive proof of age, race, and parentage is available. It shall be left to the discretion of the parish or city superintendent of schools, subject to the authority of the school board, as to whether or not a child shall continue in school upon failure to comply herewith.

B. Every child, as a prerequisite to enrollment in any first grade of a public school, shall meet one of the following criteria:

1. have attended a full-day public or private kindergarten for a full academic year; or

2. have satisfactorily passed academic readiness screening administered by the LEA at the time of enrollment for first grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151.3; 17:170; 17:222.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1274 (June 2005).

§1109. Assignment and Transfer of Students

A. After the twenty-first calendar day of the school year, no student shall transfer from any public school to any other public school unless the person having legal custody moves the residence to a location in the area of the school to which the student normally would have been assigned.

B. No student may be enrolled in nor continue to attend a school if the residence of the student is a temporary residence established primarily to evade assignment to the school to which the student normally would have been assigned had the temporary residence not been established.

C. LEAs may, by mutual agreement, provide for the admission to any school of students residing in adjoining parishes and for transfer of school funds or other payments by one board to another for, or on account of, such attendance.

D. If not specifically contrary to the provisions of an order of a court of competent jurisdiction providing for the assignment of students within the LEA, a city or parish school board shall assign a student to attend any public school requested by a parent or other person responsible for the student's school attendance when the requested school has space available and is of a suitable grade level, and the child resides not more than one mile from such school measured by the distance to be traveled on public streets or highways, or by the boundary of a subdivision. Exceptions are as follows.

1. This provision does not apply in Orleans Parish.

2. If not specifically contrary to the provisions of an order of a court of competent jurisdiction providing for the assignment of students within the LEA, a city or parish school board in any parish having a population of at least 140,000 but not more than 160,000 persons and the Caddo Parish School Board, shall assign a student to attend any public high school requested by a parent or other person responsible for the student's school attendance when the requested school has space available and is of a suitable grade level, and the student resides not more than 2 miles from such school. A school board shall not be required to provide transportation to any student enrolled in high school pursuant to the provisions of this Paragraph.

NOTE: Refer to §303(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81.1; R.S. 17:105; R.S. 17:221.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1274 (June 2005).

§1111. Age Requirements

A. Special education shall be provided for exceptional students aged 3 through 21, unless they have received a diploma. The LEA shall have the option to provide preschool special education to students with disabilities aged 0 through 2 years.

B. Each LEA shall provide for and offer, in every school having a first grade or in a parish kindergarten center, full-day kindergarten instruction to each eligible child.

C. The minimum age for kindergarten shall be one year younger than the age required for that child to enter first grade as established by the local educational governing authority.

1. Each local educational governing authority, by rule, may provide, for a child of younger age to enter kindergarten; provided that such child has been evaluated and identified as gifted in accordance with the regulations of the DOE for such evaluation. Any child admitted to kindergarten pursuant to this Paragraph shall be eligible to enter first grade upon successful completion of kindergarten, provided all other applicable entrance requirements have been fulfilled.

2. Any child transferring into the first grade of a public school from out-of-state and not meeting the requirements herein for kindergarten attendance, shall be required to satisfactorily pass an academic readiness screening administered by the LEA prior to the time of enrollment for the first grade.

3. Any child not able to meet the kindergarten attendance requirements of this Section due to illness or extraordinary, extenuating circumstances as determined by the local educational governing authority, shall be required to satisfactorily pass an academic readiness screening administered by the LEA prior to the time of enrollment for the first grade.

4. Every parent, tutor, or other person having control or charge of a child who is eligible to attend full-day kindergarten, as a prerequisite to enrollment in any first grade of a public school shall send such child to attend public or private full-day kindergarten when such instruction is offered in the public schools, or ensure that such child is administered an academic readiness screening prior to the time established for the child to enter first grade.

D. The age at which a child may enter the first grade of any public school at the beginning of the public school

session shall be six years on or before September 30 of the calendar year in which the school year begins.

1. Any local educational governing authority in a parish having a population of at least 450,000 may adopt, by rule, and enforce ages for entrance into first grade in the schools in its system which vary from the provisions of this Section. All children admitted into school as a result of a rule adopted pursuant to such a rule shall be counted in reports submitted for funding under the Minimum Foundation Program (MFP) and money allocated pursuant to such program shall be based on the report which includes such children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151.3; R.S. 17:222.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1275 (June 2005).

§1113. Orientation for Parents of First Time Students

A. Each student entering public school within the state for the first time, including kindergarten, shall present at the time of registering or entering satisfactory evidence that at least one of his parents or guardians has completed the orientation course required by this Section. The certificate of completion required by this Section shall constitute satisfactory evidence.

B. Each local educational governing authority shall conduct a parent orientation course according to the following guidelines.

1. The program shall be not less than three hours in duration and shall be scheduled to accommodate the attendance of the parents or guardians without the loss of work.

2. All parents or guardians shall be encouraged to attend as many times as they wish.

3. The local educational governing authority shall provide every parent or guardian who attends the program a certificate verifying completion of the course.

4. At the parent orientation meeting, the local educational governing authority or its representative shall provide each parent or guardian a copy of and shall explain school board policies which:

a. govern the discipline of students, including but not limited to corporal punishment, detention, suspension, and expulsion of students;

b. govern the attendance of students and truancy sanctions;

c. govern the behavior and decorum expected of students at all times;

d. govern dress codes for students for all school functions, including but not limited to in-school and out-of-school functions, including but not limited to dances; and

e. address any other such matters as the local educational governing authority may deem appropriate.

5. At the parent orientation meeting, the local educational governing authority or its representative shall explain:

a. existing grading systems for the LEA;

b. standardized test procedures in effect, including but not limited to preparation for tests, procedures to be followed on the testing days, and an explanation of the assessment of the test results;

c. policies governing promotion of students from grade to grade and procedures implemented when a student fails to attain sufficient standards for promotion; and

d. other such matters as the local educational governing authority may deem appropriate.

C. Completion of one orientation course shall be satisfactory for the enrollment or registration of all children of a parent or guardian.

D. A local educational governing authority shall schedule not less than three orientation meetings during a school year, and at various times during the day, in order to facilitate attendance with as little inconvenience to the parents or guardians as possible. In order to carry out the intent and purpose of this Section, a local educational governing authority shall schedule not less than three orientation meetings between March and September of each year, and shall publish notice and otherwise seek to notify parents or guardians whose children may enter a school in the system of the attendance requirements.

E. If teachers of any LEA are required to attend an orientation meeting for first time parents as part of their job responsibilities on a day or at a time when the teachers would not otherwise have been required to work, then the teachers shall be compensated at their usual rate of pay on a pro rata basis.

F. Under no circumstances shall a student be denied entry into school because of noncompliance by a parent or guardian with the provisions of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:235.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1275 (June 2005).

§1115. Statements of Compliance

A. Each local educational governing authority shall require each student in grades 4 through 12 in each school under the control of the local educational governing authority annually to sign a statement of compliance committing to do at least all of the following:

1. attend school daily, except when absent for reasons due to illness or other excused absence;
2. arrive at school on time each day;
3. demonstrate significant effort toward completing all required homework assignments; and
4. follow school and classroom rules.

B. Each parent or guardian of each student in grades 4 through 12 in any public school in the state annually shall sign a statement of compliance committing to do at least all of the following:

1. ensure that his/her child attends school daily except for excused absences;
2. ensure that his/her child arrives at school on time each day;
3. ensure that his/her child completes all required homework assignments; and
4. attend all required parent and teacher or principal conferences.

C. Prior to the signing by any student of the statement of compliance as required in this Section, each homeroom teacher or teacher designated by the principal shall, on the first day of school each school year, provide information to and answer any questions from students in grades 4 through 12 relative to the statement of compliance.

D. Each local educational governing authority shall adopt rules and regulations necessary for the implementation of this Section. Such rules and regulations shall include the following:

1. appropriate action to be taken against any student or parent or guardian who fails to comply with the signed statement as required in this Section; and

2. guidelines for homeroom teachers to provide information and answer questions about the compliance statements, including a specified amount of time necessary for teachers to accomplish such requirements.

AUTHORITY NOTE: Promulgated in accordance with R. S. 17:235.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1276 (June 2005).

§1117. Child Welfare and Attendance

A. Visiting teachers, supervisors of child welfare and attendance, and home-school coordinators shall give written notice, either in person or by registered mail, to the parent or guardian of a student within the compulsory school attendance age, when no valid reason is found for a student's nonenrollment or unexcused absence from school, requiring enrollment or attendance within three days from the date of notice.

B. Visiting teachers or supervisors of child welfare and attendance shall receive the cooperation of all teachers and principals in the parish or city in which they are appointed to serve.

C. Each school shall, upon the request of the LEA where the school is located, state whether any individual student is enrolled in such school and whether such pupil is fulfilling the compulsory attendance requirements.

D. Any student who is a juvenile and who is habitually absent from school or is habitually tardy shall be reported by visiting teachers and supervisors of child welfare and attendance to the family or juvenile court of the parish or city as a truant child, pursuant to the provisions of Chapter 2 of Title VII of the Louisiana Children's Code relative to families in need of services, there to be dealt with in such manner as the court may determine, either by placing the truant in a home or in a public or private institution where school may be provided for the child, or otherwise.

E. A student shall be considered habitually absent or habitually tardy when either condition continues to exist after all reasonable efforts by the principal and the teacher have failed to correct the condition after the fifth unexcused absence or fifth unexcused occurrence of being tardy within any month or if a pattern of five absences a month is established. The student's principal or the principal's designee, with the aid of the teachers, shall file a written report showing dates of absence or tardiness, dates and results of school contacts with the home, and such other information as may be needed by the visiting teacher or supervisor of child welfare and attendance.

NOTE: Refer to §1103.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:232, R.S. 17:235.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1276 (June 2005).

§1119. Health Screening

A. Every LEA, during the first semester of the school year or within 30 days after the admission of any students entering the school late in the session, shall test the sight, including color screening, for all first grade students, and hearing of each and all students under their charge, except those students whose parent or tutor objects to such examination. Such testing shall be conducted by

appropriately trained personnel, and shall be completed in accordance with the schedule established by the American Academy of Pediatrics.

B. Upon the request of a parent, student, school nurse, classroom teacher, or other school personnel who has reason to believe that a student has a need to be tested for dyslexia, that student shall be referred to the school building level committee for additional testing. Local school systems may provide for additional training for school nurses to aid in identifying dyslexic students. Refer to §1123.

C. The LEA shall keep a record of such examination, shall be required to follow up on the deficiencies within 60, and shall notify in writing the parent or tutor of every student found to have any defect of sight or hearing. A written report of all such examinations shall be made to the State Superintendent of Education but shall not be made available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:2112.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1276 (June 2005).

§1121. Immunizations

A. All students entering any school within the state for the first time, at the time of registration or entry, shall present satisfactory evidence of immunity to or immunization against vaccine-preventable diseases according to a schedule approved by the office of public health, Department of Health and Hospitals, or shall present evidence of an immunization program in progress.

1. The schedule shall include, but not be limited to measles, mumps, rubella, diphtheria, tetanus, whooping cough, poliomyelitis, and hemophilus influenzae Type B invasive infections.

2. The schedule may provide specific requirements based on age, grade in school, or type of school. At its own discretion and with the approval of the office of public health, an educational institution or licensed day care center may require immunizations or proof of immunity more extensive than required by the schedule approved by the office of public health.

B. A student transferring from another LEA in or out of the state shall submit either a certificate of immunization or a letter from his personal physician or a public health clinic indicating immunizations against the diseases in the schedule approved by the office of public health having been performed, or a statement that such immunizations are in progress.

C. If booster immunizations for the diseases enumerated in the schedule approved by the office of public health are advised by that office, such booster immunizations shall be administered before the student enters a school system within the state.

D. School principals shall be responsible for checking students' records to see that the provisions of this Section are enforced.

E. No student seeking to enter any school shall be required to comply with the provisions of this Section if the student or his parent or guardian submits either a written statement from a physician stating that the procedure is contraindicated for medical reasons, or a written dissent from the student or his parent or guardian is presented.

F. In the event of an outbreak of a vaccine-preventable disease at the location of a school, the principal is

empowered, upon the recommendation of the office of public health, to exclude from attendance unimmunized students until the appropriate disease incubation period has expired or the unimmunized person presents evidence of immunization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:170.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1277 (June 2005).

§1123. Educational Screening and Evaluation

A. All LEAs shall ensure that appropriate educational screening and evaluation services are provided to students.

B. Every student in public school in grades kindergarten through third shall be screened, at least once, for the existence of impediments to a successful school experience. No student shall be screened if his parent or guardian objects to such screening.

1. Such impediments shall include:

- a. dyslexia and related disorders,
- b. attention deficit disorder, and
- c. social and environmental factors that put a student "at risk."

2. Students in need of services and/or assistance shall have it provided to them. Services for dyslexia and related disorders shall be provided in accordance with R.S. 17:7(11).

3. The screenings shall be done directly by elementary school counselors, pupil appraisal personnel, teachers, or any other professional employees of the LEA who have been appropriately trained, all of whom shall operate as advocates for the students identified as needing services or assistance. No screenings shall be done by persons who have not been trained to do such screenings.

C. Each LEA shall ensure that educational screening activities, conducted by a committee at the school level, shall be completed before a student is referred for an individual evaluation through pupil appraisal services.

D. Students who are experiencing learning or adjustment difficulties in a regular program, but are not thought to be exceptional, may receive support services from pupil appraisal by a referral from a committee at the school level. They should also be considered for such issues as dyslexia, attention deficit concerns, and any other area that might be contributing to their difficulties in the school setting.

E. Students thought to be exceptional shall be provided an individual evaluation by qualified personnel.

F. The LEA shall ensure that no student shall be placed in special education without a valid and current individual evaluation and an IEP signed by the student's parent(s).

G. Re-evaluation of exceptional students shall be conducted at least every three years.

NOTE: Refer to §1119.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11); R.S. 17:392.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1277 (June 2005).

§1125. Comprehensive Counseling

A. School counselors shall spend the majority of their time on providing direct counseling related to students. Responsibilities of the school counselor shall not include the administration of discipline, substitute teaching or administrative clerical duties. Refer to the Louisiana State Comprehensive Guidance and Counseling Model.

B. Each secondary school shall provide school counselors at a ratio of 1:450 or a major fraction thereof. Each elementary school and middle school shall provide school counselors when enrichment formula funds are provided.

C. A planned, comprehensive counseling program that is preventive and developmental in nature shall be provided in the school through an interdisciplinary approach.

1. These services shall include, but not be limited to providing counseling, educational information, career/occupational information, personal/social information services, referral services, consultation, orientation, testing, placement, and follow-up.

2. Individual and group counseling services shall be provided to students at all levels, as well as to teachers, administrators and parents.

3. Individualized counseling shall be provided to students to ensure appropriate placement into and exit from the courses and course sequences that are available for curricular requirements.

4. Immediate assistance shall be provided for students who experience problems, and long-range services shall be made available when necessary.

5. Each school shall have in the student counseling area or library center, guidance materials to aid students in their educational, vocational, personal, social, health, and civic development.

NOTE: Refer to the Louisiana State Comprehensive Guidance and Counseling Model.

AUTHORITY NOTE: Promulgated in accordance with R. S. 17:3002 et seq.; R.S. 17:3005.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1277 (June 2005).

§1127. Preventive Programs

A. Positive preventive programs are those programs aimed at identifying and eliminating problems that impede student learning.

B. Each school shall develop a professional approach to the prevention of nonattendance and to problems involving chronic absenteeism.

C. Each LEA shall include in the curriculum a program of substance abuse prevention, to include effective informational and counseling strategies, and information designed to reduce the likelihood that students shall injure themselves or others through the misuse and abuse of chemical substances.

1. The substance abuse programs and curricula shall also include procedures for identifying students who exhibit signs of misuse or abuse of such substances and procedures for referral for counseling or treatment.

D. Each LEA shall have a program on the prevention of crime and disruptive behavior. The program shall follow the minimum guidelines established by the DOE in *Bulletin 1627—Act 689 Guidelines* (Crime and Disruptive Behavior).

E. Each LEA may develop and implement, after submission to BESE for approval, a plan for the modification of approved course content and structure to produce interdisciplinary courses for purposes of enhancing dropout prevention programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:13.1; R.S. 17:283; R.S. 17:403; R.S. 17:416.14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1278 (June 2005).

§1129. Administration of Medication

A. Administration of Medication

1. Each local educational governing authority shall establish guidelines based upon the joint policy of BESE and the Louisiana State Board of Nursing for the administration of medications which shall include but not be limited to the following provisions.

2. Any waivers, deletions, additions, amendments, or alterations to this joint policy shall be approved by both boards.

B. Written Orders, Appropriate Containers, Labels and Information

1. Medication shall not be administered to any student without an order from a Louisiana, or adjacent state, licensed physician or dentist, and it shall include the following information:

- a. the student's name;
- b. the name and signature of the physician/dentist;
- c. the physician/dentist's business address, office phone number, and emergency phone numbers;
- d. the frequency and time of the medication;
- e. the route and dosage of the medication; and
- f. a written statement of the desired effects and the child specific potential of adverse effects.

2. Medication shall be provided to the school by the parent or guardian in the container that meets acceptable pharmaceutical standards and shall include the following information:

- a. name of pharmacy;
- b. address and telephone number of pharmacy;
- c. prescription number;
- d. date dispensed;
- e. name of student;
- f. clear directions for use, including the route, frequency, and other as indicated;
- g. drug name and strength;
- h. last name and initial of pharmacist;
- i. cautionary auxiliary labels, if applicable; and
- j. physician's or dentist's name.

3. Labels of prepackaged medications, when dispensed, shall contain the following information in addition to the regular pharmacy label:

- a. drug name;
- b. dosage form;
- c. strength;
- d. quantity;
- e. name of manufacturer and/or distributor; and
- f. manufacturer's lot or batch number.

C. Administration of Medication—General Provisions

1. During the period when the medication is administered, the person administering the medication shall be relieved of all other duties. This requirement does not include the observation period required in Paragraph C.5.

2. Except in life-threatening situations, trained unlicensed school employees may not administer injectable medications.

3. All medications shall be stored in a secured locked area or locked drawer with limited access except by authorized personnel.

4. Only oral medications, inhalants, topical ointments for diaper rash, and emergency medications shall be administered at school by unlicensed personnel.

5. Each student shall be observed by a school employee for a period of 45 minutes following the administration of medication. This observation may occur during instruction time.

6. School medication orders shall be limited to medication which cannot be administered before or after school hours.

D. Principal

1. The principal shall designate at least two employees to receive training and administer medications in each school.

E. Teacher

1. The classroom teacher who is not otherwise previously contractually required shall not be assigned to administer medications to students.

2. A teacher may request in writing to volunteer to administer medications to his/her own students.

3. The administration of medications shall not be a condition of employment of teachers employed subsequent to July 1, 1994.

4. A regular education teacher who is assigned an exceptional student shall not be required to administer medications.

F. School Nurse

1. The school nurse, in collaboration with the principal, shall supervise the implementation of the school policies for the administration of medications in schools to insure the safety, health, and welfare of the students.

2. The school nurse shall be responsible for the training of non-medical personnel who have been designated by each principal to administer medications in each school. The training shall be at least six hours and include but not be limited to the following provisions:

- a. proper procedures for administration of medications including controlled substances;
- b. storage and disposal of medications;
- c. appropriate and correct record keeping;
- d. appropriate actions when unusual circumstances or medication reactions occur; and
- e. appropriate use of resources.

G. Parent/Guardian

1. The parent/guardian who wishes medication administered to his/her student shall provide the following.

a. A letter of request and authorization that contains the following information:

- i. name of the student;
- ii. clear instructions;
- iii. prescription number, if any;
- iv. current date;
- v. name, degree, frequency, and route of medication;
- vi. name of physician or dentist;
- vii. printed name and signature of parent or guardian;
- viii. emergency phone number of parent or guardian; and
- ix. statement granting or withholding release of medical information.

b. Written orders for all medications to be given at school, including annual renewals at the beginning of the school year.

c. A prescription for all medications to be administered at school, including medications that might ordinarily be available over the counter.

d. A list of all medications that the student is currently receiving at home and school, if that listing is not a violation of confidentiality or contrary to the request of the parent/guardian or student.

e. A list of names and telephone numbers of persons to be notified in case of medication emergency in addition to the parent or guardian and licensed prescriber.

f. Arrangements for the safe delivery of the medication to and from school in the original labeled container as dispensed by the pharmacist; the medication shall be delivered by a responsible adult.

g. Unit dose packaging shall be used whenever possible.

2. All aerosol medications shall be delivered to the school in premeasured dosage.

3. No more than a 35 school day supply of medication shall be kept at school.

4. The initial dose of a medication shall be administered by the student's parent/guardian outside the school jurisdiction with sufficient time for observation for adverse reactions.

5. The parent/guardian shall also work with those personnel designated to administer medication as follows:

a. cooperate in counting the medication with the designation school personnel who receives it and sign a drug receipt form;

b. cooperate with school staff to provide for safe, appropriate administration of medications to students, such as positioning, and suggestions for liquids or foods to be given with the medication;

c. assist in the development of the emergency plan for each student;

d. comply with written and verbal communication regarding school policies;

e. grant permission for school nurse/physician consultation; and

f. remove or give permission to destroy unused, contaminated, discontinued, or out-of-date medications according to the school guidelines.

H. Student Confidentiality

1. All student information shall be kept confidential.

NOTE: There is a set of guidelines developed by an Administration of Medication Task Force and approved by the State Board of Nursing, which may be used by LEAs in developing their local administration of medication guidelines. These guidelines are available upon request in the BESE office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:436.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1278 (June 2005).

§1131. Communicable Disease Control

A. The DOE will work cooperatively with the Louisiana Department of Health and Hospitals for the prevention, control and containment of communicable diseases in schools.

B. Students are expected to be in compliance with the required immunization schedule.

1. The principal is required under R.S. 17:170 to exclude children from school attendance who are out of compliance with the immunizations required by this statute.

2. School personnel will cooperate with public health personnel in completing and coordinating all immunization data, waivers and exclusions, including the necessary Vaccine Preventable Disease Section's School Immunization Report forms (EPI-11, 11/84) to provide for preventable communicable disease control.

C. The superintendent may exclude a student or staff member for not more than five days from school or employment when reliable evidence or information from a public health officer or physician confirms him/her of having a communicable disease or infestation that is known to be spread by any form of casual contact and is considered a health threat to the school population. Such a student or staff member shall be excluded unless the public health officer approves school attendance or employment or the condition is no longer considered contagious.

D. When reliable evidence or information from a public health officer or physician confirms that a student/staff member is known to have a communicable disease or infection that is known not to be spread by casual contact, (i.e., HIV infection, Hepatitis B and other like diseases), the decision as to whether the affected person will remain in the school or employment setting will be addressed on a case-by-case basis by a review panel to ensure due process.

E. Mandatory screening for communicable diseases that are known not to be spread by casual contact is not warranted as a condition for school entry or for employment or continued employment.

F. Irrespective of the disease presence, routine procedures shall be used and adequate sanitation facilities will be available for handling blood or bodily fluids within the school setting or on school buses. School personnel will be trained in the proper procedures for handling blood and bodily fluids and these procedures will be strictly adhered to by all school personnel.

G. Any medical information that pertains to students or staff members, proceedings, discussions and documents shall be confidential information. Before any medical information is shared with anyone in the school setting, a "Need to Know" review shall be made which includes the parent/guardian, student if age 18, employee or his/her representative unless the information is required to meet the mandates of federal or state law or regulation, or BESE policy.

H. Instruction on the principal modes by which communicable diseases, including, but not limited to, HIV infection, are spread and the best methods for the restriction and prevention of these diseases shall be taught to students and inservice education provided to all staff members.

I. Due Process Procedures

1. The Review Panel

a. Communicable diseases that are known not to be spread by casual contact (e.g., AIDS, Hepatitis B and other like diseases) will be addressed on a case-by-case basis by a review panel.

b. Panel Membership:

- i. the physician treating the individual;
- ii. a health official from the local parish health department;

iii. a child/employee advocate (e.g., nurse, counselor, child advocate, social worker, employee representative, etc., from in or outside the school setting) approved by the infected person or parent/guardian;

iv. a school representative familiar with the student's behavior in the school setting or the employee's work situation (in most cases the building principal or in the case of a special education student, a representative may be more appropriate);

v. either the parent/guardian of a child, a student if 18, employee, or their representative; and

vi. the school system superintendent.

c. The superintendent will assign a stenographer to record the proceedings.

d. The superintendent will designate the chair of the panel.

e. The chair of the review panel will designate the panel member who will write the "Proposal for Decision."

2. Case Review Process

a. Upon learning of a student/staff member with the LEA who has been identified as having a communicable disease that is known not to be spread by casual contact, the superintendent shall:

i. immediately consult with the physician of the student/staff member or public health officer who has evidence of a present or temporary condition that could be transmitted by casual contact in the school setting:

(a) if the public health officer indicates the student/staff member is well enough to remain in the school setting and poses no immediate health threat through casual contact to the school population because of their illness, the student/staff member shall be allowed to remain in the school setting while the review panel meets;

(b) if the public health officer indicates the student/staff member is currently not well enough to remain in the school setting and/or the affected individual currently has evidence of an illness or infection that poses a potential health threat through casual contact to the school population because of the illness, the student/staff member shall be excluded from the school setting while the review panel meets;

(c) if the public health officer recommends exclusion because a public health threat exists, the review panel will discuss the conditions under which the individual may return to school;

ii. immediately contact the review panel members to convene a meeting to explore aspects of the individual's case;

iii. submit to the parent/guardian or infected person if 18 or older, a copy of the Communicable Disease Control Policy;

iv. observe all federal and state statutes, federal and state regulations, and all BESE policies pertaining to provision of special educational services.

3. The Review Panel Process

a. The Review Panel shall meet within 24-48 hours to review the case. The following aspects should be considered in that review:

i. the circumstances in which the disease is contagious to others;

- ii. any infections or illnesses the student/staff member could have as a result of the disease that would be contagious through casual contact in the school situation;
- iii. the age, behavior, and neurologic development of the student;
- iv. the expected type of interaction with others in the school setting and the implications to the health and safety of others involved;
- v. the psychological aspects for both the infected individual remaining in the school setting;
- vi. consideration of the existence of contagious disease occurring within the school population while the infected person is in attendance;
- vii. consideration of a potential request by the person with the disease to be excused from attendance in school or on the job;
- viii. the method of protecting the student/staff member's right to privacy, including maintaining confidential records;
- ix. recommendations as to whether the student/staff member should continue in the school setting or if currently not attending school, under what circumstances he/she may return;
- x. recommendations as to whether a restrictive setting or alternative delivery of school programs is advisable;
- xi. determination of whether an employee would be at risk of infection through casual contact when delivering an alternative educational program;
- xii. determination of when the case should be reviewed again by the panel; and
- xiii. any other relevant information.

b. Proposal for Decision

- i. Within three operational days (i.e., a day when the school board central office is open for business) after the panel convenes, the superintendent shall provide a written decision to the affected party based on the information brought out in the review panel process and will include the rationale for the decision concerning school attendance for the student or continuation of employment for staff member.
- ii. If the decision is to exclude the affected person from the school setting because of the existence of a temporary or present condition that is known to be spread by casual contact and is considered a health threat, the written decision shall include the conditions under which the exclusion will be reconsidered.
- iii. If the affected person is a special education student, an Individualized Education Program Conference must be convened to determine the appropriateness of the program and services for the student.

4. Appeal Process

a. Rehearing Request

- i. The parent, guardian or affected person who considers the Proposal for Decision unjust may request a rehearing, in writing, directed to the superintendent within three days of the date of the decision. Grounds for requesting a rehearing are limited to:

- (a) new evidence or information that is important to the decision; or
- (b) substantial error of fact.

- ii. The superintendent, within 48 hours from the date of receipt of the request for rehearing, shall either grant

or deny the request for rehearing. If the request for rehearing is granted, the chair shall reconvene the same panel that originally heard the matter within five business days of the date the hearing is granted.

- iii. Within three operational days (a day when the school system's central office is open for business) after the rehearing, the superintendent shall submit the decision to the parent/guardian or affected person.

b. Request for a Local Board Decision

- i. The parent/guardian, affected person or their representative, may make a final written appeal to the president of the local board of education within five operational days after the superintendent's decision. The board shall meet within three operational days and hear the student/staff member's appeal along with the Proposal for Decision and superintendent's decision. Within two business days of the hearing, the board shall render its decision in writing with copies sent to the superintendent, health department official, and parent/guardian or affected person.

- ii. Should the superintendent deny the request for rehearing, the appellant may appeal to the local board of education by exercising the process in Subparagraph b.

- iii. Review Panel Request for Appeal. If the Proposal for Decision or the superintendent's decision is contrary to the majority opinion of the review panel, a majority of the panel has the right to appeal either decision in the same manner stated in the "Appeal Process."

5. General

- a. If the affected student cannot attend school, the LEA will provide an alternative school program.

- i. If the public health officer determines there is a risk of infection to an employee through casual contact while delivering this program, the employee will not be required to provide educational services.

- ii. If the public health officer determines there is no risk of infection to the employee, the employee will be expected to participate in the delivery of educational services.

- b. The review panel member who is serving as the advocate for the infected individual (or another person designated by the panel and approved by the parent/guardian, or the infected person) will serve as the liaison between the student/staff member, family and attending physician as it relates to the school setting.

- c. These procedures in no way limit or supersede the procedural due process requirements established in 29 USC 706(7), R.S. 17:1941, 7946, and 20 USC 1400-1485, et seq.

6. Confidentiality

- a. All persons involved in these procedures shall be required to treat all proceedings, deliberations, and documents as confidential information. Records of the proceedings and the decisions will be kept by the superintendent in a sealed envelope with access limited to only those persons receiving the consent of the parent/guardian or infected person as provided in 20 USC 1232(g).

NOTE: See §1121.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10)(15); R.S. 17:170; R.S. 17:437; R.S. 17:1941; 20 USCS 1232.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1279 (June 2005).

§1133. Substance Abuse

A. Any school employee having reasonable cause to believe that a student possesses a controlled dangerous substance or an alcoholic beverage on a school campus shall report such fact to the principal of the school.

1. If a Substance Abuse Prevention Education (SAPE) team exists within the school, the principal shall forward the report to the chairperson of the team.

2. If the report has been given to the team directly or if the report has been forwarded to the team by the principal, the team shall discuss the circumstances of the report with the student reported without disclosing the name of the reporting person and shall meet with the parents of the student reported.

3. The team shall report to the principal of the school and make recommendations for treatment, counseling, or other appropriate action.

B. Any school employee having factual knowledge that a student has manufactured, distributed, or possessed with intent to distribute a controlled dangerous substance shall report such fact to the principal of the school who, upon finding that there is reasonable cause to believe that the student has manufactured, distributed, or possessed with intent to distribute a controlled dangerous substance, shall report such information to the appropriate law enforcement agency.

C. Any person who makes a report in good faith, pursuant to substance abuse, shall have immunity from civil liability that otherwise might be incurred. Such immunity shall extend to testimony in any judicial proceeding resulting from such report.

NOTE: See §1127.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:402 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005).

§1135. Child Abuse

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

B. Any person making a report in good faith regarding child abuse shall have immunity from civil liability that may be otherwise incurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005).

§1137. Student Identification Badges

A. Each LEA in any parish having a population of between 120,000 and 130,000 persons may provide for an annual student identification badge to be issued to each student in grades 6 through 12 attending a public school in the school system. The badge shall include the student's name and picture, the name of the school which the student attends, and the calendar year for which it is issued. The student shall display such badge in a prominent manner at all times while on school grounds and when attending any school function, including school-sponsored cocurricular and extracurricular activities, unless circumstances otherwise prevent such display.

B. The LEA shall adopt rules and regulations for the implementation of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:179.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005).

§1139. School Dress Codes

A. Each LEA may adopt such rules and regulations as it deems necessary to require a school dress code that includes the use of uniforms.

B. Each school may select a uniform for its students and display such uniform prior to the beginning of each school year.

C. If an LEA chooses to require a school dress code, it shall notify, in writing, the parent or guardian of each school student of the dress code specifications and their effective date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005).

§1141. Electronic Telecommunication Devices

A. No student, unless authorized by the school principal or his/her designee, shall use or operate any electronic telecommunication device, including any facsimile system, radio paging service, mobile telephone service, intercom, or electro-mechanical paging system, in any public school building or school grounds or in any school bus.

B. Nothing in this Section shall prohibit the use and operation by any person, including students, of any electronic telecommunication device in the event of an emergency in which there is actual or imminent threat to public safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:239.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005).

§1143. Prohibition against the Use of Tobacco

A. No person shall smoke, chew, or otherwise consume any tobacco or tobacco product in any elementary or secondary school building.

B. No person shall smoke or carry a lighted cigar, cigarette, pipe, or any other form of smoking object or device on the grounds of any public or private elementary or secondary school property, except in an area specifically designated as a smoking area.

C. Smoking shall be prohibited on any school bus transporting students attending any public elementary or secondary school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:240.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005).

Chapter 13. Discipline

§1301. Disciplinary Regulations

A. Each local educational governing authority shall adopt such rules and regulations as it deems necessary to implement and control any disorderly conduct in the school or on the playground of the school, or on the street or road while going to and from school, or during intermission and recess.

B. Teachers, principals, and administrators may, subject to any rules as may be adopted by the local educational governing authority, apply reasonable disciplinary and corrective measures to maintain order in the schools. (Refer to R.S. 17:416 and R.S. 17:223.)

C. The disciplinary rules (regulations) shall be made known to teachers, parents, and students and shall be reasonably and consistently enforced.

D. Any principal who fails to act on a report of student violations of disciplinary regulations shall explain his/her reasons for such an action to the superintendent of the LEA by which he or she is employed, or to the superintendent's designee.

E. Students, who, through no fault of their parents or guardians or other persons having charge of them, regularly disrupt the orderly processes of the school to which they have been assigned, shall be considered as delinquents and may be reported by the visiting teacher or Supervisor of Child Welfare and Attendance, to the district or family court of the parish having jurisdiction in juvenile matters, there to be dealt with in the manner prescribed by law.

F. Schools shall provide due process prior to suspensions and expulsions.

G. Students who are suspended or expelled shall receive no credit for school work missed while they are suspended or expelled.

H. Each local educational governing authority shall adopt rules regarding the implementation of in-school suspension and detention.

I. Each local educational governing authority shall adopt rules regarding the reporting and review of discipline violations.

J. Each LEA shall establish a discipline policy review committee comprised of sixteen members in accordance with the mandates of R.S. 17:416.8. The LEA shall establish procedures for appointing the two parent members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:223-224; R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005).

§1303. Reasons for Suspensions

A. School principals may suspend from school any student, including an exceptional student, for good cause in accordance with state law and local policy.

B. Students determined to be guilty of the following offenses may be suspended for the following reasons:

1. willful disobedience;
2. disrespect to a teacher, principal, superintendent, and/or member or employee of the local school board;
3. making an unfounded charge against a teacher, principal, superintendent, and/or member or employee of the local school board;
4. using unchaste or profane language;
5. immoral or vicious practices;
6. conduct or habits injurious to his/her associates;
7. using tobacco and/or using and possessing alcoholic beverages or any controlled dangerous substances governed by the Uniformed Controlled Dangerous Substance Law in any form in school buildings or on school grounds;
8. disturbing the school and habitually violating the rules;
9. cutting, defacing, or injuring any part of public school buildings;
10. writing profane or obscene language or drawing obscene pictures in or on any public school premises, or on any fence, sidewalk, or building on the way to or from school;

11. possessing firearms, knives, or other implements that can be used as weapons;

12. throwing missiles on the school grounds;

13. instigating or participating in fights while under school supervision;

14. violating traffic and safety regulations;

15. leaving the school premises without permission or his/her classroom or detention room without permission;

16. habitual tardiness or absenteeism; and

17. committing any other serious offense.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1283 (June 2005).

§1305. Due Process for Suspensions

A. Prior to any suspension, the school principal or the principal's designee shall advise the student in question of the particular misconduct of which he or she is accused as well as the basis for such accusation, and the student shall be given an opportunity at that time to explain his or her version of the facts to the school principal or his or her designee.

B. The principal, or the principal's designee, shall contact by telephone at the telephone number shown on the pupil's registration card or send a certified letter at the address shown on the pupil's registration card to the parent or guardian of the student, giving notice of the suspension, the reasons therefore and establishing a date and time for a conference with the principal or his designee as a requirement for readmitting the student.

1. If the parent or guardian fails to attend the required conference within five school days of mailing the certified letter or other contact with the parent, the truancy laws shall become effective.

2. On not more than one occasion each school year when the parent or guardian refuses to respond, the principal may determine whether readmitting the student is in the best interest of the student.

3. On any subsequent occasions in the same year, the student shall not be readmitted unless the parent, guardian, or other appointed representative responds.

C. A student whose presence in or about a school poses a continued danger to any person or property or an ongoing threat of disruption to the academic process shall be immediately removed from the school premises without the benefit of the procedure described above; however, the necessary procedure shall follow as soon as is practicable.

D. Notice in writing of the suspension and the reasons thereof shall be given to the parent or parents of the suspended student.

E. Any parent, tutor, or legal guardian of a suspended student shall have the right to appeal to the superintendent or to a designee of the superintendent, who shall conduct a hearing on the merits of the case.

F. In all cases of suspensions, the parent, the superintendent of schools, and the visiting teacher and/or Supervisor of Child Welfare and Attendance shall be notified in writing of the facts concerning each suspension, including the reasons therefore and terms thereof.

G. The decision of the superintendent on the merit of the case, as well as the term of suspension, shall be final, reserving the right to the superintendent to remit any portion of the time of suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1283 (June 2005).

§1307. Reasons for Expulsions

A. Students may be expelled for any of the following reasons:

1. any student, after being suspended for committing any of the offenses listed in §1103, may be expelled upon recommendation by the principal of the public school in which the student is enrolled;

2. any student, after being suspended on three occasions for committing any of the offenses listed in §1303 during the same school session, shall, on committing the fourth offense, be expelled from all the public schools of the parish or city school system wherein he or she resides until the beginning of the next regular school year, subject to the review and approval of the local educational governing authority;

3. the conviction of any student of a felony or the incarceration of any student in a juvenile institution for an act which, had it been committed by an adult, would have constituted a felony, may be cause for expulsion of the student for a period of time as determined by the board; such expulsions shall require the vote of two thirds of the elected members of the local educational governing authority;

4. any student found guilty of being in possession of a firearm on school property or on a school bus or at a school sponsored event shall be expelled from school according to the requirements of R.S. 17:416(C)(2);

5. any student found guilty of being in possession of any illegal narcotic, drug, or other controlled substance on school property, on a school bus, or at a school event shall be expelled from school according to the requirements of R.S. 17:416(C)(2).

AUTHORITY NOTE: Promulgated in accordance with R.S.17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005).

§1309. Guidelines for Expulsions

A. No student who has been expelled from any public or nonpublic school outside the state of Louisiana or any nonpublic school within Louisiana for committing any offenses enumerated in R.S. 17:416 shall be admitted to any public school in the state except upon the review and approval by the governing body of the admitting school.

B. No student who has been expelled pursuant to the provisions of R.S. 17:416(C)(2) shall be readmitted to a public school in the school system in which he or she was expelled without the expressed approval of the school board of such school system.

C. Any student who has been expelled from any public or nonpublic school within or outside the state of Louisiana shall provide to any public school or school system in the state to which the student is seeking admission, information on the dates of any expulsion and the reason(s) for which the student was expelled. Additionally, the transfer of a student's records by any public school or school system in the state to any other public or nonpublic school or school system shall include information on the dates of any suspensions or expulsions and the reason or reason(s) for which the student was suspended or expelled. Refer to R.S. 17:416(B)(3).

AUTHORITY NOTE: Promulgated in accordance with R.S.17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005).

§1311. Due Process for Expulsions

A. A recommendation for expulsion is made by the principal.

B. A hearing is conducted by the superintendent of the LEA or someone designated by the superintendent.

C. A determination of whether to expel the student is made by the superintendent or his designee.

D. The principal and teacher as well as the student may be represented by someone of their choice at this hearing.

E. Until the hearing takes place, the student shall remain on suspension.

F. The parent or guardian of the student may, within five days after the decision to expel the student has been rendered, request the local educational governing authority to review the findings of the superintendent or his designee. Otherwise, the decision of the superintendent shall be final.

G. The board, in reviewing the case, may affirm, modify, or reverse the action previously taken.

H. If the board upholds the decision of the superintendent, the parent or guardian of the student may, within 10 days, appeal to the district court for the parish in which the student's school is located. The court may reverse the ruling of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005).

§1313. Discipline for Students with Disabilities

A. If a school district removes a student with disabilities from the student's current educational placement for 10 school days in a school year, consecutively or cumulatively, regardless of the circumstances, beginning on the eleventh day, all students must be offered education services, including:

1. access to the general curriculum;
2. implementation of the student's IEP;
3. access to statewide test/LEAP 21/GEE 21 preparation and/or remediation equal to those services provided to general education students;
4. services and modifications designed to prevent the behavior from recurring, if the behavior involves drugs, weapons or behavior substantially likely to cause injury to the student or others.

NOTE: Refer to *Bulletin 1706—Subpart A-Regulations for Students with Disabilities*.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005).

§1315. Corporal Punishment

A. Each LEA shall have discretion in the use of corporal punishment. In those cases in which an LEA decides to use corporal punishment, the LEA shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools under its jurisdiction.

B. Each LEA shall adopt a policy establishing procedures for the investigation of employees accused of impermissible corporal punishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81.6; R.S. 17:223; R.S. 17: 416.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005).

§1317. Search and Seizure

A. Any teacher, principal, school security guard, or administrator in any LEA of the state may search any building, desk, locker, area, or grounds for evidence that the law, a school rule, or parish or city school board policy has been violated.

B. The teacher, principal, school security guard, or administrator may search the person of a student or his personal effects when, based on the attendant circumstances at the time of the search, there are reasonable grounds to suspect that the search will reveal evidence that the student has violated the law, a school rule, or a school board policy. Such a search shall be conducted in a manner that is reasonably related to the purpose of the search and not excessively intrusive in light of the age or sex of the student and the nature of the suspected offense.

C. Each LEA shall adopt a policy to provide for reasonable search and seizure by teachers, by principals, and by other school administrators of a student's person, desk, locker, or other school areas for evidence that the law, a school rule, or an LEA policy has been violated.

D. Any such policy shall be in accordance with applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1285 (June 2005).

Chapter 15. Plant Operations and Maintenance

§1501. Building and Maintenance

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

B. Sufficient classroom, laboratory, shop, office, storage, and meeting room space shall be provided for the number of students served and the activities conducted in assigned places.

C. Adequate facilities shall be provided for specialized services such as food services, counseling, library, and physical education.

D. School facilities and grounds shall be kept attractive, functional, and clean through regular preventive and corrective maintenance.

E. A site safety officer charged with the supervision of safe practice in storage, use, and distribution of all chemicals shall be designated in each LEA.

F. The LEA must assess the safety of the facilities and equipment in all schools, including the location, quantities, and states of all regulated hazardous substances.

1. A plan to redistribute the unwanted substances must be prepared and kept on file in the central office.

2. Remaining chemicals must be listed on an inventory system.

3. A copy of the inventory must be kept on site in each school, in the central office of each LEA, and at the local fire chief's office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: 24.5; R.S. 17:151.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1285 (June 2005).

§1503. Facility Accessibility

A. Facilities used by LEAs, directly or through contractual arrangement, shall be accessible to and usable by persons with disabilities. Architectural barriers shall not prevent a student with a disability from being educated in the least restrictive educational environment.

B. New facilities or new parts of facilities shall be approved, designed, and constructed under prescribed conditions.

1. They shall not be approved for construction unless and until the DOE and BESE give expressed written approval on the basis of a satisfactory showing by the LEA that adequate provision has been made for the necessary access of the students with disabilities.

2. They shall be designed and constructed in a manner that results in their being readily accessible to and usable by persons with disabilities.

3. They shall be constructed to at least meet the current level of accessibility provided by the *Americans with Disabilities Act (ADA) Accessibility Guidelines for Building and Facilities*.

C. Facilities that are altered for the use of school districts shall be altered to the maximum extent feasible in a manner that results in the altered portion of the facility being readily accessible to and usable by persons with disabilities.

D. Facilities identifiable as being for students with disabilities and the services and activities provided therein shall meet the same standards and level of quality as do facilities, services, and activities provided to other students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1731; 20 USCS 1404; 42 USCS 12101 et seq.; 12131 et seq.; 12203.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1285 (June 2005).

§1505. Program Accessibility

A. Program accessibility for exceptional students shall be ensured within existing facilities and shall be accomplished through either the alteration of existing facilities or nonstructural changes. Such changes shall include:

1. redesign of equipment;
2. assignment of communicative aids;
3. reassignment of classes and other services to accessible buildings;
4. assignment of aides to children;
5. home visits; and
6. delivery of health, welfare, or other social services at alternative accessible sites.

B. A school shall provide programs and activities to exceptional students in the most appropriate integrated setting.

C. Structural changes in facilities shall not need to be made in situations in which other methods effectively ensure accessibility of the program. When structural changes are necessary, they shall be made as expeditiously as possible.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS 1404; 42 USCS 12101 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1285 (June 2005).

Chapter 17. Instructional Support

§1701. Instructional Materials and Equipment

A. Instruction shall be supported with adequate and appropriate instructional materials, equipment, and available community resources that support the stated philosophy and purposes of the school.

B. Instructional materials and equipment shall be in a good state of repair, and provisions shall be made to replace outdated instructional materials and worn-out equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7; R.S. 17:351 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1286 (June 2005).

§1703. Textbooks

A. Each school shall provide textbook materials for each student and shall have proper procedures for selection, storage, and preservation of textbooks.

B. Each LEA shall make a formal adoption of textbooks within six months from the date of their approval by BESE. Refer to *Bulletin 1794—State Textbook Adoption Policy and Procedure Manual* (LAC 28:XXXIII).

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

1. The annual appropriation for the purchase of instructional materials and supplies (state approved textbooks) is defined in the MFP appropriation bill on a per-pupil amount. In order to facilitate the purchase and receipt of these textbooks each year, LEAs are required to submit state textbook orders to the Publisher's Depository, centrally located within the state, between March 15 and May 15.

2. Waivers. LEAs may use state textbook dollars for the purchase of non-adopted instructional materials when:

a. they are purchasing instructional materials for grades K-3 that are manipulative concrete materials or gross motor materials;

b. they do not exceed 10 percent of the total state textbook allocation; and

c. with the approval of their local educational governing authority, they petition in writing the DOE for permission to spend in excess of the 10 percent allowance.

D. Refer to §711 for more policies related to textbooks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:8, R.S. 17:351 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1286 (June 2005).

§1705. School Libraries/Media Centers

A. The library/media center holdings shall reflect the philosophy and purposes of the school, relate directly to the educational program and the teaching techniques used by the teaching staff, and provide an opportunity to explore beyond the sphere of the regular instructional program.

B. The library/media center shall be the major instructional resource center of the school and shall offer varied services and activities for students.

C. Facilities, adequate in size, shall be provided to implement school-wide media services.

D. Available funds shall be expended to ensure a balanced and current library collection that includes the number of volumes and types of resources outlined in the *Guidelines for Library Media Programs in Louisiana Schools*.

E. Each school shall have in its library center a collection of print and nonprint media and equipment in sufficient number and quality to meet the instructional needs of teachers and students. Refer to *Guidelines for Library Media Programs in Louisiana Schools*.

F. Each school shall have library or media services appropriate to the instructional levels and exceptionalities of its students. Elementary schools that do not have a centralized library shall have classroom collections. Refer to *Guidelines for Library Media Programs in Louisiana Schools*.

G. The use of funds for library services for exceptional students shall be at least proportionate to that expended for regular students.

H. Each secondary school shall have a library and shall have librarian(s) as follows.

Student Enrollment	Required Librarians
299 or fewer	One half-time
300-999	One full-time
1000 or higher	Two full-time

NOTE: Refer to *Guidelines for Library Media Programs in Louisiana Schools* for recommended staffing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:351 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1286 (June 2005).

§1707. Disposal of Library Books and Textbooks.

A. An LEA may sell any textbooks or library books no longer in use in the school system to any person or entity for private use at a fee established by the LEA. Funds derived from such sale shall be used by the LEA solely for textbook or library book purchases.

B. If a textbook or library book has been out of use for over six months or upon replacement by a new edition of any such book, an LEA may donate said book to any public hospital, any jail or prison, or any public institution, or to any individual for private use, free of charge.

C. Any textbook or library book which an LEA is unable to sell or donate after being out of use in excess of six months or upon replacement by a new edition of any such book, or any textbook or library book which is deemed by the LEA to be unusable or unsalable, shall be disposed of in an appropriate manner.

D. The reproduction of any textbook or library book no longer in use by an LEA and the use of multiple copies of such books by organized groups or by any educational agency or entity is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:8.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1286 (June 2005).

§1709. Internet Use

A. Each LEA shall adopt policies, in accordance with all applicable state and federal laws, regarding access by students and employees to Internet and online sites that contain or make reference to harmful material, the character of which is such that it is reasonably believed to be obscene, child pornography, conducive to the creation of a hostile or dangerous school environment, pervasively vulgar, excessively violent, or sexually harassing in the school environment.

1. Such policies shall include, but not be limited to prohibitions against accessing sites containing information on the manufacturing or production of bombs or other incendiary devices.

B. Any policies adopted by the LEA shall include the use of computer-related technology or the use of Internet service provider technology designed to block access or exposure to any harmful material as specified in this Section, or both.

C. The provisions of this Section shall not prohibit any authorized employee or student from having unfiltered or unrestricted access to the Internet or an online service for legitimate scientific or educational purposes as determined and approved by the LEA, or from having unfiltered or unrestricted access to the Internet or online services of a newspaper with a daily circulation of at least 1000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1286 (June 2005).

Chapter 19. Community Relations

§1901. School-Community Relations Program

A. The school-community relations program shall be such that the community is fully informed about the educational program, the strengths and needs of the school, and the services available to the school community.

B. The LEA shall regularly assess community needs and shall conduct public relations activities.

C. Each school shall maintain a continuous and specific program of community relations that involves the professional staff, the students, and citizens.

D. Each school shall use its community resources in planning and conducting the total school program.

E. Each school shall seek to enlist the cooperative assistance of all communications media within the community and to provide access to public information about the school, its policies, and activities.

F. Teachers shall make appropriate and effective use of community resources.

G. Parental involvement and support shall be sought through communication between school and home.

H. Each school shall develop a written plan for community/parental involvement.

I. Each LEA shall establish local advisory councils as required by federal, state, and local guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:251; R.S. 17:406.1 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1287 (June 2005).

§1903. Parental Involvement

A. Each LEA shall take whatever action is necessary to ensure parental participation as required by federal, state, and local guidelines in the development of the IEP for exceptional students.

B. Communication from the school to the parent shall be as follows:

1. written;
2. in language understandable to the general public;
3. in the native language of the parent or other mode of communication used by the parent when possible; and/or
4. communicated orally (when necessary) in the native language or other mode of communication so that the parent understands the content of such communication.

C. Full and effective notice communicated from the LEA to the parent of an exceptional student or a student thought to be exceptional shall also include the following:

1. a full explanation of all the procedural safeguards available to the parents, including confidentiality requirements;

2. a description of the proposed (or refused) action, an explanation of the reasons for such actions, and a description of any options that were considered and rejected;

3. a description of each evaluation procedure, type of test, record or report used as a basis for the action, and any other relevant factors; and

4. identification of the employee or employees of the school system who may be contacted.

AUTHORITY NOTE: Promulgated in accordance with; R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1287 (June 2005).

Chapter 21. Support Services

§2101. Transportation

A. The transportation program shall be safe, adequate, and suitable to the needs of the students and the community served while complying with the standards of the DOE. Refer to *Bulletin 1191—School Transportation Handbook*, and applicable laws.

B. Transportation to and from school shall be provided to eligible students under the following conditions:

1. when the student resides more than 1 mile from the school of attendance;

2. with the approval of BESE, when the student resides within 1 mile of the school of attendance if there are exceptional (hazardous) walking situations; and

3. as provided in R.S. 17:158 (A).

C. If transportation is not provided by the LEA, parents of students attending public and nonpublic schools shall be reimbursed for transportation costs according to state guidelines, provided funds are appropriated by the legislature.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1287 (June 2005).

§2103. School Food Service

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

B. Reimbursement payment shall be made only to schools operating under an agreement between the LEA and the DOE.

1. Agreements shall be signed by the designated representative of each LEA. Agreements shall be renewed by an annual submission of an application for participation, unless an amendment is necessary.

2. These agreements may be terminated by either party or may be canceled at any time by the DOE upon evidence that terms of agreements have not been fully met.

C. Participating schools shall adhere to conditions of Agreement as stipulated in *Bulletin 1196—Louisiana Food and Nutrition Programs—Policies of Operation, Revised*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: 82; R.S. 17: 191 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1287 (June 2005).

Chapter 23. Curriculum and Instruction

§2301. Standards and Curriculum

A. Each LEA shall adopt and implement local curricula aligned with state content standards, benchmarks, and grade-level expectations. The state documents are:

1. English Language Arts Standards, Bulletin 1965;
2. Mathematics Framework, Bulletin 1955;
3. Science Framework, Bulletin 1962;
4. Social Studies Content Standards, Bulletin 1964;
5. Foreign Language Content Standards, Bulletin 1966;
6. Arts Content Standards, Bulletin 1963;
7. Physical Education Content Standards, Bulletin 102;
8. Health Education Content Standards, Bulletin 103;
9. K-12 Educational Technology Standards, Bulletin 104;
10. Standards for Serving Four-Year-Old Children, Bulletin 105;
11. Agricultural Education Content Standards, Bulletin 106;
12. Health Occupations Content Standards, Bulletin 107;
13. Marketing Education Content Standards, Bulletin 108;
14. Family and Consumer Science Content Standards, Bulletin 109;
15. Technology Education Content Standards, Bulletin 110;
16. Business Education Content Standards, Bulletin 1977;
17. Trade and Industrial Arts Content Standards, Bulletin 114.

B. Each teacher of required subjects shall provide instruction that includes those skills and competencies designated by local curricula that are based upon the state's content standards, benchmarks, grade-level expectations, and Career and Technical Education Model Course Guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: 24.4; R.S. 17:154.

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

§2303. Planning and Instruction

A. Course content shall meet state and local guidelines relative to unbiased treatment of race, sex, roles, religions, ethnic origins, and political beliefs.

B. Each school's instructional program shall be characterized by well-defined instructional objectives and systematic planning by teachers.

C. Planning by teachers for content, classroom instruction, and local assessment shall reflect the use of local curricula and the state's content standards, benchmarks, grade-level expectations, and Career and Technical Education Model Course Guidelines.

D. The instructional program shall reflect the selection and use of varied types of learning materials and experiences, and the adaptation of organizational and instructional procedures to provide for individual student needs.

E. The instructional program shall reflect the use of varied evaluative instruments and procedures.

F. Teaching strategies and techniques shall be adjusted to accommodate the types of learners served and their individual learning styles.

G. Each school's educational program shall provide for individual differences of students.

AUTHORITY NOTE: Promulgated in accordance with Louisiana Constitution Art. VIII Preamble.

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

§2305. Ancillary Areas of Instruction

A. Each LEA shall develop a character education philosophy and implementation plan consistent with its locally developed curriculum.

B. A public school may offer instruction in personal financial management based upon the concept of achieving financial literacy through the teaching of personal management skills and the basic principals involved with earning, spending, saving, and investing. Such instruction and subject matter shall be integrated into an existing course of study.

C. A public high school shall offer an elective course in American Sign Language, provided that at least 15 students in a school request the course and a certified teacher is available.

D. Any public school in Louisiana may offer instruction in sex education, provided such instruction and subject matter is integrated into an existing course of study such as biology, science, physical hygiene, or physical education.

1. Such instruction should encourage sexual abstinence outside of marriage, and such instruction shall not include religious beliefs, practices in human sexuality, nor the subjective moral and ethical judgments of the instructor or other persons.

2. No such instruction shall be offered in kindergarten or in grades one through six, except that the Orleans Parish School Board may offer instruction in sex education at the third grade level or higher.

3. When offered, such instruction shall be available also to special education students at age-appropriate levels.

4. Any student may be excused from receiving instruction in sex education at the option and discretion of his or her parent or guardian according to procedures provided by the LEA. Such instruction may be offered at times other than during the regular school day, as determined by the LEA.

5. An LEA that chooses to offer instruction in sex education shall provide the following information to the parents and/or guardians of the students:

- a. a description of the course contents;
- b. a listing of course materials to be used; and
- c. the qualifications of the instructor(s).

E. All books, films, and other materials to be used in instruction in sex education shall be submitted to and approved by the local educational governing authority and by a parental review committee, whose membership shall be determined by such board.

F. Each LEA shall include in the curriculum a program of substance abuse prevention, to include informational, effective, and counseling strategies, and information

designed to reduce the likelihood that students shall injure themselves or others through the misuse and abuse of chemical substances.

1. The substance abuse programs and curricula shall also include procedures for identifying students who exhibit signs of misuse or abuse of such substances and procedures for referral for counseling or treatment.

2. Elementary schools shall provide a minimum of 16 contact hours of substance abuse prevention education each school year. Instruction shall be provided within a comprehensive school health program and in accordance with the state substance abuse curriculum (Bulletin 1864) or through substance abuse programs approved by BESE.

3. Secondary schools shall provide a minimum of eight contact hours of substance abuse prevention education each school year for grades 10-12 and 16 hours for grade 9. Instruction shall be provided within a comprehensive school health program and in accordance with the state substance abuse curriculum (Bulletin 1864) or through substance abuse programs approved by the BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154; R.S. 17:261 et seq.; R.S. 17:281 et seq.; R.S. 17:405 et seq.

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

§2307. Assessment

A. Assessment of student performance shall be conducted in each course or instructional level, and mastery of concepts and skills shall be verified.

B. Provisions shall be made for regular assessment of students, and test interpretation and consultation services shall be provided to students, parents, teachers, and administrators.

NOTE: Refer to §705(C).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005).

§2309. Curriculum for Exceptional Students

A. Schools and LEAs shall require the development of an IEP including educational placement for each student determined to be exceptional and in need of special education and related services.

B. Each school and LEA shall include on each IEP all special education and related services necessary to accomplish comparability of educational opportunity between exceptional students and students who are not exceptional.

C. Special education students shall be allowed to earn Carnegie units when possible.

1. The integrity of the Carnegie unit shall not be diminished by any special education program(s).

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

NOTE: Refer to *Bulletin 1706—Regulations for Implementation of the Exceptional Children's Act*, *Bulletin 1508—Pupil Appraisal Handbook*, and *Bulletin 1503—I.E.P. Handbook*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005).

§2311. Curriculum for Gifted

A. Differentiated curricula shall be developed to meet the needs of the gifted student. Differentiated curricula shall contain the following:

1. content that is compact and accelerated in such a way that the amount of time usually involved in mastery is significantly reduced;

2. content that reflects a higher degree of complexity, emphasizes abstract concepts, and develops higher-level thinking processes than is found in regular course work;

3. content that goes beyond the prescribed curriculum to involve the application of learning to areas of greater challenge; and

4. multi-disciplinary content that increases student's abilities to formulate and test new generalizations and/or products.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005).

§2313. Elementary Program of Studies

A. Elementary schools shall adhere to the curricular and time requirements established by the DOE and approved by BESE.

B. Schools and LEAs providing prekindergarten programs shall offer a curriculum that is developmentally appropriate and informal in nature.

NOTE: Refer to *Bulletin 105—Louisiana Standards for Serving Four-Year-Old Children*.

1. The following suggested minimum time requirements for prekindergarten shall be flexibly scheduled to meet the developmental needs of young students.

Teacher-directed activities (whole or small group)	35%
Student-initiated activities (learning center)	35%
Lunch	
Snack and Restroom time	10%
Rest period and/or quiet activities	20%

2. Prekindergarten programs for exceptional students shall offer a curriculum:

a. that is developmentally sequenced based on reliable research;

b. that offers a plan for continuous evaluation; and

c. that offers balanced experiences in pre-academic/academic skills, communication skills, social-emotional skills, self-help skills and motor skills, in accordance with an IEP.

C. The kindergarten shall be informal in nature with teacher-directed and student-initiated activities; it shall be planned to meet the developmental needs of young students.

1. The following minimum time requirements shall be flexibly scheduled to meet the developmental needs of young students.

Teacher directed activities (indoor and outdoor whole and small group)	40%
Child initiated activities (indoor and outdoor learning centers)	35%
Lunch	
Snack and restroom time	10%
Rest Periods	15%

D. Elementary Minimum Time Requirements

1. The elementary grades shall provide a foundation in fundamentals of the language arts, mathematics, social studies, science, health, physical education, and cultural arts.

2. Each grade level, grades one through eight, shall teach the following content subject areas, ensuring strict adherence to the Louisiana Content Standards and grade-level expectations, and locally developed curricula.

3. Elementary schools shall offer an articulated foreign language program for 30 minutes daily in grades four through six, and 150 minutes per week in grades seven and eight.

NOTE: Refer to A Guide for Administrators of Elementary Level Second Language and Immersion Programs in Louisiana Schools.

a. If an LEA does not have a program for foreign language instruction in grades 1-12, a program shall be required upon presentation of a petition requesting the instruction of a particular foreign language. The superintendent of the LEA shall determine the required number of signatures needed.

b. For identified special education students, the IEP Committee shall determine the student's eligibility to receive foreign language instruction.

E. Each public elementary school that includes any of the grades kindertarten through six shall provide at least 30 minutes of quality, moderate to vigorous, organized physical activity each day for all students.

1. No later than September 1 of each year, each elementary school shall report to its school board on compliance with this requirement.

2. The LEA shall report to BESE on compliance no later than October 1.

F. The following are suggested and required minimum minutes for elementary grades.

Grades 1, 2, and 3	
	Suggested Minimum Minutes Per Week
English Language Arts	825
Mathematics	300
Science and Social Studies	225
Foreign Language	150
	Required Minimum Minutes Per Week
Physical Education	150
Health, Music, Arts and Crafts	150

Grades 4, 5, and 6	
	Suggested Minimum Minutes Per Week
English Language Arts	600
Mathematics	300
Science	225
Social Studies	225
Foreign Language	150
	Required Minimum Minutes Per Week
Physical Education	150
Health, Music, Arts and Crafts	150

Grades 7 and 8 (Six Period Day Option)	
	Suggested Minimum Minutes Per Week
English Language Arts	550
Mathematics	275
Science	275
Social Studies Grade 7—American Studies Grade 8—Louisiana Studies	275
Foreign Language	150
	Required Minimum Minutes Per Week
Physical Education	150
Health, Music, Arts and Crafts	125
Grades 7 and 8 (Seven Period Day Option)	
	Suggested Minimum Minutes Per Week
English Language Arts	500
Mathematics	250
Science	250
Social Studies Grade 7—American Studies Grade 8—Louisiana Studies	250
Foreign Language	150
	Required Minimum Minutes Per Week
Physical Education	150
Health, Music, Arts and Crafts	250

1. It is strongly recommended that teachers integrate reading (skills and comprehension) throughout all content areas.

2. For students in grades 1 through 4 who have been identified as reading below grade level, the minimum time requirements in health, music, and arts and crafts are suggested in lieu of required.

3. For students in grades 5-8 who have scored below the Basic level on LEAP 21 in English language arts or mathematics, the minimum time requirements in health, music, arts and crafts, or electives are suggested in lieu of required.

4. English as a Second Language may be offered as a part of English language arts.

5. For students with specific needs, teachers may increase the weekly time in English language arts or mathematics by reducing instructional time in other subjects, subject to the review and approval of the principal.

6. Grade 6 may adhere to the same schedule as grades seven and eight only in organizational patterns that include grades seven and eight.

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

Mathematics	Exploratory Agriscience
Reading	Exploratory Family and Consumer Sciences
Writing	Exploratory Keyboarding
Science	
Social Studies	Exploratory Technology Education:
Art	Communication/Middle School
Speech	Modular Technology/Middle School
Instrumental or Vocal Music	Construction/Middle School
Foreign Languages	Manufacturing Technology/Middle School
Computer/ Technology Education	Transportation Technology/Middle School

a. In Exploratory Technology Education, the minimum time for any cluster is six weeks. The maximum time allowed in a cluster is 36 weeks. All areas in each cluster should be taught.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:17.1; R.S. 17: 24.8; R.S. 17:154-154.1; R.S. 17:261 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005).

§2315. Adding Electives to the Program of Studies- Middle and Secondary

A. An LEA choosing to add an elective course to its program of studies shall establish a policy and procedures for reviewing and approving courses that meet the following Standards for Locally Initiated Electives.

1. Locally initiated electives shall support the standards-based initiatives and shall include the key components addressed in the content standards documents.

2. Electives shall support the mission of the standards-based initiatives: "to develop rigorous and challenging standards that will enable all Louisiana students to become lifelong learners and productive citizens for the 21st century."

3. Electives shall incorporate the Foundation Skills of the State Content Standards (Communication, Problem-Solving, Resource Access and Utilization, Linking and Generating Knowledge, and Citizenship).

4. Electives shall expand, enhance, and/or refine the Mathematics, Science, Social Studies, English/Language Arts, Foreign Languages, Arts, Agricultural Education, and Business Education Standards and grade-level expectations and those standards approved by BESE for other content areas.

5. Electives shall comply with all policies set forth by BESE as stated in this bulletin.

6. An LEA shall develop a process for approving elective courses. This process shall ensure alignment with the standards-based initiatives, compliance with current BESE policy, and all laws and regulations pertaining to students with disabilities.

a. Electives shall enhance, expand, and/or refine the core curriculum. Elective courses shall not replace, duplicate, or significantly overlap the content of core curriculum or other approved electives.

b. Electives shall meet specific curricular goals of the districts.

c. Electives shall include challenging content that require students to extend the knowledge and skills acquired through the core curriculum.

d. Electives shall provide a variety of activities and hands-on learning experiences that accommodate different learning styles.

e. Electives shall include appropriate accommodations for addressing specific instructional and assessment needs of students with disabilities, students who are linguistically and/or culturally diverse, and students who are gifted and talented.

f. Electives shall incorporate assessment strategies that support statewide assessments.

7. Each LEA shall maintain records of all approved electives and shall submit annual reports to the department.

a. All approved electives shall be submitted electronically to the DOE 30 days prior to their implementation.

b. Each LEA shall submit a statement of assurance that approved electives meet State Standards for Locally Initiated Electives as established by BESE.

c. Each LEA shall maintain records of electives that include a rationale for the course, a detailed content outline, certification of the instructor, Carnegie unit credit, prerequisites for the course, a plan for assessing students, a plan for assessing the course, and the dates of implementation.

8. Each LEA shall ensure that electives in the core content areas of English, mathematics, science, social studies, foreign language and art are taught by teachers meeting the highly qualified requirements with regard to NCLB (No Child Left Behind).

9. Electives shall comply with all state and federal constitutional, statutory, and regulatory guidelines and requirements.

a. Each LEA shall be responsible for seeking legal counsel to ensure that elective course content meets the standards set herein.

10. BESE reserves the authority to require LEAs to submit documentation regarding the course content, approval process and/or course evaluation of any approved elective. BESE further reserves the right to rescind local authority to approve electives for an LEA not in compliance with Standards for Locally Initiated Electives.

B. Elective courses designed specifically for special education students shall also be approved by the Division of Special Populations.

C. The DOE will provide BESE with a listing of any new electives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:281 et seq.

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

§2317. High Schools

A. High schools shall adhere to the curricular and time requirements established by the DOE and approved by BESE.

B. Exceptional students shall be afforded meaningful opportunities to participate in all areas of study as determined by the IEP Team during the development of the IEP.

C. The basic unit of credit shall be the Carnegie unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:154; R.S. 17:1944; R.S. 17:1945.

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

§2319. High School Graduation Requirements

A. Standard Diploma

1. The 23 units required for graduation shall include 15 required units and 8 elective units; the elective units can be earned at technical colleges as provided in §2389.

B. In addition to completing a minimum of 23 Carnegie credits, students must pass the English language arts and mathematics components of the GEE 21 and either the science or social studies portions of GEE 21 to earn a standard high school diploma.

1. The English language arts and mathematics components of GEE 21 shall first be administered to students in the 10th grade.

2. The science and social studies components of the graduation test shall first be administered to students in the 11th grade.

3. Remediation and retake opportunities will be provided for students that do not pass the test. Students shall be offered 50 hours of remediation each year in each content area they do not pass. Refer to Bulletin 1566—Guidelines for Pupil Progression, and the addendum to Bulletin 1566—Regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program, Regular School Year.

4. Students may apply a maximum of two Carnegie units of elective credit toward high school graduation by successfully completing specially designed courses for remediation.

a. A maximum of one Carnegie unit of elective credit may be applied toward meeting high school graduation requirements by an eighth grade student who has scored at the Unsatisfactory achievement level on either the English language arts and/or the mathematics component(s) of the eighth grade LEAP 21 provided the student:

- i. successfully completed specially designed elective(s) for LEAP 21 remediation;
- ii. scored at or above the basic achievement level on those component(s) of the eighth grade LEAP 21 for which the student previously scored at the Unsatisfactory achievement level.

C. Prior to or upon the student's entering the tenth grade, all LEAs shall notify each student and his/her parents or guardians of the requirement of passing GEE 21.

1. Upon their entering a school system, students transferring to any high school of an LEA shall be notified by that system of the requirement of passing GEE 21.

D. The Certificate of Achievement is an exit document issued to a student with a disability after he or she has achieved certain competencies and has met certain conditions. Refer to Bulletin 1706—Regulations for the Implementation of the Children with Exceptionalities Act.

E. Minimum Course Requirements for High School Graduation

English	4 units
Shall be English I, II, and III, in consecutive order; and English IV or Business English.	
Mathematics	3 units
(Effective for incoming freshmen 2005-2006 and beyond.) All students must complete one of the following:	
<ul style="list-style-type: none"> • Algebra I (1 unit) or • Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units) or • Integrated Mathematics I (1 unit) 	
The remaining unit(s) shall come from the following: Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.	
(Effective for incoming freshmen 1997-98 through 2004-2005) Shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics	

Science	3 units
Shall be the following: 1 unit of Biology 1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I 1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, an additional course from the physical science cluster, or a locally initiated science elective.	
<ul style="list-style-type: none"> • Students may not take both Integrated Science and Physical Science • Agriscience I is a prerequisite for Agriscience II and is an elective course. 	
Social Studies	3 units
Shall be American History, one-half unit of Civics, one-half unit of Free Enterprise; and one of the following: World History, World Geography, or Western Civilization	
Health Education	1/2 unit
Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of four units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Electives	8 units
TOTAL	23 units

F. High School Area of Concentration

1. All high schools shall provide students the opportunity to complete an area of concentration with an academic focus and/or a career focus.

a. To complete an academic area of concentration, students shall meet the current course requirements for the Tuition Opportunity Program for Students (TOPS) Opportunity Award plus one additional Carnegie unit in mathematics, science, or social studies.

b. To complete a career area of concentration, students shall meet the minimum requirements for graduation including four elective primary credits in the area of concentration and two related elective credits, including one computer/technology course. The following computer/technology courses can be used to meet this requirement.

Course	Credit
Computer/Technology Literacy	1
Computer Applications or Business Computer Applications	1
Computer Architecture	1
Computer Science I, II	1 each
Computer Systems and Networking I, II	1 each
Desktop Publishing	1
Digital Graphics and Animation	1/2
Multimedia Presentations	1/2 or 1
Web Mastering or Web Design	1/2
Independent Study in Technology Applications	1
Word Processing	1
Telecommunications	1/2
Introduction to Business Computer Applications	1
Technology Education Computer Applications	1
Advanced Technical Drafting	1
Computer Electronics I, II	1 each

G. Academic Endorsement

1. Graduating seniors in 2005 and thereafter who meet the requirements for a standard diploma and satisfy the

following performance indicators shall be eligible for an academic endorsement to the standard diploma:

a. Students shall complete the academic area of concentration.

b. Students shall pass all four components of GEE 21 with a score of basic or above, or one of the following combinations of scores with the English language arts score at basic or above:

i. one approaching basic, one mastery or advanced, basic or above in the remaining two; or

ii. two approaching basic, two mastery or above.

c. Students shall complete one of the following requirements:

i. senior project;

ii. one Carnegie unit in an AP course with a score of three or higher on the AP exam;

iii. one Carnegie unit in an IB course with a score of four or higher on the IB exam; or

iv. three college hours of non-remedial, articulated credit in mathematics, social studies, science, foreign language, or English language arts.

d. Students shall meet the current minimum grade-point average requirement for the TOPS Opportunity Award.

e. Students shall achieve an ACT Composite Score of at least 23.

H. Career/Technical Endorsement

1. Graduating seniors in 2005 and thereafter who meet the requirements for a standard diploma and satisfy the following performance indicators shall be eligible for a career/technical endorsement to the standard diploma:

a. Students shall meet the current course requirements for the TOPS Opportunity Award or the TOPS Tech Award.

b. Students shall complete the career area of concentration.

c. Students shall pass the English language arts, mathematics, science, and social studies components of the GEE 21 at the Approaching Basic level or above.

d. Students shall complete a minimum of 90 work hours of work-based learning experience (as defined in the DOE Diploma Endorsement Guidebook) and complete one of the following requirements:

i. industry-based certification from the list of industry-based certifications approved by BESE; or

ii. three college hours in a career/technical area that articulate to a postsecondary institution, either by actually obtaining the credits and/or being waived from having to take such hours.

e. Students shall meet the current minimum grade-point average requirement for the TOPS Opportunity Award or the TOPS Tech Award.

f. Students shall achieve the current minimum ACT Composite Score (or SAT Equivalent) for the TOPS Opportunity Award or the TOPS Tech Award.

I. A Louisiana state high school diploma cannot be denied to a student who meets the state minimum high school graduation requirements; however, in those instances in which BESE authorizes an LEA to impose more stringent academic requirements, a school system diploma may be denied.

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

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

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

§2321. Carnegie Credit for Middle School Students

A. Students in the middle grades are eligible to receive Carnegie credit for courses in the high school Program of Studies in mathematics, science, English, social studies, foreign language, keyboarding/keyboarding applications, or computer/technology literacy.

B. Middle school students intending to take a course for Carnegie credit must demonstrate mastery of the eighth grade Grade-Level Expectations in that content area by one of the following means:

1. Successfully complete an accelerated seventh grade course in the content area that addresses both seventh and eighth grade Grade-Level Expectations.

2. Pass an exam developed by the LDE on the eighth grade Grade-Level Expectations in the content area before taking the high school course.

C. Middle school students may receive Carnegie credit for successfully completing the high school course provided that:

1. the time requirement for the awarding of Carnegie credit is met; (§907).

2. the student has mastered the established high school course standards for the course taken;

3. the teacher is certified at the secondary level in the course taught, or the student has passed a credit examination in the subject taken.

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

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

D. The LEA may grant credit on either a letter grade or a Pass or Fail (P/F) basis, provided there is consistency system-wide.

E. The eighth grade LEAP 21 shall be administered in lieu of a required credit exam for students who:

1. scored *unsatisfactory* on the mathematics or English language arts components of eighth grade LEAP 21; and

2. successfully complete a specially designed elective for eighth grade LEAP 21 remediation.

3. students meeting the above criteria who score at or above the *basic* achievement level upon retaking eighth grade LEAP 21 may earn a maximum of one Carnegie unit of elective credit.

F. Students who are repeating the eighth grade because they have failed both the mathematics and English language arts components of LEAP 21 shall not take or receive Carnegie credit for any high school courses other than the required eighth grade remediation courses provided all requirements are met.

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 31:1293 (June 2005).

§2323. Proficiency Examinations

A. High school credit shall be granted to a student following the student's passing of a proficiency examination for the eligible course.

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

1. The testing instrument and the passing score shall be submitted for approval to the Division of Student Standards and Assessments of the DOE.

2. The course title, year taken, P/F (Pass or Fail) and unit of credit earned shall be entered on the Certificate of High School Credits (transcript). MPS (Minimum Proficiency Standards) must be indicated in the remarks column.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:391.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1294 (June 2005).

§2325. Advanced Placement and Military Service Credit

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

1. Procedures established by the College Board must be followed.

2. Courses listed in the Program of Studies may be designated as Advanced Placement courses on the student's transcript by following procedures established by the DOE.

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1294 (June 2005).

§2327. High School Credit for College Courses

A. The following policies apply to students attending colleges or other post secondary institution on a part time basis.

B. The principal of the high school shall approve in advance the course to be pursued by the student in college.

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

D. The principal of the high school shall verify that the contents of the college course meet the standards and grade-

level expectations of the high school course for which the student is receiving credit.

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

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

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

H. Students may participate in college courses and special programs during regular or summer sessions.

I. For gifted students, entry into a college course for credit shall be stated in the student's IEP.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1294 (June 2005).

§2329. Early College Admissions Policy

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

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

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

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

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

1. The high school principal shall submit to the DOE the following:

a. forms provided by the DOE and completed by the college registrar certifying that the student has earned 24 semester hours of college credit; and

b. a Certificate of High School Credits.

F. A student not regularly enrolled in the current school year in the high school shall be automatically eliminated from participation in all high school activities, with the exception of high school graduation ceremonies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:183.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1294 (June 2005).

§2331. High School Program of Studies

A. The high school shall provide a comprehensive, college preparatory, and/or career and technical education curriculum.

B. Each LEA shall adopt a written policy pertaining to the awarding of 1/2 unit of Carnegie credit for all one unit courses listed in the academic and career/technical education course offerings. This policy shall be included in the Pupil Progression Plan of the LEA.

C. One-half unit of credit may be awarded by the school for all one-unit courses, in accordance with the LEA policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:81; R.S. 17:183.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1294 (June 2005).

§2333. Art

A. Art course offerings shall be as follows.

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

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005).

§2335. Computer/Technology Education

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

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

B. Computer Science certification is required to teach Computer Science I and II. Teachers who are identified to teach one of the other Computer Education course offerings at the high school level must hold a valid Louisiana Secondary Certificate in any area and demonstrate sufficient technology proficiencies to teach the course. The district and school shall ensure that teachers have appropriated and demonstrated technology knowledge and skills to teach the courses.

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 31:1295 (June 2005).

§2337. Dance

A. Dance course offerings shall be as follows.

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

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005).

§2339. Driver Education

A. Driver education course offerings shall be as follows.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:270-271.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005).

§2341. English

A. Four units of English shall be required for graduation. They shall be English I, II, and III, in consecutive order, and English IV or Business English.

B. Students who score at the *Unsatisfactory* achievement level on the English language arts component of grade eight LEAP 21 shall pass a high school remedial course in that content area before enrolling any English course in the Secondary Program of Studies for English meeting graduation requirements.

C. The English course offerings shall be as follows.

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

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005).

§2343. Fine Arts

A. The Fine Arts course offerings shall be as follows.

Course Title(s)	Units
Fine Arts Survey	1

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005).

§2345. Foreign Languages

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

Course Title(s)	Units
French I, II, III, IV, V	1 each
German I, II, III, IV, V	1 each
Italian I, II, III, IV, V	1 each
Latin I, II, III, IV, V	1 each
Russian I, II, III, IV, V	1 each
Spanish I, II, III, IV, V	1 each
American Sign Language I, II	1 each

B. Teachers of American Sign Language shall have a valid Louisiana teaching certificate and documentation of the following:

1. Provisional Level Certification from the American Sign Language Teachers Association (ASLTA); or
2. Certificate of Interpretation (CI) from the Registry of Interpreters of the Deaf (RID); or
3. Certificate of Transliteration (CT) from the RID; or
4. Certified Deaf Interpreter certification (CDI) from the RID; or

5. Level IV or V Certificate of Competence from the National Association of the Deaf (NAD); or

6. Level IV or V Official Documentation of the videotaped version of the Educational Interpreter Performance Assessment (EIPA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 273; R.S. 17:284.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005).

§2347. Health Education

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

Course Title(s)	Units
Health Education	1/2

B. Cardiopulmonary resuscitation (CPR) shall be taught.

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 31:1296 (June 2005).

§2349. Jobs for Louisiana's Graduates

A. Jobs for Louisiana's Graduates elective course credit toward high school graduation shall be awarded to any student who successfully masters the Jobs for Louisiana's Graduates core competencies and other additional competencies in the model curriculum.

B. The Jobs for Louisiana's Graduates course offerings shall be as follows.

Course Title(s)	Units
Job's for Louisiana's Graduates I, II, III, IV	1-3 each

C. Teachers shall be certified in any secondary certification or Jobs for Louisiana's Graduates VTIE certification.

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 31:1296 (June 2005).

§2351. Journalism

A. The journalism course offerings shall be as follows.

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

B. Teachers must be certified in journalism to teach Journalism.

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

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

E. Publications I is a prerequisite to Publications II.

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005).

§2353. Mathematics

A.1. Effective for 2005-2006 incoming freshmen and thereafter, three units of mathematics shall be required for graduation. All students must complete one of the following:

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

2. The remaining unit(s) shall come from the following: Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

B. For incoming freshmen 1997-98 to 2004-2005, the three required mathematics courses shall be selected from the following courses and may include a maximum of two entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

C. Students who score at the unsatisfactory achievement level on the mathematics component of grade eight LEAP 21 shall pass a high school remedial course in mathematics before enrolling in any course in the Secondary Program of Studies for Mathematics.

1. Introductory Algebra/Geometry may be used as the high school remediation course for students who have been promoted to the ninth grade without having passed the mathematics component of grade eight LEAP 21.

D. Financial Mathematics may be taught by teachers certified in Business Education.

E. The Mathematics course offerings shall be as follows.

Course Title(s)	Units
Advanced Mathematics I, II	1 each
Algebra I, II	1 each
Algebra I – Part 1	1
Algebra I – Part 2	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics	1
Geometry	1
Integrated Mathematics I, II, III	1 each
Introductory Algebra/Geometry (Remediation Elective)	1
Pre-Calculus	1
Probability and Statistics	1

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005).

§2355. Music

A. The music course offerings shall be as follows.

Course Title(s)	Units
Applied Music	1
Beginning Band	1
Beginning Choir	1

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

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

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005).

§2357. Physical Education

A. One and one-half units of physical education shall be required for graduation. They shall include Physical Education I and II or adapted Physical Education I and II for eligible special education students.

B. The physical education course offerings shall be as follows.

Course Title(s)	Units
Adapted Physical Education I, II, III, IV	1 each
Physical Education I, II, III, IV	1 each

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

D. No more than four units of physical education shall be allowed for meeting high school graduation requirements.

E. In schools having approved Junior Reserve Officer Training Corps (JROTC) training, credits may, at the option of the local school board, be substituted for the required credits in health and physical education.

F. Extra-curricular activities such as intramural sports, athletics, band, majorettes, drill team, dance team, cheerleaders, or any other type of extra activities shall not be counted for credit toward the required physical education.

G. Students shall be exempted from the requirements in physical education for medical reasons only; however, the minimum number of credits required for graduation shall remain 23.

H. Each LEA shall offer, as part of the high school physical education program, sexually segregated contact sports and sexually integrated noncontact sports. Students shall have the option of enrolling in either or both.

I. Any high school student not enrolled in a physical education course is encouraged to participate in moderate to vigorous physical activity commensurate with the ability of the student for a minimum of 30 minutes per day to develop good health, physical fitness, and improve motor coordination and physical skills.

J. Off-campus athletic training programs may substitute for Physical Education I and Physical Education II if the following conditions are met:

1. permission of the principal;

2. the principal's approval of the content and execution of the athletic program;
3. a reporting system for attendance and grading;
4. approval of the local school board;
5. approval by the DOE; and
6. a hold harmless agreement signed by the parent or guardian of the student who would be participating in the off-campus athletic program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:17.1; R.S. 17:24.4; R.S. 17:276.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1297 (June 2005).

§2359. Reserve Officer Training

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

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1297 (June 2005).

§2361. Science

A. Effective for incoming freshmen 1999-2000 and thereafter, the science graduation requirements shall be as follows.

1. 1 unit of Biology
 2. 1 unit from the following physical science cluster:
 - a. Physical Science;
 - b. Integrated Science;
 - c. Chemistry I;
 - d. Physics I;
 - e. Physics of Technology I.
 3. 1 unit from the following courses:
 - a. Aerospace Science;
 - b. Biology II;
 - c. Chemistry II;
 - d. Earth Science;
 - e. Environmental Science;
 - f. Physics II;
 - g. Physics of Technology II;
 - h. Agriscience II (See paragraph (C) below);
 - i. an additional course from the physical science cluster, or
 - j. a locally initiated science elective.
- B. Students may not take both Integrated Science and Physical Science.
- C. Agriscience I is a prerequisite for Agriscience II and is an elective course.
- D. The Science course offerings shall be as follows.

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1297 (June 2005).

§2363. Social Studies

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

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

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

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

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

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

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

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

§2365. Speech

A. The speech course offerings shall be as follows.

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

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

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

§2367. Religion

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

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).

§2369. Theatre Arts

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

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

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

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

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

§2371. Career and Technical Education Course Offerings

A. Administrative procedures for the operation of program areas in Career and Technical Education are found in §§3101-3109.

B. Safety must be taught in all courses. Refer to Bulletin 1674—Career and Technical Education Safety and Health Manual (1992), for safety information.

NOTE: Refer to Career and Technical Education Course Descriptions and Programs of Study for the required prerequisites.

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).

§2373. Agricultural Education

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

Course Title(s)	Recommended Grade Level	Units
Exploratory Agriscience	7-8	-
Agribusiness	11-12	1/2
Agricultural Education Elective I, II	9-12	1/2-3
Agriscience I	9-12	1
Agriscience II	10-12	1
Agriscience III	11-12	1
Agriscience IV	12	1
Agriscience III Laboratory	11-12	1
Agriscience IV Laboratory	12	1
Agriscience-Construction	11-12	1/2
Agriscience Elective	9-12	1
Agriscience-Entrepreneurship	11-12	1/2
Agriscience Internship I	11-12	2
Agriscience Internship II	12	2
Agriscience-Leadership Development	11-12	1/2
Agriscience-Welding Systems I	11-12	1/2
Agriscience-Welding Systems II	11-12	1/2
Animal Systems	11-12	1/2
Aquaculture	11-12	1/2
Biotechnology	11-12	1
Care and Management of Small Animals I	11-12	1/2
Care and Management of Small Animals II	11-12	1/2
Cooperative Agriscience Education I	11-12	3
Cooperative Agriscience Education II	12	3
Crop Systems	11-12	1/2
Environmental Applications	11-12	1/2
Equine Science	11-12	1/2
Food and Fiber	11-12	1/2
Forestry	11-12	1/2
Horticulture I	11-12	1/2
Horticulture II	11-12	1/2
Precision Agriculture	11-12	1
Small Engines (Applications)	11-12	1/2
Industry-Based Certifications		
ABC Welding in Agriscience	11-12	1-3
ABC Carpentry in Agriscience	11-12	1-3
ABC Electricity in Agriscience	11-12	1-3
ABC Pipefitting in Agriscience	11-12	1-3

B. Agriscience III and IV Laboratory, Agriscience Internship I and II, and Cooperative Agriscience Education I and II are offered only to students who are also enrolled in

Agriscience III or Agriscience IV for two consecutive semester courses during the year.

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

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

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

§2375. Business Education

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

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

B. Cooperative Office Education shall be limited to seniors. The students shall have successfully completed Keyboarding/Keyboarding Applications or Introduction to Business Computer Applications and one of the following: ASO or Word Processing or BCA, and have maintained an overall "C" average. The students' attendance records should also be considered. Other prerequisites may be required by the LEA.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005).

§2377. General Career and Technical Education

A. General Career and Technical Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
CTE Internship I	11-12	2
CTE Internship II	12	2
General Cooperative Education I	11-12	3
General Cooperative Education II	12	3
Education for Careers	9-12	1/2-1
Teacher Cadet I	11-12	1

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

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005).

§2379. Family and Consumer Sciences Education

A. The Family and Consumer Sciences (FACS) Education course offerings shall be as follows.

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

Course Title(s)	Recommended Grade Level	Units
Early Childhood Education I	11-12	1-3
Early Childhood Education II	12	1-3
FACS Internship I	11-12	2
FACS Internship II	12	2
Food Services I	11-12	1-3
Food Services II	11-12	1-3
Food Service Technician	11-12	1
Housing & Interior Design Occupations	11-12	1-3
ProStart I	11-12	1-3
ProStart II	12	1-3
Cooperative FACS Education	12	3

AUTHORITY NOTE: Promulgated in accordance R.S. 17:7; R.S. 17:24.4; R.S. 17:279.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005).

§2381. Health Occupations

A. Health Occupations course offerings shall be as follows.

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005).

§2383. Marketing Education

A. Marketing Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Advertising and Sales Promotion	11-12	1
Cooperative Marketing Education I	11-12	3
Cooperative Marketing Education II	12	3
Entrepreneurship	11-12	1
Marketing Education Elective I, II	9-12	1/2-3

Course Title(s)	Recommended Grade Level	Units
Marketing Internship I	11-12	2
Marketing Internship II	12	2
Marketing Management	11-12	1
Marketing Research	11-12	1
Principles of Marketing I	9-12	1
Principles of Marketing II	12	1
Retail Marketing	11-12	1
Tourism Marketing	11-12	1

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005).

§2385. Technology Education

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

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005).

§2387. Trade and Industrial Education

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

Course Title(s)	Recommended Grade Level	Units
Air Conditioning/ Refrigeration I, II	11-12	1-3
Air Conditioning/ Refrigeration III, IV	11-12	2-3
Auto Body Repair I, II	11-12	1-3
Auto Body Repair III, IV	11-12	2-3
Automotive Technician I, II	11-12	1-3
Automotive Technician III, IV, V, VI	11-12	3
General Automotive Maintenance	11-12	1-3
G. M. Technician I, II	11-12	1-3
ABC Carpentry I, II	11-12	1-3
ABC Electrical I, II	11-12	1-3
ABC Instrumentation Control Mechanic I, II	11-12	1-3
ABC Pipe Fitter I, II	11-12	1-3
ABC Welding Technology I, II	11-12	1-3
Masonry I, II	11-12	1-3
Cabinetmaking I, II	11-12	1-3
Carpentry I, II	11-12	1-3
Carpentry III, IV	11-12	2-3
Culinary Occupations I, II	11-12	1-3
Culinary Occupations III, IV	11-12	2-3
Custom Sewing I, II	11-12	1-3
Computer Electronics I, II	11-12	1-3
Commercial Art I, II	11-12	1-3
T & I Cooperative Education (TICE) I	11-12	1-3
T & I Cooperative Education (TICE) II	12	1-3
T & I Elective	11-12	1-3
Cosmetology I, II	11-12	1-3
Cosmetology III, IV	11-12	2-3
Diesel Mechanics I, II	11-12	1-3
Diesel Mechanics III, IV	11-12	2-3
Drafting and Design Technology I, II	11-12	1-3
Drafting and Design Technology III, IV	11-12	2-3
Basic Electricity I, II	11-12	1-3
Electronics I, II	11-12	1-3
Industrial Electronics I, II	11-12	1-3
Electrician I, II	11-12	1-3
Electrician III, IV	11-12	2-3
Graphic Arts I, II	11-12	1-3
Graphic Arts III, IV	11-12	2-3
Horticulture I, II	11-12	1-3
Industrial Engines I, II	11-12	1-3
Laboratory Technology I, II	11-12	1-3
Industrial Machine Shop I, II	11-12	1-3
Industrial Machine Shop III, IV	11-12	2-3
Marine Operations I, II	11-12	1-3
Photography I, II	11-12	1-3
Plumbing I, II	11-12	1-3
Printing I, II	11-12	1-3
Sheet Metal I, II	11-12	1-3
Outdoor Power Equipment Technician I, II	11-12	1-3
Outdoor Power Equipment Technician III, IV	11-12	2-3
Television Production I, II	11-12	1-3
Upholstery I, II	11-12	1-3
Welding I, II	11-12	1-3
Welding III, IV	11-12	2-3

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

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

for 36 weeks in approved trade and industrial education programs. This scheduling allows students to be excused from class for one hour each day for one semester to take the required course in Free Enterprise at either the tenth, eleventh, or twelfth grade level.

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005).

§2389. Credit for Career and Technical Education Courses

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

1. Requests for partial credit because of unusual or extenuating circumstances shall be made as follows:

a. written requests from the local school principal and approval by the local superintendent shall be made to the Division of Family, Career and Technical Education, Louisiana Department of Education (DOE);

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

B. A secondary student attending a postsecondary technical college during the regular school year may receive credit for instruction in any program area offered in the postsecondary technical college if time requirements for Carnegie units are met and if an equivalent course is not offered at the student's local school.

C. A secondary student attending a postsecondary technical college summer program may receive credit for instruction in any program area offered in the postsecondary technical college if time requirements for Carnegie units are met even if an equivalent course is offered at the student's local school during the regular school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:183.1 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1301 (June 2005).

§2391. Secondary Students Attending a Private Cosmetology School

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

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1301 (June 2005).

§2393. Approval for Experimental Programs

A. Experimental programs are programs that deviate from established standards. Such programs shall be approved by the DOE and carried out under controlled conditions.

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

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

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

2. In addition, a brief narrative report stating the intent of the program and the procedures by which the program will be conducted and evaluated, and the following shall be submitted:

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

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

4. Southern Association of Colleges and Schools member schools should comply with appropriate Southern Association standards.

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 31:1302 (June 2005).

§2395. Distance Education

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

1. Local Distance Education Programs shall support the State Content Standards Initiatives.

a. Distance education programs shall support the mission of the standards-based initiatives: "to develop rigorous and challenging standards that will enable all

Louisiana students to become lifelong learners and productive citizens for the 21st century."

b. Distance education courses shall incorporate the Foundation Skills of the State Content Standards (Communication, Problem Solving, Resource Access and Utilization, Linking and Generating Knowledge, and Citizenship).

2. Distance education shall comply with all policies set forth by BESE.

3. Development of Standards-Based Distance Education Program

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

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

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

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

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

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

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

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

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

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

k. The LEA shall evaluate the effectiveness of each distance education course received in the district.

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

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

4. Management and Administration

a. The providing and receiving LEA, school, or agency shall judiciously address issues relative to course

load and student-teacher ratio as appropriate for the particular method of delivery and particular course content and as recommended in the Louisiana Distance Education Handbook.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Specifications

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1302 (June 2005).

§2397. Career Options

A. Preparation for Choosing an Area of Concentration

1. To prepare students for choosing a career option at the high school level, at least six activities which expose students to career and technical and academic fields of study shall be conducted at each grade level in grades six through eight during each school year. Such activities may include field trips, guest speakers, community service activities, and uses of technology such as word processing, desktop production, computer-assisted drafting and graphics. Each school with grades six through eight shall maintain records of such activities.

2. By the end of the eighth grade, each student shall develop, with the input of his family, a Five Year Educational Plan. Such a plan shall include a sequence of courses which is consistent with the student's stated goals for one year after graduation. Each student's Five Year Educational Plan shall be reviewed annually thereafter by the student, parents, and school advisor and revised as needed. Every middle, junior, or high school shall require that the parent/guardian/legal custodian sign his/her child's schedule form and the Five Year Educational Plan for students in grades 8-12. Students shall be able to change from one major (area of concentration) to the other at the end of any school year.

3. School counselors or others designated by the school principal, or both, shall be responsible for the completion of the Five Year Educational Plan of each eighth grade student. The school counselors and others shall counsel each student with regard to high school graduation requirements and shall assist the student in developing his plan. The school counselors and others shall forward such plans to the appropriate high schools where such students shall attend.

4. During the ninth and tenth grades, each student shall pursue the rigorous core curriculum required by his school for his chosen major. The core curriculum shall include required coursework as established by BESE and appropriate elective courses.

B. Career Major (Area of Concentration)

1. A career major shall provide a student with greater technical skill and a strong academic core and shall be offered to each high school student. Such a major shall be linked to postsecondary options and shall prepare students to pursue either a degree or certification from a postsecondary institution, an industry-based training or certification, an apprenticeship, the military, or immediate entrance into a career field.

2. Each high school shall offer at least one career major program. Schools shall review majors offered each year and expand offerings as appropriate, including courses offered through articulation, correspondence, and technological methods such as distance learning through the Internet and compressed video.

3. The career major shall consist of at least six or more credits consisting of four credits in an area of concentration and two related credits, including one credit in a computer technology course. Courses shall be selected to prepare a student for postsecondary education or a career.

C. Curricula Design Team

1. Career major programs in each school system, high school, or consortia of schools shall be designed by a curriculum design team.

2. Each superintendent, or his designee, shall be responsible for establishing the agenda, scheduling meetings, and presiding over each meeting of the curriculum design team.

D. Program Approval and Evaluation Process

1. Each curriculum design team shall submit any proposed career major program curriculum to the appropriate school board for approval. The approved curriculum shall then be submitted not later than October 1 of each school year to the DOE for BESE approval.

2. Each LEA shall compile a report summarizing their year-end evaluations and shall submit such report by August 1 of each school year to the DOE. The DOE shall use such evaluations to prepare a comprehensive report regarding the career major program, to be submitted to the Committees on Education of the Senate and House of Representatives by no later than December 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:183.1 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1303 (June 2005).

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

§2501. Elementary Summer Schools

A. Approved schools may offer a summer school program to enable students who have failed in subjects to remove deficiencies and be considered for promotion to the next grade. All LEAs that offer summer school for promotional purposes shall adhere to the standards below.

B. Summer schools shall be organized and operated under the administration and supervisory control of the superintendent of the LEA.

C. The LEA or school principal shall apply to the DOE for approval of each summer school program.

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

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

3. The application shall be approved by the superintendent of the LEA and the principal of the summer school, if applicable.

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

E. Summer schools shall be conducted in approved school buildings.

F. Summer schools having seven or more teachers shall have a certified principal.

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

1. Teachers employed on a "TAT" and "OFAT" certificate for the regular school year may be employed during the summer session in the same area(s) taught during the regular school year, provided the superintendent verifies

that no regularly certified teacher was available for the summer session.

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

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

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

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

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

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

2. No fee shall be charged for textbooks used during summer school.

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

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

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

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

1. Approved—meets all summer school standards.

2. Unapproved—deviates from one or more of the summer school standards.

Q. Any unapproved summer school shall not operate a summer school program the following year.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1304 (June 2005).

§2503. Secondary Summer Schools

A. Approved schools may offer summer school to enable students to schedule courses to enrich their experiences, to take new subjects, and to enable students who have failed in subjects to remove deficiencies. Each LEA that offers summer school shall adhere to the standards below.

B. Summer schools shall be organized and operated under the administrative and supervisory control of the superintendent of the LEA.

C. Summer schools shall be conducted in approved school buildings.

D. Summer schools with seven or more teachers shall have a principal holding certification in principalship.

1. In an LEA in which there are several summer schools with fewer than seven teachers, the schools shall be supervised collectively by an individual holding certification in principalship.

E. The summer school administration shall have written permission from the principal of the student's home school for the student to attend summer school if high school credit is to be awarded or if an elementary student is to be promoted.

F. Any summer school operated for the purpose of awarding high school credits or for promotional purposes at the elementary level shall apply to the DOE for an approval classification.

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

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

3. The application shall be approved by the superintendent of the LEA and the principal of the summer school, if applicable.

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

H. Summer schools having both elementary and secondary students are required to follow elementary standards for elementary students and secondary standards for secondary students.

I. Teachers in summer school shall hold a standard A, B, or C teaching certificate in the subject area or areas teaching.

1. Teachers employed on a "TAT" and "OFAT" certificate for the regular school year may be employed during the summer session in the area(s) taught during the regular school year, provided the superintendent verifies that no regularly certified teacher was available for the summer session.

J. The teaching load and class size shall not exceed that of the regular session.

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

L. Library/media center, laboratory, and audiovisual aids shall be available in the facilities used for summer school.

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

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

2. No fee shall be charged for textbooks used during summer school.

N. Summer schools shall offer 90 hours of instruction for 1/2 unit of new credit, 180 hours for one unit of new credit, 60 hours of instruction for 1/2 unit of repeat credit, 120 hours for one unit of repeat credit, and 50 or more hours for 1/2 unit for GEE 21 Remediation.

O. In order to be eligible to receive credit, summer school students shall be in attendance a minimum of 70 hours for 1/2 unit of new credit, 140 hours for 1 unit of new credit, 47 hours for 1/2 unit of repeat credit or credit for GEE 21 Remediation, and 94 hours for one unit of repeat credit.

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

1. Approved—meets all summer school standards
2. Unapproved—deviates from one or more of the summer school standards.

Q. Any unapproved summer school shall not operate a summer school program the following year.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1304 (June 2005).

§2505. Extended School Year Program for Eligible Exceptional Students

A. Each LEA shall provide eligible exceptional students special educational and related services in excess of the normal school cycle when stated in the IEP.

B. The determination concerning the need or lack of need for an educational program beyond the normal school cycle made by the participants in an IEP meeting shall be reviewed annually to ascertain any changes in the student's needs.

C. The IEP shall include special educational and related services in excess of the normal school cycle when the multi-source data indicate that, without such instruction, a significant loss of educational skills shall occur.

D. The type and length of the extended program shall be determined on an individual basis.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS 1412 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1305 (June 2005).

Chapter 27. Adult Education Programs

§2701. Program Administration

A. The Adult Education Program shall be administered by the DOE and operated by eligible entities as stipulated in the authorizing federal legislation. The DOE shall certify adult education sites of instruction using procedures as approved by BESE.

B. Data quality policies and procedures aligned to the National Reporting System (NRS) for Adult Education are applicable to all programs administered by the DOE and operated by eligible entities as stipulated in the authorizing legislation.

1. Approved assessments for Adult Basic Education, Adult Secondary Education, and English-as-a-Second Language students to determine placement upon student intake or to demonstrate educational growth are as follows:

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

- i. Test of Adult Basic Education (TABE);
- ii. Adult Measure of Essential Skills (AMES);
- iii. Comprehensive Adult Student Assessment System (CASAS);
- iv. WorkKeys (May be used only at the Adult Secondary Education Educational Functioning Level).

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

- i. Basic English Skills Test (BEST) and BEST Plus;
- ii. Comprehensive Adult Student Assessment System (CASAS);
- iii. Student Performance Levels (SPL).

2. Data will be reported quarterly, on the 26th day of October, January, April, and July, or the first business day following the 26th of the month.

3. Adult education sites of instruction are required to post-test adult education students to demonstrate educational growth. Post-tests are to be administered to adult education students after the student has:

- a. attended for 50 hours; or
- b. enrolled for 90 days; or

c. completed an Individualized Prescription of Instruction for the area being used for NRS reporting purposes.

NOTE: Refer to the Louisiana State Plan for Adult Education and R.S. 17:14 for administration of the program.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1305 (June 2005).

§2703. Requirements for Students

A. Students must be 17 years of age or older to enroll in an adult education program.

B. The parent, tutor, or other person responsible for the school attendance of a child who is under the age of 18 and who is enrolled in school beyond his sixteenth birthday may request a waiver from the local superintendent for the child to exit school to enroll and attend an adult education program approved by BESE.

1. In the case of a child with no parent, tutor, or other person responsible for his school attendance, the local school superintendent may act on behalf of the student in making such a request if one or more of the following hardships exist and if the following appropriate documentation is on file at the local school board office:

- a. pregnant or actively parenting;
- b. incarcerated or adjudicated;
- c. institutionalized or living in a residential facility;
- d. chronic physical or mental illness;
- e. family and/or economic hardships.

2. The local school superintendent or his/her designee may approve the request without requesting action from BESE. If the request to exit school to enroll in a BESE-approved adult education program is denied at the local level, a student may request the waiver from the DOE for approval by BESE with documentation of reason for denial at the local level. Students seeking to exit school to enroll in adult education, who are enrolled in a formal education setting other than a public K-12 institution, may request a waiver from the DOE.

3. State or federally funded entities operating an adult education program or activity shall not exclude exceptional persons.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1306 (June 2005).

§2705. Requirements for Taking the GED Test

A. Age Requirements

1. A student shall be 17 years of age or older in order to be authorized to be administered the GED Test.

2. A married or emancipated individual may be permitted to take the GED Test at 16 years of age and above.

3. A student who has attained the age of 16 and qualified to take the GED Test may request an age waiver from the local school superintendent if one or more of the following hardships exist and if appropriate documentation is on file at the local school board office:

- a. pregnant or actively parenting;
- b. incarcerated or adjudicated;
- c. institutionalized or living in a residential facility;
- d. chronic physical or mental illness;
- e. family and/or economic hardships.

4. All other requests for age waivers, because of hardships not listed above, must be approved by the BESE prior to the students' taking the GED Test.

5. Individuals 15 years of age and below shall not be permitted to take the GED test under any circumstances.

B. Qualifying Requirements

1. Individuals 19 years of age or above do not have to qualify for the GED by taking the Official Half-Length GED Practice Test.

2. Individuals between 17-18 years of age or 16 years of age with an approved age waiver may qualify for the GED Test by taking the Official Half-Length GED Practice Test and scoring a minimum of 40 on each part, with an average score of 45.

3. Qualifying scores on the Official Half-Length GED Practice Test shall be certified by State-approved adult education sites of instruction. Any state-approved adult education site of instruction may recommend an individual to take the GED Test.

4. The GED Test may not be administered to candidates who are enrolled in an accredited high school unless they are enrolled in the PreGED/Skills Option Program (The Options Program).

5. The GED Test may not be administered to candidates who have graduated from an accredited high school.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1306 (June 2005).

§2707. Requirements for Passing the GED Test

A. To complete the GED Test successfully, a student must earn the minimum standard score approved by the governing bodies of the American Council of Education.

B. The same form shall be used on all five tests when a student is being administered the GED Test.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1306 (June 2005).

§2709. Requirements for GED Retesting

A. A student other than a veteran or member of the Armed Forces shall receive instruction in the area(s) of deficiency until such time as the instructor certifies the student to be proficient in the failed section(s). A veteran or member of the Armed Forces may receive instruction if the individual desires.

B. A student may not be retested before 30 days have elapsed since the student last tested.

C. Retesting shall be performed on a form of the test different from the one originally used in testing. No form may be used a second time. If more than one test is being repeated by a student, all retests shall be on the same form.

D. The DOE will retain records of a student's unsuccessful attempts to pass the GED Test for only five years following the individual's last attempt to pass the test according to the regulations approved by the governing bodies of the American Council on Education. The student must retest on all five sections of the GED Test, should the five years elapse.

E. The student shall score a minimum of 410 on each of the retested sections.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1306 (June 2005).

§2711. Issuance of Equivalency Diplomas

A. A high school equivalency diploma will be issued from the DOE after the student has successfully completed the GED Test.

B. A Louisiana resident who successfully completes the GED Test at an official out-of-state GED testing center may be entitled to receive an equivalency diploma, provided that an official copy of the GED Test results are submitted for review to the Division of Family, Career and Technical Education in the DOE and provided that the student meets all other qualifications to receive an equivalency diploma.

C. Veterans do not need to submit qualifying scores.

D. To be eligible for an equivalency diploma based on results of the GED Test, a veteran or member of the Armed Forces shall be a legal resident of Louisiana for six consecutive months or shall have formerly attended a Louisiana school.

E. A student who has earned a Louisiana High School Equivalency Diploma issued by the DOE is considered a Louisiana high school graduate in every respect.

F. A student who has received a high school equivalency diploma may return to a regular high school program but will not be allowed to participate in athletic activities.

G. Public high school equivalency diplomas shall be signed by the State Superintendent of Education and the President of BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14; R.S. 17:7(5)(C).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1307 (June 2005).

§2713. Regular High School Diploma for Veterans or Members of the United States Armed Forces

A. Veterans or members of the United States Armed Forces shall be eligible to pursue a regular high school diploma.

1. A person is considered a veteran if he/she has served at least 90 days in active military service and has been honorably discharged from such service.

2. A person is considered a member of the armed forces if he or she is engaged in active military duty in the Army, Navy, Air Force, Marine Corps, or Coast Guard. A member of the National Guard is not considered a "member of the Armed Forces" unless his unit has been federalized by the U.S. Government.

B. Any person who served honorably in the United States Armed Forces and has made satisfactory scores on the GED Test shall be awarded a regular diploma if he or she has earned a minimum of eight resident units of credit from a State-approved high school, regardless of the requirements for regular high school graduates.

C. A member of the United States Armed Forces or an honorably discharged veteran shall be awarded a regular high school diploma upon completion of 20 or 22 or 23 units of work, depending upon the graduation requirements in effect upon his or her entry in high school, regardless of the requirements for regular graduates.

D. To be eligible for a regular diploma based on results of the GED Test, a member of the armed forces, or an

honorably discharged veteran, shall be a legal resident of Louisiana, or shall have formerly attended an approved Louisiana school.

E. A veteran who formerly attended an approved Louisiana school shall submit his/her application for a regular diploma to the principal of the last school he or she attended in Louisiana.

F. An applicant who now lives in Louisiana and never enrolled in a Louisiana school, but who attended an approved high school or elementary school in another state, shall submit his application for a regular diploma to the principal of the nearest high school.

G. A certified copy of the record of the GED Test shall accompany the Certificate of High School Credits if administered by an official GED testing center other than one approved by the State Department of Education.

1. A statement giving the date of the applicant's entrance into the United States Armed Forces shall be made in the "remarks" column of the Certificate of High School Credits.

H. Service Credit

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

2. Veterans shall receive credit, up to a maximum of two units, for special training obtained while in the armed forces comparable with courses offered in civilian secondary schools.

3. All subjects completed by a member of the armed forces, or by an honorably discharged veteran, through the United States Armed Forces Institute, the Marine Corps Institute, or the Coast Guard Institute, shall be credited at face value.

4. The following procedure shall be followed for veterans who have attended school in any state but do not have records:

a. The principal shall indicate on the Certificate of High School Credits:

- i. the name of the veteran; and
- ii. the name of the school last attended;

b. Official records attesting to this fact shall be on file in the principal's office.

5. If a diploma is to be granted on the basis of completion of 20 or 22 or 23 units, a complete record of all high school units earned shall be listed.

6. Only resident units completed shall be listed if a diploma is to be issued on the basis of a minimum of eight units of high school work and successful completion of the GED Test.

7. Work completed in residence at fully accredited high schools from other states shall be accepted and applied toward meeting graduation requirements.

8. Official records of high school work being applied toward meeting the requirements for graduation shall be in the files of the school issuing the diploma.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1307 (June 2005).

§2715. Evening Schools for Adults

A. All DOE-approved high schools may offer courses for adults in the evenings or at such times as necessary apart from the regular daily school schedules.

1. Before being assigned adult education courses, a high school shall submit a report in the form of an amendment to the Annual School Report to the DOE.

2. High school credit may be granted only in those courses listed in the program of studies.

3. The minimum aggregate time allotment for one unit in a course shall not be less than 180 clock hours of instruction, with no limitation on the length of class periods.

B. Standards required of DOE-approved high schools shall be the same for evening schools for adults in which high school credit is granted.

1. In those cases in which credit is allowed for successful completion of the courses, such credit may be considered as having been earned in residence.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005).

Chapter 29. Alternative Schools and Programs

§2901. Philosophy And Need For Alternative Schools/Programs

A. Alternative schools shall provide for:

1. identifying the needs of students;
2. using group and individualized courses of study;
3. providing assistance with social skills and work habits; and
4. using alternative teaching methods.

B. Alternative schools shall respond to particular educational needs within the community.

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005).

§2903. Approval For Alternative School/Programs

A. Alternative schools/programs shall comply with prescribed policies and standards for regular schools except for those deviations granted by BESE.

B. Approval to operate an Alternative School/Program shall rest with the LEA.

1. An LEA choosing to implement an Alternative School/Program shall submit to the Division of Family, Career and Technical Education by September 1st of each school year a list of its approved Alternative Schools/Programs.

2. The DOE will provide BESE with a listing of approved alternative schools/programs in October of each year.

C. An approved alternative school/program shall be described in the LEA's Pupil Progression Plan.

D. An annual school report based upon the standards for approval of alternative schools shall be made to the DOE on or before the date prescribed by the DOE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005).

§2905. Evaluation of Alternative School/Programs

A. Each LEA operating an alternative school annually shall evaluate such school. The evaluation shall include testing of basic skills for student participants. The process of evaluation shall also include teacher, parent, and student input from the alternative school.

NOTE: Refer to the Alternative Education Handbook for program operation guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005).

§2907. PreGED/Skills Option Program

A. A school system shall implement the PreGED/Skills Option Program and shall obtain approval from the DOE at least 60 days prior to the establishment of the program.

NOTE: Refer to High Stakes Testing Policy in *Bulletin 1566—Guidelines for Pupil Progression Plans*.

B. A program application describing the PreGED/Skills Option Program shall be submitted and shall address the following program requirements.

1. Students who shall be 16 years of age or older or who shall turn 16 years of age during the year they are to enroll into the program and meet one or more of the following criteria:

- a. shall have failed LEAP 21 English language arts and/or math eighth grade test for one or two years;
- b. shall have failed English language arts, math, science and/or social studies portion of the GEE 21;
- c. shall have participated in alternate assessment;
- d. shall have earned not more than 5 Carnegie units by age 17, not more than 10 Carnegie units by age 18, or not more than 15 Carnegie units by age 19;
- e. students with Limited English Proficiency shall be considered eligible for the PreGED/Skills Option Program.

2. Enrollment is voluntary and requires parent/guardian consent.

3. Counseling is a required component of the program.

4. The program shall have both a PreGED/academic component and a skills/job training component. Traditional Carnegie credit course work may be offered but is not required. Districts are encouraged to work with local postsecondary institutions, youth-serving entities, and/or businesses in developing the skills component.

5. The PreGED/Skills Options Program shall be operated on a separate site from the regular high school program. Exceptions will be considered based on space availability, transportation or a unique issue.

6. Students who complete only the skills section will be given a Certificate of Skills Completion.

7. Students will count in the October 1 MFP count.

8. Students will be included in School Accountability.

While enrolled, they shall be required to take the ninth grade Iowa Test or alternate assessment. All programs will be considered Option 1 in accountability for alternative education purposes, and the score for every alternative education student at a given alternative school shall be returned to ("sent back") and included in the home-based school's School Performance Score (SPS).

NOTE: Refer to the Guidelines and Application Packet provided by the DOE for the requirements to establish a PreGED/Skills Option Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005).

§2909. The Earning of Carnegie Units

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1309 (June 2005).

Chapter 31. Career and Technical Education (CTE)

§3101. Physical Environment and Equipment

A. The LEA shall provide appropriate physical environments for the instructional programs in Career and Technical Education (CTE) and maintain conditions that ensure the safety and health of students.

1. Heavy equipment laboratories, such as woodworking, metal working, multipurpose, automotive, and most machine laboratories, should have a minimum area of 75 square feet per student.

2. Light equipment laboratories, such as those used for teaching electricity, electronics, drafting, manufacturing, communications, etc., should have a minimum area of 50 square feet per student.

B. The LEA shall provide and maintain modern equipment for CTE programs.

1. An accurate inventory of equipment purchased with federal funds shall be maintained and shall include the funding source.

2. The use of this equipment shall be limited to the appropriate career and technical education program in accordance with regulations and codes found in state and federal guidelines.

3. Machines and tools shall be labeled, identifying the funding source, organized, guarded, color-coded, and ventilated in accordance with regulations and codes found in state and federal guidelines.

NOTE: Refer to Bulletin 1674 for safety and health requirements and EDGAR guidelines relative to CTE.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1309 (June 2005).

§3103. Requirements for Teachers

A. The CTE teacher shall hold a valid Louisiana teaching certificate or valid Career and Technical Trade and Industrial Education (CTTIE) Certificate that entitles the holder to teach in the career area of the actual teaching assignment.

B. CTE instruction shall integrate basic academic skills essential for students to achieve the desired CTE competencies that will enable the student to be successful on the job or at the postsecondary level.

C. CTE teachers and school counselors shall actively participate in the in-service programs contributing to professional improvement in their program area.

D. All agriculture teachers employed by an LEA shall teach a 12-month program for a 12-month budget period and shall be paid a salary at the same monthly rate as provided in the minimum salary schedule contained in R.S. 17:421.3. The agriculture program shall include, but not be limited to recognized co-curricular activities, to be supervised by agriculture teachers during the summer months such as those offered by the National Future Farmers of America (FFA) Organization or other appropriate organizations that provide summer occupational experiences, leadership programs, statewide judging contests, and youth conventions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: 422.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1309 (June 2005).

§3105. Scheduling Career and Technical Courses

A. Where safety hazards exist, only one course shall be scheduled during a single class period under one CTE teacher.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1309 (June 2005).

§3107. Instructional Programs

A. For each CTE course, the teacher shall follow the BESE-approved minimum instructional content to be taught.

B. Instructional content of each course shall meet state and federal guidelines relative to unbiased treatment of race, sex roles, and religious and political beliefs.

C. Secondary students who are in the ninth through the twelfth grade shall be eligible for enrollment in CTE programs.

D. Junior high/middle (grades seven through eight) career and technical education programs shall meet the generic standards for senior high CTE programs, as well as specific standards for junior high approval in the CTE program area(s). Junior High School/Middle School CTE programs shall be coordinated with the CTE program at the senior high school.

E. Both male and female students as well as students with disabilities shall be encouraged to participate in traditional and nontraditional CTE training to assist in eliminating bias and stereotyping CTE programs

F. The local governing authority of each LEA shall allocate annually to each secondary school in the LEA, in addition to any other funding, not less than \$50 per student enrolled at the school in an agricultural education program for use in providing adequate instructional materials and supplies for such students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:181.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1309 (June 2005).

§3109. Carnegie Credit

A. Credit shall be awarded for successful completion of one-half to three Carnegie credits of career and technical education courses.

1. Credit for partial completion of two- or three-hour career and technical education courses may be granted for unusual or extenuating circumstances.

2. Request for partial credit because of unusual or extenuating circumstances shall be made in writing by the principal through the local superintendent to the Division of Family, Career and Technical Education of the DOE.

3. If granted, a copy of the written response shall accompany the student's transcript when it is sent to the Division of School Standards, Accountability and Assessment prior to graduation.

B. No career and technical education or contract course shall be offered for credit in any secondary school if it requires a license to practice the job, until the course has been approved by the licensing board designated to regulate that vocation.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1310 (June 2005).

§3111. Career and Technical Education Student Organizations (CTSOs)

A. Activities of CTSOs should be offered as an integral part of the CTE instruction and be under the supervision of the instructional staff. The CTSOs for the respective CTE program areas are as follows.

1. Agriscience—National FFA Organization (FFA)

2. Business Education—Future Business Leaders of America (FBLA)

3. Health Occupations—Health Occupations Students of America (HOSA)

4. Family and Consumer Sciences—Family, Career, and Community Leaders of America (FCCLA)

5. Marketing Education—Association of Marketing Students (DECA)

6. Technology Education—Technology Student Association (TSA)

7. Trade and Industrial Education—SkillsUSA-VICA

B. Each local school governing authority shall develop procedures and policies for the approval of travel.

C. The LEA shall provide information and prepare necessary reports for each CTE program as required by the Division of Family, Career and Technical Education and shall cooperate with the DOE in the evaluation of career and technical education programs.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1310 (June 2005).

§3113. Work-Based Learning

A. Work-based learning programs shall provide opportunities for CTE students to receive on-the-job training and related classroom instruction in all CTE program areas. Work-based learning may include, but is not limited to, cooperative education and internships.

B. Cooperative education features an agreement between schools and employers to provide paid on-the-job training that relates to the areas of technical study in school and is

based on objectives jointly developed by the school and the employers.

C. Internships are work-based activities where students work with an employer for a specified period of time to learn about a particular occupation or industry. The workplace activities involved with an internship could include special projects, a sample of tasks from different jobs, or tasks from a single occupation. An internship agreement is set up prior to the experience that outlines the expected objectives to be accomplished by the student. This may or may not include financial compensation.

D. Certification Requirements for Teachers

1. The cooperative education teacher-coordinator shall hold a valid teaching certificate entitling the holder to teach cooperative education in the CTE program or a valid CTTIE certificate to teach Trade and Industrial Cooperative Education.

2. The internship teacher-coordinator shall hold a valid teaching certificate in the CTE program that aligns with the student's internship worksite.

E. Scheduling Work-based Learning

1. Cooperative education programs shall incorporate classroom instruction and on-the-job training. The classroom phase shall include a total of five hours each week (one regular period per day) of CTE related classroom instruction. The on-the-job training phase shall include a minimum of 15 hours of job training per week for the entire year spanning from August through May. Teacher-coordinators shall be scheduled for classroom instruction and on-the-job supervision. Teacher-coordinators shall be scheduled for one cooperative education preparatory/supervision period for 10-45 students. Teachers with more than 45 students shall be scheduled for two cooperative education supervision periods.

2. Internships shall incorporate classroom instruction and on-the-job training. The classroom phase shall include a total of one hour each week of CTE related classroom instruction. The on-the-job training phase shall include a minimum of 10 hours of work-based learning per week for the entire year, spanning August through May. Teacher-coordinators shall be scheduled for classroom instruction and on-the-job supervision.

F. Facilities for Work-Based Learning

1. The LEA shall provide use of a telephone for teacher-coordinators of work-based learning education programs to use for placement/coordination/follow-up activities.

G. Teacher-Coordinator for Work-Based Learning

1. Reimbursement of travel expenditures for placement, supervision, and coordination activities of the work-based education programs shall be provided.

2. The teacher-coordinator and the employer shall cooperatively complete a training memorandum for both the classroom phase and the on-the-job training phase. The training memorandum and a list of skill competencies shall be prepared for each student. The list of competencies shall include skills and knowledge to be learned in the classroom and skills to be learned through on-the-job training.

3. Copies of the training memorandum and skills competencies shall be maintained in each work-based education student's folder and provided to the training sponsor (employer). The training memorandum is the

application for an employment certificate for work-based education students. The employment certificate must be applied for on-line through the Department of Labor's website.

4. Each teacher-coordinator for work-based programs must submit a class organization report to the Division of Family, Career and Technical Education of the DOE.

5. The cooperative education teacher-coordinator shall visit each student on the job to observe the student at work, to confer with the employer, and to obtain a written evaluation of the student's progress at least four times during the school year.

6. The internship education teacher-coordinator shall visit each student on the job to observe the student at work, to confer with the employer, and to obtain a written evaluation of the student's progress at least two times during the school year.

7. The teacher-coordinator shall inform the employer of labor laws as they apply to minors engaged in work-based learning.

8. Orientation and pre-employment training, as well as safety training, shall be provided for each student prior to the student's placement with a program training sponsor (employer).

9. It is recommended that funding for extended employment beyond the school year be provided for each teacher-coordinator.

10. The program training sponsor (employer) shall complete a written evaluation of each student's on-the-job performance for each grading period.

11. The teacher-coordinator shall be responsible for determining the student's grade.

H. Work-based Learning Students

1. Cooperative education students shall be placed in appropriate, paid training stations within three weeks of the opening of school. Students not placed shall be rescheduled into non-cooperative courses.

2. Cooperative education students shall receive minimum wage or above for the hours spent in job training.

3. Internship students shall be placed in appropriate, paid or non-paid training stations within three weeks of the opening of school. Students not placed shall be rescheduled into non-internship courses.

4. Students in Cooperative Office Education, Cooperative Technology Education, Health Occupations Cooperative Education, and Family and Consumer Sciences Cooperative Education shall be seniors. Students in Cooperative Agriscience Education, General Cooperative Education, Cooperative Marketing Education, and Trade and Industrial Cooperative Education (TICE) shall be juniors or seniors.

5. Internship students shall be juniors or seniors.

6. Work-based education students must successfully complete both the classroom and the on-the-job training phase to receive any credit. Students enrolled in Cooperative Education course shall not begin a work-based program at midterm.

NOTE: Refer to career and technical education course offerings for prerequisites and requirements for specific work-based programs.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1310 (June 2005).

§3115. Procedures For Program Approval

A. Any new instructional program in Career and Technical Education, including regular, cooperative, pilot, or alternative, shall obtain approval from the Division of Family, Career and Technical Education before initiation.

B. In order to qualify for funding as an approved program:

1. instruction shall be based on the CTE Standard and Benchmarks and Model Course Guidelines;

2. the teacher shall maintain certification in the CTE program they are assigned to teach;

3. if a school offers an industry-based certification (IBC), the teacher of the IBC course(s) shall hold or work toward obtaining the industry certification. Teachers shall have a maximum of three years to obtain the certification;

4. each program area offered by a high school shall make available at least one area of concentration (sequence of courses) approved by BESE;

5. each program area shall offer courses in that program area for at least 50 percent of the school day;

6. where national program certification exists, the program shall meet or work toward obtaining the program certification. Schools shall have a maximum of three years to obtain the certification;

7. CTE instruction shall integrate career and technical education and academics to strengthen basic academic skills in communication, mathematics, science and social studies and develop critical thinking skills through practical applications in real-life situations;

8. each local educational governing authority should establish and maintain a local advisory council for CTE:

a. the membership of the local advisory council should be composed of representatives of the general public, including at least a representative of business, industry, and labor with appropriate representation of both sexes and racial and ethnic minorities found in the program areas, schools, community, or region that the local advisory council serves;

b. the duties of the local advisory council include advising the local education governing authority on:

i. current job needs; and

ii. the relevancy of programs (courses) being offered to meet the current job needs.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1311 (June 2005).

§3117. Additional Program Approval Procedures

A. Agriscience/Agribusiness

1. The teacher shall assist each student in planning and developing a Supervised Agriculture Experience (SAE) program of one or more of the following types:

a. ownership at the student's home, farm or business;

b. placement at a farm or agribusiness other than that owned by the student;

c. directed laboratory at a school facility such as school farm, greenhouse, garden, shop, forestry plot, food preservation center, etc.

2. The teacher shall supervise on a regular and periodic basis all SAE programs and shall assist the students in maintaining accurate records of their SAE programs.

3. The teacher shall participate in inservice activities by attending and taking part in the annual summer inservice held in conjunction with the area FFA leadership camp and any other DOE-sponsored inservice required of all agriculture teachers in the state.

4. The teacher shall organize and maintain an active chapter of the National FFA Organization, serving as its advisor, and will attend with two or more members the state convention and area leadership camp. Dues and special fees and reports will be submitted by the deadline set by the Louisiana Association of FFA. Each FFA chapter will participate in a minimum of four contests at the area or state level and will submit applications for at least three chapter or individual FFA awards. All FFA members will achieve the Greenhand Degree, and 80 percent or more of members enrolled in classes above the Agriscience I level will achieve the Chapter FFA Degree.

5. The teacher shall plan and submit a summer work schedule to the principal, local CTE supervisor, and the CTE section of the DOE. The teacher shall be responsible to the principal and local CTE supervisor for carrying out the schedule and submitting weekly summer activity or district reports documenting daily activities. The DOE shall conduct random monitoring visits to summer agriculture programs.

6. The teacher will submit an annual report to the CTE Section of the DOE documenting the completion of all required activities. The principal and supervisor will sign the report attesting to the fact that all requirements have been met.

B. Health Occupations

1. Health Occupations programs shall meet requirements of appropriate licensing or recognized accrediting agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:185.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1311 (June 2005).

Chapter 33. Home Study Programs

§3301. Definition

A. A home study plan for the purposes of these policies is a program in which an approved curriculum can be implemented under the direction and control of a parent or a tutor (i.e., court appointed guardian under Louisiana law).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005).

§3303. Eligibility

A. Any student eligible by Louisiana law to attend Louisiana elementary or secondary schools shall be eligible to participate in a home study plan.

B. The home study plan does not replace the state homebound law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005).

§3305. Application Process

A. Initial Application

1. An initial application must be made within 15 days after the beginning of the program to the DOE for review and recommendation to BESE.

2. The initial application shall be accompanied by a certified copy or a photocopy of the birth certificate of the child.

B. Renewal Application

1. A renewal application must be made by the first of October of the school year, or within 12 months of the approval of the initial application, whichever is later.

2. A renewal application shall be approved if the parents submit to BESE satisfactory evidence that the program offered a sustained curriculum of a quality at least equal to that of public schools at the same grade level.

C. Initial and renewal applications shall be approved at the discretion of BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005).

§3307. Instructor

A. A parent or tutor (i.e., court appointed guardian under Louisiana law) may be permitted to provide instruction in a home study plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005).

§3309. Curriculum

A. The home study program shall have a sustained curriculum of a quality at least equal to that offered by public schools at the same grade level. The sustained curriculum must be substantiated in one of the following ways.

1. A packet of materials which shall be evaluated by the DOE for adequacy and which shall include such documents as:

- a. a complete outline of each of the subjects taught during the previous year;
- b. lists of books/materials used;
- c. copies of the student's work;
- d. copies of the student's standardized test results;
- e. statements by third parties who have observed the child's progress; or
- f. any other evidence of the quality of the program being offered.

2. Verification that the child took the LEAP 21 tests and scored at or above the state performance standards as established by BESE for his/her grade level; or

3. Verification that the child has taken the California Achievement Test or such other standardized examinations as may be approved by BESE, including but not limited to tests approved for the Nonpublic School Testing Program, and the child has scored at or above his/her grade level for each year in home study; or

4. A statement from a teacher certified to teach at the child's grade level stating that the teacher has examined the program being offered and that in his/her professional

opinion this child is being taught in accordance with a sustained curriculum of quality at least equal to that offered by public schools at the grade level, or in the case of children with mental or physical disabilities, at least equal to that offered by public schools to children with similar disabilities. The teacher evaluation is subject to review and approval by BESE.

B. In order to receive a Louisiana State equivalency diploma, the student must pass the GED test. Completion of a home study program does not entitle the student to a regular high school diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005).

§3311. Testing

A. A parent of a child in home study may request of the LEA superintendent or the State Superintendent, that the child be administered the LEAP 21 tests under the following conditions:

1. date of the test shall be on such dates as determined by the LEA superintendents or State Superintendent;
2. a fee of up to \$35 may be charged to cover actual costs of administering, scoring, and reporting the results of the tests;
3. the examination shall be administered with the same instructions and under similar conditions as provided to students enrolled in public schools;
4. a certified teacher shall administer the test;
5. the parent shall be provided the student's score and whether the student passed the examination by meeting the state performance standard for LEAP 21.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005).

§3313. Admission or Readmission to the Public School System

A. The LEA shall have a written policy included in the local Pupil Progression Plan for admission or readmission of home study students to public schools. Refer to *Bulletin 1566—Guidelines for Pupil Progression*.

1. The policy shall provide for the screening and evaluation of such students and shall include examinations to determine the grade level at which students should be admitted.

2. The policy shall include the administration of the Louisiana Educational Assessment Program tests for the grades offered or required by BESE. Refer to the Guidelines for Nonpublic and Home Schooled Students Transferring to the Public School Systems: Participation in the LEAP 21.

B. At the grade levels in which state level tests are not available, the LEA will determine the placement and/or credits for the student through screening, evaluations, and/or examinations. These instruments may include any one of the following:

1. locally developed system-wide criterion-referenced test;
2. locally adopted commercial criterion-referenced test; or
3. locally adopted commercial norm-referenced test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005).

§3315. Due Process

A. The due process procedures for resolution of disagreements at the local level pertaining to the application and reauthorization of the home study plan shall follow the procedures established by BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005).

§3317. Cost

A. All reasonable costs directly attributed to the home study program shall be borne by the parents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005).

Chapter 35. Montessori Schools

§3501. Approval of Training Courses

A. The Montessori Training course must accept students without regard to race, creed, or national origin.

B. The course, at a minimum, must include the following:

1. required reading of Dr. Montessori's works;
2. Montessori philosophy and theory;
3. child development;
4. practical life;
5. sensorial materials;
5. cultural subjects;
6. academic subjects;
7. twenty hours of observation of a Montessori class;

and

8. supervised practice sessions with Montessori apparatus.

C. The Montessori training course staff must have Montessori certification and five years Montessori classroom experience.

D. Students must pass both a written and practical examination.

E. Students must have worked on training requirements for a minimum of one academic school year.

F. It is desirable for the Montessori training course to have university affiliation.

G. The petitioner's request for approval must be submitted in writing to the president of the Louisiana Montessori Association (LMA) and to the DOE, Office of Quality Educators.

H. The LMA president shall acknowledge receipt in writing within two weeks and ask that a detailed description of the Montessori Training Course, including faculty, location, curriculum, and any pertinent requirements be sent to the LMA. Included with the above acknowledgment shall be a copy of Act 400 of 1982 and "Standards for Approval of Louisiana Montessori School."

I. The LMA president shall notify the LMA Training Approval Committee of the application and send a description of the Montessori Training Course to all committee members. The LMA president will submit a list of committee members and all applicable information to the DOE, Office of Quality Educators.

J. The committee will review the information and make a decision for approval or denial to the president of the LMA within two weeks.

K. The committee's approval or denial shall be brought before the general membership and their recommendation voted on within three months.

L. Notification of LMA approval or denial shall be sent to the DOE, Office of Quality Educators, within two weeks of the LMA decision, and reason for denial, if applicable. The DOE will review the LMA's decision and make recommendations to the Board for approval or denial and notify the petitioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3401.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005).

§3503. Classification Categories

A. Classification categories for Montessori schools are:

1. Approved—the school meets the standards of BESE established for a Montessori school.

2. Provisional Approval—the school has one or more of the following deviations from standards:

a. lack of at least one Type A Montessori certified teacher provided that the school has a Type B certified Montessori teacher earning at least six semester hours per year toward a bachelor's degree;

b. an inadequate amount of proper Montessori instructional materials and equipment; and

c. for junior school, lack of a teacher who possesses a bachelor's degree and is certified in Montessori for the age level in which he serves, provided that such teacher is working toward Montessori junior certification.

3. Probational Approval—the school has one or more of the following deviations from standards:

a. the school does not have at least a Type B certified Montessori teacher earning six semester hours toward a bachelor's degree;

b. lack of a certified Montessori teacher in each class;

c. lack of a teacher or teacher aide with a bachelor's degree in each class;

d. inadequate provision of indoor and/or outdoor space per child; and

e. for junior school and class, the school does not have a teacher possessing a bachelor's degree working toward Montessori certification.

4. Unapproved—

a. any school that has not previously attained an approved classification and fails to comply with BESE standards, and

b. a probationally approved school that has not corrected the stated deficiencies within the time fixed by BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3401; R.S. 17:3402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1314 (June 2005).

§3505. School Approval Procedures

A. Any Montessori school seeking review by the DOE and approval by BESE must follow these procedures.

1. Application for approval shall be submitted on a Montessori Annual School Report form prescribed by the DOE.

2. One copy of the form shall be sent to the LMA, one copy submitted to the DOE and one copy kept on file in the school office.

3. A letter requesting an initial approval visit should be sent to the LMA and the DOE.

4. The form will be analyzed by both the LMA and the DOE.

5. After ascertaining that the school has met standards according to the written report, a visiting committee consisting of a minimum of five members (at least four Montessori teachers selected by the LMA and one DOE staff member) will be assigned to make an initial approval visit.

6. Montessori teachers shall serve on the visiting committee without compensation or reimbursement of expenses by the DOE.

7. After visitation by the committee, the school will be notified in writing of the recommendation made by the committee to the DOE for further recommendation to the BESE for assignment of a classification category.

8. A school denied approval by BESE shall be entitled to an appeal.

9. No hearing shall be granted unless a written appeal is received by the BESE within 30 days of the date of denial.

10. For continued state approval, Montessori schools shall submit a Montessori Annual School Report to the LMA and to the DOE for analysis and recommendation of a classification category to BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3401.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1314 (June 2005).

§3507. Staff Requirements

A. Each school shall have at least one Type "A" certified Montessori teacher.

B. Each class shall have at least one Louisiana state certified Montessori teacher.

C. Each class shall have a teacher or teacher aide possessing a bachelor's degree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3401; R.S. 17:3403.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1314 (June 2005).

§3509. Plant and Facilities

A. The physical plant must comply with state and local fire and health regulations and with applicable building codes. It shall be free of health and safety hazards.

B. The school shall be attractive, cheerful, orderly, clean, and in good repair to evoke in the children a positive response to beauty and to life and to satisfy their need for order.

C. Indoor Requirements

1. Low child-accessible shelving shall be in neutral or light colors for placement of materials, with adequate space for placement without crowding. Instructional materials of the same general classification should be placed together.

2. Walls shall be light or neutral colors to emphasize adequately the materials.

3. Lightweight, movable, child-sized furniture (tables, chairs) shall be available.

4. Flooring of a type that can be kept clean and safe shall be installed.

5. Rugs and mats shall be available and accessible to the children and there shall be an orderly place for their storage.

6. Adequate lighting (160 watts fluorescence for every 100 square feet of floor space is recommended) shall be in place.

7. Thirty square feet of working space per child or 35 square feet per child or total usable facilities shall be available to allow each child to move freely without interrupting the activities of others.

8. The environment shall be prepared, arranged, and equipped to structure the child's free movement and responsibility.

9. Child-accessible toilet and hand washing facilities adequate for the number of children shall be available.

D. Outdoor requirements:

1. Seventy-five square feet of outdoor space shall be available for each child in the group at any one time.

2. Outdoor space shall be easily accessible, safe, and protected and shall be fenced.

3. Outdoor equipment shall be safe and provide adequate opportunities for a variety of large muscle activities.

4. The outdoor area shall be pleasant and attractive with some gardening opportunities available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1314 (June 2005).

§3511. Programs and Materials

A. Montessori junior school begins at six years of age and continues through the age of 14 years, approximately. Thus, the junior school encompasses the child's learning experiences from kindergarten to high school.

B. Freedom with responsibility leading to independent self-direction shall be a basic consideration of the school's instructional program.

C. The school shall be attractive, cheerful, orderly, clean, and in good repair to evoke in the children a positive response to beauty and to life, and to satisfy their need for order.

D. The school's instructional program shall incorporate the following types of activities:

1. language activities;
2. math activities;
3. cultural activities (geography, history, life science, art, music, dance, dramatics, construction, second language);
4. sensorial activities that sharpen the senses in preparation for accurate observation of the physical world; and
5. practical life activities that cultivate ability to care for self and environment.

E. The school must be equipped with Montessori materials in all basic areas, well maintained, and in good condition.

F. Instructional materials shall be self-teaching so that children can learn from them by self-discovery and voluntary repetition rather than by rote memorization of what someone tells them about the materials.

G. Children shall work independently once the materials are introduced.

H. The materials shall require active participation of the children so that the major part of their learning comes from concrete sensorial experience.

I. Materials shall reflect reality and nature so that children can organize their perceptions of the world accurately.

J. Instructional materials shall be open-ended so that it is possible for the children to learn more than one concept from each piece.

K. The materials shall isolate only one factor of difference to emphasize the particular attribute or concept.

L. The art materials shall be basically structured to allow children to create their own ideas after the teacher has initially demonstrated their use.

M. The Montessori materials shall be introduced sequentially.

N. The materials shall be attractive and of the best quality affordable to provide stimulation for new exploration or imagination.

O. They shall be clean, orderly, and in good repair.

P. The program shall provide annual standardized testing for Montessori junior students six years of age and above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1315 (June 2005).

§3513. Scheduling

A. The academic school year shall be 180 days.

B. The class shall meet five days a week for approximately three hours a day or more to provide the necessary learning continuity.

C. Montessori junior classes of students six years of age and above shall meet a minimum of 180 days per year, five days a week, for a minimum of 28 hours per week, excluding lunch and recess.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1315 (June 2005).

§3515. Admissions and Enrollment

A. All admissions in a Montessori school shall be open to all persons of all races, creeds, or colors.

B. Early enrollment shall be encouraged, starting between the age of 2 1/2 to 3 1/2 years or earlier, to take advantage of early sensitive periods of learning.

C. Placement at the primary or junior level shall be determined by the child's achievement and level of development.

D. The classrooms shall have, if possible, a mixed age group spanning at least three years so that the children will have a variety of models from which to learn.

E. Attendance through kindergarten age shall be encouraged for maximum benefit of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1315 (June 2005).

§3517. Parent Interaction Requirements

A. The parents shall be allowed to observe the children at work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1315 (June 2005).

Chapter 37. Glossary

§3701. Abbreviations/Acronyms

ADA—Americans with Disabilities Act.
AP—Advanced Placement.
BESE—Board of Elementary and Secondary Education.
CPR—Cardiopulmonary Resuscitation.
CTE—Career/Technical Education.
CTSO—Career and Technical Student Organizations.
CTTIE—Career and Technical Trade and Industrial Education.
DECA—An Association of Marketing Students.
DOE—Department of Education.
FBLA—Future Business Leaders of America.
FCCLA—Family, Career, and Community Leaders of America.
FFA—National FFA Organization.
GED—General Educational Development Test.
GEE 21—Graduation Exit Examination for the 21st Century.
GLEs—Grade-Level Expectations.
HOSA—Health Occupations Students of America.
IDEA—Individuals with Disabilities Education Act; The Special Education Law.
IAP—Individualized Accommodation Program.
IB—International Baccalaureate.
IBC—Industry-based Certification.
IEP—Individualized Education Program.
JROTC—Junior Reserve Officer Training Corps.
LEA—Local Education Agency.
LEAP 21—Louisiana Educational Assessment Program for the 21st Century
LHSAA—Louisiana High School Athletic Association
LMA—Louisiana Montessori Association
MFP—Minimum Foundation Program
MPS—Minimum Proficiency Standards
NAEP—National Assessment of Educational Progress.
NCLB—No Child Left Behind.
OFAT—Out-of-Field Authority to Teach.
SAE—Supervised Agriculture Experience.
SAPE—Substance Abuse Prevention Education.
TAT—Temporary Authority to Teach.
TSA—Technology Student Organization.
TOPS—Tuition Opportunity Program for Students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1316 (June 2005).

§3703. Definitions

Academic Endorsement—recognition for high school graduates who meet requirements listed in §2319.G which are above the requirements of a standard diploma.

Academically Able Student—a student who is functioning at grade level as determined by the local school system. For special education students identified in accordance with Bulletin 1508—Pupil Appraisal Handbook, the IEP Committee shall determine the student's eligibility to receive foreign language instruction, provided the student is performing at grade level.

Accommodation—any technique that alters the academic setting or environment. An accommodation generally does not change the information or amount of information

learned. It enables students to show more accurately what they actually know.

Activity Class—any class such as band, theatre, or chorus for which a large class size is acceptable due to the nature of the instruction.

Adapted Physical Education—specially designed physical education for those exceptional students for whom significant deficits in the psychomotor domain have been identified according to Bulletin 1508—Pupil Appraisal Handbook, and who, if school-aged, are unable to participate in regular physical education programs on a full-time basis.

Adult Education—instruction below the college level for adults who have not been awarded a regular high school diploma and who are not currently required to be enrolled in school.

Advanced Placement Program—the Advanced Placement Program of the College Board gives students the opportunity to pursue college-level studies while still in secondary school and to receive advanced placement and/or credit upon entering college.

Alternative School/Program—an educational school/program that deviates from the standards stated in *Bulletin 741* in order to meet the specific needs of a particular segment of students within the community. There are two types of alternative schools/programs:

1. alternative within Regular Education: the curriculum addresses state standards; and upon graduation, students earn a state-approved diploma;

2. alternative to Regular Education: the curriculum does not address state standards; and upon graduation, students do not earn a state-approved high school diploma.

Alternative to Regular Placement—placement of students in programs that are not required to address BESE performance standards.

Annual School Approval—an approval classification, based on the analysis of the Annual School Report, which is granted by the State Department of Education to each school.

Annual School Report—the report of the implementation by a school of the standards/regulations of this bulletin. It is submitted annually to the DOE by each school.

Annual System Report—the report of the implementation of the standards/regulations of this bulletin applicable to each LEA's central office. This report is submitted to the DOE by each LEA.

Approved School—a public or nonpublic school that has an approval classification based upon a degree of compliance with standards/regulations prescribed by BESE.

Area of Concentration—a coherent sequence of courses or field of study that prepares a 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.

Articulated Credit—promotes a smooth transition from secondary to postsecondary education. It serves as a vehicle for high school students to earn postsecondary credit while enrolled in high school or upon entering postsecondary study.

Assessment—the act or process of gathering data in order to better understand the strengths and weaknesses of a student learning as by observation, testing, interviews, etc.

Attendance (Half-Day)—a student is considered to be in attendance for one-half day when he or she

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

2. is under the supervision of authorized personnel for more than 25 percent but more than half (26-50 percent) of the student's instructional day.

Attendance (Whole-Day)—a student is considered to be in attendance for a whole day when he or she:

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

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

BESE Policy—a comprehensive statement that has the force and effect of law and that has been adopted by BESE to govern and to bring uniformity in education throughout Louisiana.

Career Major—a coherent sequence of courses or field of study that prepares a 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.

Career Technical Endorsement—an endorsement beyond a regular diploma which has the purposes of enhancing a student's junior/senior years and providing a "credential" for postsecondary work with specific performance indicators that include industry-based certification and/or articulated credit and work-based learning.

Class Size—the maximum enrollment allowed in a class or section.

Co-Curricular Activities—those activities that are relevant and supportive, that are an integral part of the program of studies in which the student is enrolled, and that are under the supervision and/or coordination of the school instructional staff.

Cooperative Education—programs that provide opportunities for career and technical education students to receive on-the-job training and related classroom instruction in the areas of Agriculture, Business, Health, Family and Consumer Science, Marketing, and Trade and Industrial Education programs.

Credit Exam—an examination for the purpose of verifying a student has mastered a course taken under conditions that do meet the requirements for awarding Carnegie credit, such as teacher certification or time requirements.

Cultural Arts—that subject area that includes music, arts and crafts, and the fine arts.

Cumulative Record—a current record of academic, health, and other special types of information maintained for each student throughout his progress in school.

Education Records—

1. those records, files, documents, and other materials which:

a. contain information directly related to a student; and

b. are maintained by an educational agency or institution or by a person acting for such agency or institution.

2. The term *education records* does not include:

a. records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

b. records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement;

c. in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or

d. records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice

Elementary School—a school composed of any span of grades kindergarten through the eighth grade.

Evaluation—the in-depth process of review, examination, and interpretation of intervention efforts, test results, interviews, observations, and other assessment information relative to predetermined criteria.

Exceptional Child—a child who is evaluated in accordance with §430-436 of Bulletin 1706, Regulations for Implementation of Exceptional Children's Act (R.S. 17:1941 et seq.) and who is determined according to Bulletin 1508, Pupil Appraisal Handbook, to have an exceptionality that adversely affects educational performance to the extent that special education is needed.

Extracurricular Activities—those activities which are not directly related to the Program of Studies, which are under the supervision and/or coordination of the school instructional staff, and which are considered valuable for the overall development of the student.

Fine Arts—those arts produced or intended primarily for beauty rather than utility, such as music, dance, drama, and the visual arts (*i.e.*, drawing, painting, sculpture).

Five-Year Educational Plan—the plan developed by each student by the end of the eighth grade with the input of his/her family. The plan shall include a sequence of courses which is consistent with the student's stated goals for one year after graduation. Each student's Five Year Educational Plan shall be reviewed annually thereafter by the student, parents, and school advisor, and revised as needed.

Gifted—children or youth who demonstrate abilities that give evidence of high performance in academic and intellectual aptitude.

Grade-Level Expectations (GLE)—the concepts and skills that students should master at the end of a grade or course.

Homebound Student—a student who is enrolled in regular education and who, as a result of health care treatment, physical illness, accident, or the treatment thereof, is temporarily unable to attend school, and who is provided instructional services in the home or hospital environment

Home Study Program (Approved)—program in which an approved curriculum can be implemented under the direction and control of a parent or a tutor (i.e., court appointed guardian under Louisiana law).

Individualized Education Program (IEP)—a written statement of specially designed instruction developed, reviewed and revised by a group of qualified education personnel and the parent/guardian for each student with a disability.

Industry-Based Certification—a portable recognized credential (tangible evidence) that an individual has successfully demonstrated skill competencies on a core set of content and performance standards in a specific set of work related tasks, single occupational area, or a cluster of related occupational areas.

Instructional Time—shall include the scheduled time within the regular school day devoted to teaching courses outlined in the Program of Studies. Instructional time does not include such things as recess, lunch, change of class time, and parent-teacher conferences.

Internship—student internships are situations where students work for an employer for a specified period of time to learn about a particular industry or occupation. Students' workplace activities may include special projects, a sample of tasks from different jobs, or tasks from a single occupation. These may or may not include financial compensation.

Language Arts—a broad subject area which includes reading, literature, speaking, listening, oral and written composition, English grammar, and spelling. (Foreign language may be included as part of the language arts program.)

Least Restrictive Environment—the educational placement of an exceptional child in a manner consistent with the Least Restrictive Rules in 1448 of Bulletin 1706—Regulations for Implementation for the Exceptional Children's Act and R.S. 17:1941 et seq.

Local Educational Agency (LEA)—a public board of education or other public authority legally constituted within the state either to provide administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, parish school district, or other political subdivision of the state. The term includes an educational service agency and any other public institution or agency having administrative control and direction of a public elementary or secondary school, including a public charter school that is established as an LEA under state law.

Locally Initiated Elective—an elective course developed and approved by an LEA according to the standards in §2315 and reported to the DOE.

Minimum Standards for Career/Technical Education—requirements that shall be met by local education governing agencies to be eligible for reimbursement in vocational education programs.

Modification—any technique that alters the work product in some way that makes it different from the work required of other students in the same class. A modification generally does change the work format or amount of work required of students. It encourages and facilitates academic success.

Paraprofessional—a person who is at least 18 years of age, possesses a certificate of good health signed by a physician, possesses an appropriate permit, and assists in the delivery of special educational services under the supervision of a special education teacher or other professional who has the responsibility for the delivery of services to exceptional children.

Paraprofessional Training Unit—a setting that may be used for the self-help training (toilet-training, dressing skills, grooming skills, feeding skills, and pre-academic readiness activities) of severely and profoundly handicapped children or preschool children. A school-aged unit may be comprised of no more than six paraprofessionals. A preschool unit may be comprised of no more than four paraprofessionals. All units must be supervised directly by a certified special education teacher. Each paraprofessional must have a full quota of students (three) before an additional paraprofessional can be added to the unit. A paraprofessional training unit must be approved by the Office of Special Educational Services for the DOE in accordance with operational standards established by BESE.

Preschool—no more than one year younger than the age established for kindergarten.

Principal—in a school, the chief administrative officer certified by the State Department of Education, except in the case of Special Schools in which the superintendent may be designated as the chief school administrator.

Procedures—specific actions or steps developed and required by the DOE to implement standards or regulations of BESE.

Proficiency Exam—an examination taken by a student to demonstrate mastery of a course they have not taken.

Public School—a school operated by publicly elected or appointed school officials and supported primarily by public funds.

Public School System Accreditation—an accreditation classification, which is based upon the fifth-year, on-site verification of the Annual System and School Reports, and which is granted by the State Department of Education.

Pupil Appraisal Personnel—professional personnel who meet the certification requirements for school personnel for such positions and who are responsible for delivery of pupil appraisal services included in §410-436 of Bulletin 1706—Regulations for Implementation of the Exceptional Children's Act, and R.S. 17:1941 et seq.

School Building Level Committee—a committee of at least three school level staff members. It shall be comprised of at least the principal/designee, a classroom teacher, and the referring teacher. It is suggested that other persons be included, such as the school counselor, reading specialist, master teacher, nurse, parents, pupil appraisal personnel, etc. This committee is a decision-making group that meets on a scheduled basis to solve problems or address concerns from teachers, parents, or other professionals on individual students who are experiencing difficulty in school because of academic and/or behavior problems. In most cases, for

enrolled students, it is only through the SBLC that a referral can be made to pupil appraisal services for an individual evaluation.

Senior Project—a project that provides high school seniors with an opportunity to conduct in-depth research in an area of interest, and to demonstrate problem-solving, decision-making, and independent learning skills. The project consists of a research paper, a portfolio of project activities, a product, and an oral presentation to a panel of teachers and community leaders. During this process, the student is advised by a teacher serving as a senior project advisor and a product mentor who has experience in the student's field of study.

Special Education—specially designed instruction, at no cost to the parent, to meet the unique needs of the student with an exceptionality.

Talented—children or youth who give evidence of measurable abilities of unique talent in visual and/or performing arts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1316 (June 2005).

Weegie Peabody
Executive Director

0506#008

RULE

Board of Elementary and Secondary Education

Donation of Immovables (LAC 28:I.1303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Chapter 13 (LAC 28:I). The revision of Title 28 of the *Louisiana Administrative Code* for a new policy regarding donation of immovables is recommended to align the *Louisiana Administrative Code* and Louisiana Department of Education policies with Board Special Schools and Special School District current practice, operation, and law. The revised policy language will overwrite previous policy contained in Section 1303.B.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 13. Board Special Schools and Special School District

§1303. Common Operational Matters

A. - A.4. ...

B. Donations of Immovables

1. Offers of unrestricted donations of immovables shall be evaluated by the Commissioner of Administration, who shall make a determination of whether or not it is in the best interest of the state to accept the donation.

2. Offers of restricted donations of immovables, not in contravention of the constitution or the law, may be accepted by the Board of Elementary and Secondary Education as deemed appropriate.

3. If property donated by a local school board ceases to be used by the state for any educational purposes whatsoever, then it will revert to the local school board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:4.1; R.S. 17:6; R.S. 17:7; R.S. 17:43; R.S. 17:1951.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 7:625 (December 1981), amended LR 16:297 (April 1990), LR 31:1319 (July 2005), LR 31:1319 (June 2005).

Weegie Peabody
Executive Director

0506#005

RULE

Board of Elementary and Secondary Education

Donation of Movables, Finance and Property (LAC 28:I.1303, 1705, and 1709)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Chapters 13 and 17 (LAC 28:I). The revision of Title 28 of the *Louisiana Administrative Code* to update language regarding donation of movables, finance and property is recommended to align the *Louisiana Administrative Code* and Louisiana Department of Education policies with Board Special Schools and Special School District current practice, operation, and law.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 13. Board Special Schools and Special School District

§1303. Common Operational Practices

A. Donations of Movables

1. Donations of movables and monies, that are made with the specification that the funds are not subject to deposit in the state treasury, and gifts to a Board Special School or to the Special School District appropriate to the students and/or programs may be accepted by the Board Special School Superintendents or the Special School District State Director. These donations are either restricted or unrestricted gifts which are managed in accordance with the following.

a. Restricted gifts are those donations of monies or movables designated for a specific purpose by the donor. Donations of monies or movables with a designated purpose are managed through the Board Special School or the Special School District State Director's office. Approval of acceptance of such gifts in consideration of the current needs of the students, various programs of the Board Special School and the Special School District, and the nature of the gift may be granted by the superintendent/state director.

b. Unrestricted gifts are those donations of movables or monies, that are made with the specification that the funds are not subject to deposit in the state treasury, donated for which no specific or restricted use or purpose is designated by the donor, i.e., for discretionary use by the donee.

i. Cash donations received without a designated purpose are managed through the Board Special School or the Special School District State Director's office. Upon notification/receipt of undesignated cash donations, the Board Special School and the Special School District State Director will consider the amount of the donation, the current needs of the students, various programs of the Board Special School and the Special School District and make a recommendation to the Board of Elementary and Secondary Education for use of the donations. Generally, priority consideration will be given to those needs for which no budgeted funds are available.

ii. Donations of material goods without a designated purpose will also be managed through the Board Special School or the Special School District State Director's office. Upon notification/receipt of undesignated material goods donations, the Board Special School superintendent, or the Special School District State Director, will consider the donation, current needs of the students, various programs of the Board Special Schools or the Special School District, the nature of the gift, and make a recommendation to the Board of Elementary and Secondary Education for use of the donations.

2. All gifts of monies are to be deposited in the appropriate account after approval of use by the Board of Elementary and Secondary Education.

3. All gifts of non-consumable movable property should be included on the appropriate Board Special School or the Special School District inventory in accordance with state property control procedures.

4. All gifts to a Board Special School and to the Special School District are to be officially acknowledged by each superintendent/state director, or designee, and a record of gifts is to be maintained by the Special School and the Special School District.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:4.1; R.S. 17:6; R.S. 17:7; R.S. 17:43; R.S. 17: 1951; Article VII, Section 3, of the Louisiana Constitution of 1974; R.S. 17:381.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 7:625 (December 1981), amended LR 16:297 (April 1990), LR 31:1319 (June 2005), LR 31:1319 (June 2005).

Chapter 17. Finance and Property

§1705. Property; Insurance

A. Property Management

1. Easements, Servitudes, and Rights of Way. All requests for easements, servitudes, and/or rights of way must be accompanied by the document to be executed at the time the request is submitted to the board for approval.

2. Options. Any option of the board on land on which the date of expiration has passed shall be canceled and any such matter shall be brought to the immediate attention of the board by the State Superintendent of Education.

3. Property Management. Property management in any entity under the board's jurisdiction shall be in compliance with all applicable state and federal property laws and regulations.

B. Insurance

1. Agencies under the jurisdiction of the board shall comply with all regulations issued by the Division of Administration, Office of Risk Management.

2. Institutions under the jurisdiction of the board are to notify the fire marshal's office immediately in the case of all explosions and also in the case of fire when arson or some other unusual circumstance is suspected.

3. Partial losses or damages to property will be attended to immediately by the institution authorities and the state superintendent working in concert with the manager of the Office of Risk Management. In the case of total losses the same personnel mentioned above shall arrive at remedial measures, draw up a list of property destroyed, and submit them to the board for review.

4. Each entity under the jurisdiction of the board is to maintain a complete inventory showing the amount and type of all moveable equipment owned by the institution in accordance with applicable state and federal laws and regulations regarding property management.

5. The Division of Administration is requested to consult with the state superintendent prior to making a settlement on insurance or replacing of damaged buildings under the jurisdiction of the board.

6. No board entity shall purchase buses without the authority of the board.

7. All board employees excluding those hired under the provisions of a professional services or consulting contract shall be placed under workmen's compensation coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:4.1; R.S. 17:6; R.S. 17:7; R.S. 17:43; R.S. 17:1951; Article VII, Section 3, of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 6:543 (September 1980), amended LR 8:406 (August 1982), LR 13:563 (October 1987), LR 16:297 (April 1990), LR 31:1320 (June 2005).

§1709. Budgets

A. - F. ...

G. Financial Relations with Students. Superintendents of BESE Special Schools and the Special School District State Director shall notify the Board of Elementary and Secondary Education and receive board approval for any fixed financial relations between the students and schools when these relationships affect the school's or institute's budget. The BESE Special School Superintendents report to the Special School District State Director, who reports to the State Superintendent of Education, who then notifies BESE and seeks BESE approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A); R.S. 17:7; R.S. 17:22.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:398 (September 1975), amended LR 1:541 (December 1975), LR 3:404 (October 1977), LR 14:789, 790 (November 1988), LR 16:297 (April 1990), LR 16:397 (May 1990), LR 20:646 (June 1994), LR 21:1329 (December 1995), LR 23:55 (January 1997), LR 24:296 (February 1998), LR 25:247 (February 1999), LR 31:1320 (June 2005).

Weegie Peabody
Executive Director

0506#006

RULE

Department of Environmental Quality Office of Environmental Assessment

Postponement of Permit Deadline for Oil and Gas Construction Activities (LAC 33:IX.2511)(WQ060ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.2511 (Log #WQ060ft).

This Rule is identical to federal regulations found in 40 FR 11560-11563, No. 45 (March 9, 2005), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule implements the Environmental Protection Agency (EPA) Rule to postpone until June 12, 2006, the requirement to obtain National Pollutant Discharge Elimination System (NPDES) storm water permit authorization for oil and gas construction activity that disturbs one to five acres of land. This second postponement promulgated by EPA for these activities is necessary in order to afford EPA additional time to complete consideration of issues raised by stakeholders about storm water runoff from these activities and of procedures for controlling storm water discharges as appropriate to mitigate impacts on water quality. Within six months, EPA intends to publish a notice of proposed rulemaking for addressing these discharges and to invite public comments.

The Department of Environmental Quality, Office of Environmental Services (successor to the former Office of Water Resources), became the NPDES permit issuing authority for the state of Louisiana on August 27, 1996. This Rule is necessary for the Louisiana Pollutant Discharge Elimination System (LPDES) program to be consistent with the EPA NPDES program. The department issued an Emergency Rule, effective March 10, 2005, to reflect the revised federal requirement until a final Rule can be promulgated. The basis and rationale for this Rule are to mirror the federal regulations.

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

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

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

Chapter 25. Permit Application and Special LPDES Program Requirements

§2511. Storm Water Discharges

A. - E.7.c. ...

8. Any storm water discharge associated with small construction activity identified in Subparagraph B.15.a of

this Section, other than discharges associated with small construction activity at oil and gas exploration, production, process, and treatment operations or transmission facilities, requires permit authorization by March 10, 2003, unless designated for coverage before then. Discharges associated with small construction activity at such oil and gas sites require permit authorization by June 12, 2006.

E.9 - G.4.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:957 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2273 (October 2000), LR 26:2552 (November 2000), repromulgated LR 27:40 (January 2001), amended LR 28:467 (March 2002), LR 29:701 (May 2003), repromulgated LR 30:230 (February 2004), amended by the Office of Environmental Assessment, LR 31:1321 (June 2005).

Karen K. Gautreaux
Deputy Secretary

0506#012

RULE

Department of Environmental Quality Office of Environmental Assessment

Security-Sensitive Information (LAC 33:I.601, 603, 605, 607, and 609)(OS061)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has adopted the Office of the Secretary regulations, LAC 33:I.601, 603, 605, 607, and 609 (Log #OS061).

This Rule adopts a new chapter in LAC 33, Part I. The new chapter defines security-sensitive information, states who is responsible for declaring the information to be security sensitive, outlines procedures for submitting security-sensitive information, and states how such information will be handled by the department. Act No. 636 of the 2004 Regular Session requires the department to restrict access to certain security-sensitive information so that it is not distributed via the Internet and to adopt rules and regulations necessary to fully describe the information to which access is restricted. The basis and rationale for this rule are to fulfill the requirements of R.S. 30:2030(D) and to protect certain security-sensitive information from dissemination via the Internet.

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

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures Chapter 6. Security-Sensitive Information

§601. Scope

A. Department of Environmental Quality records and information obtained under the Louisiana Environmental

Quality Act, or in accordance with any rule, regulation, order, license, registration, or permit term or condition adopted or issued thereunder, or by any investigation authorized thereby, shall be available to the public unless specifically excepted or exempted by law. In accordance with law, regulation, or general practice, records and information may be made accessible to the public in a variety of ways, including but not limited to in-person on department premises, at a public library or other public facility, via request in accordance with the Louisiana Public Records Act, at a public meeting, via public notice, or via the Internet. Certain security-sensitive information shall not be publicly distributed or disseminated via the Internet by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1321 (June 2005).

§603. Definitions

Distribution or Dissemination via the Internet—to make known to the public generally by posting to a web, FTP, database, or application server configured for anonymous public access under the direct control of the department.

Security-Sensitive Information—as defined in R.S. 44:3.1, security procedures, criminal intelligence information pertaining to terrorist-related activity, or threat or vulnerability assessments created, collected, or obtained in the prevention of terrorist-related activity, including but not limited to physical security information, proprietary information, operational plans, and the analysis of such information, or internal security information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1322 (June 2005).

§605. Responsibility of Provider of Records or Information

A. As the department does not generate security-sensitive information as defined in LAC 33:I.603, it shall be the responsibility of a provider of such information to identify it as security sensitive at the time of submitting it to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1322 (June 2005).

§607. Procedure for Submitting Security-Sensitive Information

A. In the event that a submittal of records, documents, or information to the department contains security-sensitive information, these steps shall be followed in order to ensure that the information is marked for protection from Internet distribution or dissemination.

1. A cover sheet conspicuously labeled with the phrase "Contains Security-Sensitive Information" shall accompany the submittal. Each page or any item (e.g., any picture, map, videotape, computer disk, etc.) that contains allegedly security-sensitive information shall be clearly labeled. To the maximum extent possible, security-sensitive information shall be segregated and placed in a clearly labeled appendix to facilitate identification and handling.

2. A statement detailing the reasons for the required protection shall also accompany the submittal. It shall include all of the following:

a. the measures taken to guard against undesired disclosure of the information to others;

b. the extent to which the information has been disclosed to others and the precautions taken in connection therewith;

c. whether disclosure of the information would be likely to result in substantial harmful effects and, if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects;

d. the period of time for which protection from Internet distribution or dissemination is desired; and

e. a certification that all statements are true and correct to the best of the provider's knowledge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1322 (June 2005).

§609. Dissemination of Existing Security-Sensitive Information; Notification to Department

A. In the event that the department distributes or disseminates any information via the Internet that was in its possession prior to the adoption of this regulation, and the provider of the information considers the information to be security sensitive, it is the responsibility of the provider to notify the department via letter to the Custodian of Records, Department of Environmental Quality, Box 4303, Baton Rouge, LA 70821-4303 or by fax to (225) 219-3175. Notification shall include all information required in LAC 33:I.607 and authentication that the person making the declaration is authorized to do so. Distribution or dissemination of the material via the Internet will be restricted within three business days of notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1322 (June 2005).

Wilbert F. Jordan, Jr.
Assistant Secretary

0506#021

RULE

Department of Environmental Quality Office of Environmental Assessment

Waste Tire Fees
(LAC 33:VII.10505, 10509, 10519,
10521, 10535, and 10537)(SW039)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Solid Waste regulations, LAC 33:VII.10505, 10509, 10519, 10521, 10535, and 10537 (Log #SW039).

The Rule allows the department to collect fees on the sale of all tires instead of just new tires. It adds new definitions,

including motor vehicle dealer, and exempts tires weighing over 500 pounds and/or solid tires from the definition of waste tire. A fee of \$1.25 will be collected on recapped or retreaded tires. The rule develops the standards and responsibilities of motor vehicle dealers in regards to the waste tire fee collection. This rule is a result of Act 846 of the 2004 Regular Session of the Louisiana legislature. The basis and rationale for this rule are to ensure proper processing, recycling, marketing, and disposal of waste tires generated in Louisiana.

The department has submitted a report to the Legislative Fiscal Office and the Joint Legislative Committee on the Budget demonstrating that the environmental and public health benefits outweigh the social and economic costs reasonably expected to result from this rule. This report is published in the Potpourri Section of the June 20, 2005, issue of the *Louisiana Register*. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste
Subpart 2. Recycling

Chapter 105. Waste Tires

§10505. Definitions

A. The following words, terms, and phrases, when used in conjunction with the Solid Waste Rules and Regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

* * *

Motor Vehicle Dealer—any person, business, or firm registered with the state of Louisiana that engages in the commercial sale of new motor vehicles.

* * *

Recapped or Retreaded Tire—any tire that has been reconditioned from a used tire and sold for use on a motor vehicle.

* * *

Sale of a Motor Vehicle—any sale and/or lease of a motor vehicle that would require registration, under the name of the consumer, with the Louisiana Office of Motor Vehicles.

* * *

Tire Dealer—any person, business, or firm that engages in the sale of tires, including recapped or retreaded tires, for use on motor vehicles.

* * *

Waste Tire—a whole tire that is no longer suitable for its original purpose because of wear, damage, or defect. *Waste tire* does not include a tire weighing over 500 pounds and/or a solid tire.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000), LR 27:829 (June 2001), LR 27:2226 (December 2001), LR 28:1953 (September 2002), LR

29:2779 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005).

§10509. Prohibitions and Mandatory Provisions

A. - G. ...

H. All persons who sell tires shall retain and make available for inspection, audit, copying, and examination, a record of all tire transactions in sufficient detail to be of value in determining the correct amount of fee due from such persons. The records retained shall include all sales invoices, purchase orders, inventory records, and shipping records pertaining to any and all sales and purchases of tires. This recordkeeping provision does not require anything more than what is already required by R.S. 47:309(A).

I. Each tire wholesaler shall maintain a record of all tire sales made to dealers in this state. This recordkeeping provision does not require anything more than what is already required by R.S. 47:309(A). These records shall contain and include the name and address of each tire purchaser and the number of tires sold to that purchaser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2774 (December 2000), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005).

§10519. Standards and Responsibilities of Generators of Waste Tires

A. ...

B. Tire dealers must accept from the purchaser, at the time of purchase, one waste tire for every tire sold, unless the purchaser elects to retain the waste tire.

C. Each tire dealer doing business in the state of Louisiana shall be responsible for the collection of the \$2 waste tire fee upon the sale of each passenger/light truck tire, \$5 waste tire fee upon the sale of each medium truck tire, and \$10 waste tire fee upon the sale of each off-road tire. For recapped or retreaded tires, a waste tire fee of \$1.25 shall be collected upon the sale of each recapped or retreaded tire. *Tire dealer* includes any dealer selling tires in Louisiana.

D. - E.1. ...

2. "All Louisiana tire dealers are required to collect a waste tire cleanup and recycling fee of \$2 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire, upon sale of each tire. These fees shall also be collected upon replacement of all recall and adjustment tires. Tire fee categories are defined in the Waste Tire Regulations. No fee shall be collected on tires weighing more than 500 pounds or solid tires. This fee must be collected whether or not the purchaser retains the waste tires. Tire dealers must accept from the purchaser, at the time of sale, one waste tire for every tire sold, unless the purchaser elects to retain the waste tire."

F. - J. ...

K. No generator shall allow the removal of waste tires from his place of business by anyone other than an authorized transporter, unless the generator generates 50 or less waste tires per month from the sale of 50 tires. In this case, the generator may transport his waste tires to an authorized collection or permitted processing facility provided LAC 33:VII.10523.C is satisfied.

L. A generator who ceases the sale of tires at the registered location shall notify the Office of Management and Finance, Financial Services Division, within 10 days of the date of the close or relocation of the business. This notice shall include information regarding the location and accessibility of the tire sale and monthly report records.

M. Generators of waste tires shall segregate the waste tires from any usable tires offered for sale.

N. - O. ...

P. All generators of waste tires (e.g., new tire dealers, used tire dealers, salvage yards, and recappers) shall maintain a complete record of purchase invoices, inventory records, and sales invoices for a period of no less than three years. These records shall be open for inspection and/or audit by the administrative authority at all reasonable hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001), LR 28:1953 (September 2002), LR 29:1818 (September 2003), LR 29:2780 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005).

§10521. Standards and Responsibilities of Motor Vehicle Dealers

A. All existing motor vehicle dealers shall notify the Office of Management and Finance, Financial Services Division, of their existence and obtain an identification number. Notification shall be on a form provided by the Office of Management and Finance, Financial Services Division. Any new motor vehicle dealer shall notify the Office of Management and Finance, Financial Services Division, within 30 days of commencement of business operations.

B. Motor vehicle dealers doing business in the state of Louisiana, who sell new vehicles, shall be responsible for the collection from the consumer of the \$2 waste tire fee for each tire upon the sale of each vehicle that has passenger/light truck tires, the \$5 waste tire fee for each tire upon the sale of each vehicle that has medium truck tires, and the \$10 waste tire fee for each tire upon the sale of each off-road vehicle. No fee is collected on the designated spare tire.

C. Motor vehicle dealers shall remit all waste tire fees collected as required by LAC 33:VII.10535.B and C to the department on a monthly basis on or before the twentieth day following the month during which the fees were collected. The fees shall be remitted to the Office of Management and Finance, Financial Services Division. Each such dealer shall also submit a Monthly Waste Tire Fee Report (Form WT02, available from the Office of Management and Finance, Financial Services Division) to the Office of Management and Finance, Financial Services Division, on or before the twentieth day of each month for the previous month's activity, including months in which no fees were collected. Each motor vehicle dealer is required to make a report and remit the fee imposed by this Section and shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each such dealer shall maintain a complete record of the quantity of vehicles

sold, together with vehicle purchase and sales invoices, and inventory records, for a period of no less than three years. These records shall be made available for inspection by the administrative authority at all reasonable hours.

D. Motor vehicle dealers must provide notification to the public via a sign, made available by the Office of Management and Finance, Financial Services Division, indicating that:

"All Louisiana motor vehicle dealers selling new vehicles are required to collect a waste tire cleanup and recycling fee from the consumer of \$2 for each tire upon the sale of each vehicle that has passenger/light truck tires, \$5 for each tire upon the sale of each vehicle that has medium truck tires, and \$10 for each tire upon the sale of each off-road vehicle. These fees shall also be collected upon replacement of all recall and adjustment tires. No fee shall be collected on the designated spare tire."

E. The waste tire fee established by R.S. 30:2418 shall be listed on a separate line of the retail sales invoice or buyers order. No tax of any kind shall be applied to this fee.

F. A motor vehicle dealer who ceases the sale of motor vehicles at the registered location shall notify the Office of Management and Finance, Financial Services Division, within 10 days of the date of the close or relocation of the business. This notice shall include information regarding the location and accessibility of the motor vehicle sales and monthly report records.

G. Motor vehicle dealers, who generate waste tires, shall comply with the manifest requirements of LAC 33:VII.10533.

H. Motor vehicle dealers shall comply with LAC 33:VII.10519.H for all waste tires and waste tire material collected and/or stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1324 (June 2005).

§10535. Fees and Fund Disbursement

A. - A.8. ...

B. Waste Tire Fee upon Promulgation of These Regulations. A waste tire fee is hereby imposed on each tire sold in Louisiana, to be collected from the purchaser by the tire dealer or motor vehicle dealer at the time of retail sale. The fee shall be \$2 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire. No fee shall be collected on tires weighing more than 500 pounds or solid tires.

C. - D.10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2781 (December 2000), LR 27:832 (June 2001), LR 27:2228 (December 2001), amended by the Office of Environmental Assessment, LR 31:1324 (June 2005).

§10537. Enforcement

A. ...

B. Investigations and Audits: Purposes, Notice. Investigations shall be undertaken to determine whether a violation has occurred or is about to occur, the scope and nature of the violation, and the identity of the persons or parties involved. Upon written request, the results of an

investigation shall be given to any complainant who provided the information prompting the investigation and, if advisable, to any person under investigation, if the identity of such person is known. In any case where a person selling tires has failed to report and remit the waste tire fee to the administrative authority, and the person's records are inadequate to determine the proper amount of fee due, or in any case where a grossly incorrect report or a report that is false or fraudulent has been filed, the administrative authority shall have the right to estimate and assess the amount of the fee due, along with any interest accrued and penalties. The burden to demonstrate to the contrary shall rest upon the audited entity.

C. - E.2.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2782 (December 2000), LR 28:1954 (September 2002), amended by the Office of Environmental Assessment, LR 31:1324 (June 2005).

Wilbert F. Jordan, Jr.
Assistant Secretary

0506#022

RULE

Office of the Governor Auctioneers Licensing Board

Licensing of Auction Businesses and Requirement of Bonds
(LAC 46:III.Chapters 1, 11, 12,
13, 15, 17, 23, 25, 27, and 29)

Under the authority of the Louisiana Auctioneers Licensing Law, R.S. 37:3103 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Auctioneers Licensing Board has amended and added LAC 46:III, Auctioneers Licensing, Chapters 1, 11, 12, 13, 15, 17, 23, 25, 27, and 29.

The amendments define and interpret to a more full and precise extent the licensing of auction businesses, and the requirement of bonds.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part III. Auctioneers

Chapter 1. Description of Organization

§105. Election and Term of Office

A. The chairman and vice-chairman shall hold office as board members so long as they hold their respective positions as elective officers of the board. Each appointed member shall serve at the pleasure of the governor for a term concurrent to the term of office of the governor appointing him except that each member shall serve until his successor has been appointed and begins serving. Each appointment by the governor shall be submitted to the Senate for confirmation. In the event of the death, resignation, or disability of a member of the board, the governor shall fill

the vacancy by appointing a qualified person for the remainder of the unexpired term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1325 (June 2005).

Chapter 11. License of Auctioneer

§1101. Qualifications for Applicant

A. The board shall base determination of satisfactory minimum qualifications for licensing as follows:

1. ...

2. be a citizen, or a legal resident of the United States;

A.3. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1325 (June 2005).

§1103. Licensing Procedure

A. - B.3. ...

4. voter's registration or other satisfactory proof of citizenship of this state or of other; in the alternative, a proof of resident alien status;

5. a good and sufficient surety bond executed by the applicant as principal and by a surety company qualified to do business in the state of Louisiana as surety in the amount of \$10,000;

6. cashier's check, money order or cash (no checks will be accepted) in the sum of \$300 for all fees covered in the initial licensing procedure;

7. oath of office as a Louisiana Auctioneer;

8. irrevocable consent (if applicable);

9. current letter of good standing from other state, if applicable;

10. educational background;

11. three references, including their business addresses, who attest to the applicant's reputation and adherence to ethical standards;

12. previous occupational experience as an auctioneer;

13. copies of all current auctioneers licenses, if any;

14. Louisiana sales tax number;

15. tax identification number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1325 (June 2005).

§1105. Availability of Applications and Apprentice License

A. Applications and all other pertinent forms are available at the Department of Economic Development, Louisiana Auctioneers Licensing Board, 8017 Jefferson Highway, Suite A-2, Baton Rouge, LA 70809, or will be mailed upon request of the person seeking to be licensed as an auctioneer or as an apprentice auctioneer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1325 (June 2005).

§1107. Change of Address

A. All licensees shall notify the board in writing of each change of address within 30 days of that change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005).

§1109. Examination Procedure

A. - B. ...

C. The board shall give examinations for licensure at least six times per year.

D. - G. ...

H. Examinations for persons with disabilities will be provided without discrimination based upon current law and upon the individual's disability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005).

§1113. Fees

A. - A.3. ...

4. initial license fee for an auctioneer—\$150;

5. annual renewal license fee for an auctioneer—\$150;

6. - 7. ...

8. delinquent renewal fee—\$75;

9. - 10. ...

11. initial license fee for an auction business—\$300;

12. annual license renewal fee for an auction business—\$300;

13. replacement fee of lost, destroyed or mutilated identification card—\$5.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3116.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:785 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005).

§1117. Qualification for Licensing Apprentice Auctioneers

A. - B.2. ...

3. a good and sufficient surety bond executed by the applicant as principal and by a surety company qualified to do business in the state of Louisiana as surety in the amount of \$10,000, which shall be delivered to the board at the time of the initial license application (see §1201);

4. - 6. ...

7. a form signed by the supervising Louisiana resident licensed auctioneer stating that the apprentice will be serving under him for the term of one year;

8. a copy of the rules and regulations signed by both the apprentice and the supervising auctioneer (see Subsection D).

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3118.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:786 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005).

§1119. Apprentice Auctioneer Licensing

A. - H. ...

1. a completed application for license as an auctioneer;

2. ...

3. posting of a \$10,000 surety bond, made payable to the Louisiana Auctioneers Licensing Board (see §1201);

4. - 5. ...

6. certified check, money order, or cash in the amount of \$300 (this includes the \$150 license fee, the \$75 application fee, and \$75 examination fee);

7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:786 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005).

§1121. Causes for Nonissuance, Suspension, Revocation or Restriction; Fine, Reinstatement

A. The board may refuse to issue or may suspend, revoke or impose probationary or other restrictions of any license issued under this statute and rules for any of the following causes:

1. - 10. ...

11. false, deceptive or misleading advertising;

12. failure to notify the board within 30 days, of any administrative action taken by another licensing authority, board or commission;

13. failure to comply with all local, city, parish/county, or state laws.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3121.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:786 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005).

Chapter 12. Bonds; Funds

§1201. Bonds

A. Each applicant for licensure as a resident auctioneer, apprentice auctioneer, or auction business shall deliver to and deposit with the board at the time of application either the sum of \$10,000 in cash or a surety bond in the amount of \$10,000. Such bond shall:

1. be executed by the applicant as principal and by a surety company qualified to do business in the state as a surety;
2. be in a form approved by the board;
3. be conditioned upon compliance by the applicant with the conditions of any written auctioneer's contract made by such applicant in connection with a sale or auction in which he is a party;
4. be conditioned upon the assurance that the applicant shall not violate any provision of this Chapter or state law in the conduct of the business for which he is licensed;
5. be made payable to the board for the use, benefit, and indemnity of any person who suffers any loss as a result of a violation of this Chapter and for the proper disposition of all funds, taxes and registration fees;
6. be for the period of licensure.

B. The bond shall be maintained throughout the period of licensure. If the bond is canceled for any reason, the license shall be revoked as of the date of cancellation unless a new bond is furnished prior to that date.

C. A new bond or proper continuation certificate shall be delivered to the board at the beginning of each period of licensure. However, the aggregate liability of the surety in any one year shall not exceed the sum of the bond.

D. A licensed resident auctioneer shall not be required to deposit with the board an additional cash amount or an additional surety bond upon application for licensure as an auction business.

E. The board may promulgate rules to require a cash deposit or surety bond not to exceed \$10,000 as a condition of reinstatement of a license revoked, canceled, suspended, or otherwise restricted pursuant to R.S. 37:3121.

F. The board may promulgate rules to require a cash deposit or surety bond not to exceed \$10,000 of a nonresident auctioneer either licensed in or conducting an auction in Louisiana under the reciprocity provisions of R.S. 37:3117 if a bond is required of a Louisiana auctioneer for licensure or the conduct of an auction in the licensing jurisdiction of such nonresident auctioneer.

G. An auction business which is owned by a nonresident auctioneer shall, prior to being licensed by the board, post a surety bond in the amount which shall be the greater or either:

1. \$10,000;
2. the amount of the bond required of an auction business owned by an auctioneer licensed in Louisiana in the licensing jurisdiction of such nonresident auctioneer.

H. Such bond shall name the board as beneficiary.

1. In the case of a cash deposit, the auctioneer or auction business making the cash deposit shall deposit funds in a recognized state depository with the account or certificate pledged to the Louisiana Auctioneer Licensing Board under the same requirements as a surety bond. The funds shall be maintained in this depository for a period of one calendar year past the expiration date of the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005).

§1203. Auctioneer Recovery Fund

A. Funds remaining in the auctioneers recovery fund shall be deposited into the general fund of the Louisiana Auctioneer Licensing Board with the following provisions.

1. A percentage of the funds shall be designated for a specified number of years to cover those incidents, which occurred while the fund was in existence. All civil judicial proceedings must be exhausted prior to filing a claim against the funds.

- a. Only those claims, which are filed within one year of the termination of the fund, will be considered to be filed in a timely manner against the fund.

2. A percentage of the funds shall be designated by the board for educational and administrative use, to cover the cost of continuing education for Louisiana residential auctioneers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneer Licensing Board, LR 31:1327 (June 2005).

Chapter 13. Cease and Desist; Injunctions

§1301. Cease and Desist; Injunctions

A. - C. ...

D. Those who hold auction licenses who are found in violation of the statutes or regulations shall be responsible for reasonable attorney fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3122.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:787 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1327 (June 2005).

Chapter 15. Violations and Penalties

§1501. Violations and Penalties

A. - B. ...

C. Any person who fails to comply with any order issued by the board or its designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3123.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:787 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1327 (June 2005).

Chapter 17. Responsibilities of Licensed Auctioneers

§1703. Conduct in Professional Manner

A. A licensee shall conduct his professional activities in a professional manner that will reflect credit upon him, the auction profession and auctioneers.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:787 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1327 (June 2005).

§1705. Record Keeping

A. All licensees, including all individual auctioneers and auction businesses, must retain the following records of each sale conducted by that licensee or conducted by an apprentice auctioneer for which that licensee is responsible, for at least three years after the sale:

1. clerk sheets;
2. consignor sheets;
3. records showing deposits and disbursements from the escrow account;
4. consignor contracts;
5. settlement sheets;
6. receipts to buyers;
7. any document showing lot numbers, item numbers, amounts of sale and commission amounts for each sale;
8. sales tax licenses;
9. occupational licenses;
10. any other license which the auctioneer is required to have to operate his business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 31:1328 (June 2005).

Chapter 23. Transfer of Boards, Commissions, Departments and Agencies to the Department of Commerce

§2301. Transferred as Provided in R.S. 36:803

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3120.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:339 (April 1985), repealed by the Office of the Governor, Auctioneers Licensing Board, LR 31:1328 (June 2005).

Chapter 25. Auctioneer Business

§2501. Licensing of Auctioneer Business

A. - D. ...

E. Application Information. Each applicant shall submit the following information on the designated application form:

1. the name of each owner of the entity and the length of time each such person has been an owner;
2. each business address of the entity;
3. each auctioneer licensed by the date of application who has been employed by the business for more than one auction in the previous calendar year;
4. the nature of the business and the product to be sold;
5. two references who shall be auctioneers currently licensed in this state in good standing with the board;
6. tax identification number;
7. Louisiana sales tax number;
8. all related business entities or individuals, such as co-owners, holding companies, sister companies, etc.;
9. a good and sufficient surety bond executed by the applicant as principal and by a surety company qualified to do business in the state of Louisiana as surety in the amount of \$10,000.

F. If, in the opinion of the board, the applicant provided inadequate information to allow the board to ascertain whether the applicant satisfies the qualifications for

licensing, the applicant shall be required to provide additional information for purposes of the application or may be required to present himself for an interview for this purpose.

G. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Auctioneers Licensing Board, LR 20:1367 (December 1994), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1328 (June 2005).

Chapter 27. Continuing Education

§2701. Continuing Education

A. In an effort to improve the quality of the service provided by auctioneers in the state of Louisiana, the board has determined that continuing education shall be required of all auctioneers. As provided for in R.S. 37:3115.1, each auctioneer licensed in the state of Louisiana shall be required to have obtained six hours of continuing education, related to the business of auctioneering, in order to be eligible for renewal, and shall obtain six hours each year thereafter to maintain eligibility for renewal. Under the regulation, each credit hour shall consist of no less than 50 minutes of lecture or instruction time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 31:1328 (June 2005).

§2703. Providers

A. In order to be considered a provider of continuing education, the provider must satisfy one of the following criteria:

1. be a recognized school of auctioneering approved by the board;
2. be a state regulatory board or commission;
3. be a recognized national or state association;
4. be a certified instructor in a field related to auctioneering;
5. be a recognized expert in a field related to auctioneering either through accreditation or years of experience;
6. be a licensed professional in their field.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 31:1328 (June 2005).

§2705. Application Process and Provider Responsibilities

A. Effective (the date these rules become effective), the provider of any continuing education program shall apply to the board for approval of such program by supplying the board with the following information:

1. the name, address, and phone number of the provider seeking approval;
2. a listing of courses offered that pertain to the business of auctioneering;
3. an outline and brief description of each course to be approved including the number of credits for each course;
4. a list of instructors and their credentials;
5. the location and dates, if available, for courses to be approved.

B. Each approved provider shall submit, within 30 days of course completion, a list of all licensees completing the course. This list shall contain the following information:

1. the full name of the licensee;
2. the Louisiana auctioneer's license number;
3. the name of the course taken;
4. the provider course number;
5. the location of the course;
6. the number of credit hours;
7. the date the course was taken;
8. the name of the instructor for that course.

C. The provider shall be required to assure complete attendance of courses prior to issuing credit, through a system of signed attendance sheets showing each licensee' name and license number and the times of each attendee' presence at the course. No course credit shall be given to any attendee who fails to attend the full session. Certificates of attendance, if utilized, shall be issued at the end of the course.

D. Each credit hour shall consist of 50 minutes of instruction or lecture time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 31:1328 (June 2005).

§2707. Revocation of Provider Status

A. The board shall have the authority to suspend or revoke approval of any provider who fails to adhere to the rules set forth in this Chapter, or who knowingly falsifies or aids anyone in falsifying records pertaining to course credits received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 31:1329 (June 2005).

§2709. Auctioneer Responsibilities

A. It shall be the responsibility of the auctioneer to obtain six credit hours of continuing education each year, prior to the license renewal date, in order to maintain eligibility to renew a license. Each licensee shall be required to do the following:

1. attend and complete board approved continuing education seminars, totaling six hours, in courses approved by this board;
2. complete the required six hours of coursework prior to the renewal period of the upcoming year;
3. supply the provider of continuing education, their full name and Louisiana license number, on the providers form in order to receive credit for the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 31:1329 (June 2005).

§2711. Continuing Education for Auction Businesses

A. An owner, officer, director or office manager of each business licensed in the state of Louisiana as an auction business, bearing an AB prefix on the license number, shall be required to take six credit hours of continuing education courses related to the business of auctioneering in order for the business license to be renewed each year.

B. Louisiana resident individual auctioneers exempt from the requirements of holding a separate auction business

license are required to take only the continuing education required of individual auctioneers, as stated herein.

C. Any individual licensed auctioneer who is also an owner, officer, director or office manager of a licensed auction business may credit any continuing education taken toward this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 31:1329 (June 2005).

Chapter 29. Miscellaneous

§2901. Costs for Letters of Good Standing and Rosters of Licensees

A. The board may charge any individual, board or other party requesting a letter of good standing for an individual auctioneer or an Auction Business the sum of \$25 as cost for research, preparation, postage and copies necessary for the preparation of that letter.

B. The board may charge any individual, board or other party the sum of \$25 for the preparation and mailing of a roster of licensees or for preparation of electronic media or labels containing that information.

C. The board may charge any individual, board or other party the sum of \$10 plus the cost of labels to prepare mailing labels. Any such request must be approved by the board chairman before preparing.

D. Should any reciprocal auctioneer licensing board request any of the above, or any other document, that board shall be charged what it charges the Louisiana Auctioneers Licensing Board for the same document.

E. Any auctioneer or auction business licensed under any reciprocity agreement with a reciprocal state will be charged for any of the items listed in this Section the same amount as that charged to Louisiana individual and/or business licensees by the reciprocal state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 31:1329 (June 2005).

Sherri Wilks
Executive Assistant

0506#015

RULE

Office of the Governor Board of Certified Public Accountants

Uniform CPA Examination Fees (LAC 46:XIX.319 and 709)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and of the Louisiana Accountancy Act, R.S. 37:74(J) and 75(D)(4), the Board of Certified Public Accountants has amended LAC 46:XIX.319 and 709 to remove and delete references to the CPA examination application fees. The action was necessary because candidates pay all examination fees to the third parties, who prepare and deliver the AICPA Uniform Certified Public Accountant Examination. These fees are not revenue to the board. No preamble has been prepared with respect to the revised rules, which appear below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XIX. Certified Public Accountants

Chapter 3. Operating Procedures

§319. Assessment of Application, Annual and Other Fees

A. Certification, firm permit application, renewal, and other fees shall be assessed by the board in amounts not to exceed the following.

Application Fees	
Original or reciprocal certification application	\$100
Reinstatement of certificate application	\$100
Firm permit application	\$100
Annual Fees	
* * *	

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), amended LR 9:209 (April 1983), LR 11:758 (August 1985), LR 13:13 (January 1987), LR 15:619 (August 1989), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:1968 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 28:1013 (May 2002), LR 31:1330 (June 2005).

Chapter 7. Qualifications; Application for CPA Examination

§709. Fees

A. Each application for certification or firm permit shall be accompanied by a fee set by the board. Should such application be rejected, the fee less any service charge shall be refunded. Additional information on fees is included in Chapter 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:8 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1068 (November 1991), LR 26:1972 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 28:1013 (May 2002), LR 31:1330 (June 2005).

Michael A. Henderson
Executive Director

0506#009

RULE

**Office of the Governor
Crime Victims Reparations Board**

Award Limits (LAC 22:XIII.503)

In accordance with the provisions of R.S. 46:1801 et seq., the Crime Victims Reparations Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Crime Victims Reparations Board has amended its rules and regulations to

the awarding of compensation to applicants. There will be no impact on family earnings and family budget as set forth in R.S. 49:972.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part XIII. Crime Victims Reparations Board

Chapter 5. Awards

§503. Limits on Awards

A. - B.3. ...

C. Funeral Expenses

1. The board will reimburse up to a maximum of \$4,500 to cover reasonable expenses actually incurred for the funeral, burial or cremation (effective June 20, 2005).

2. Death and/or burial insurance taken out specifically for the purpose of burial must pay first. The amount of life insurance proceeds paid is no longer considered as a collateral source for funeral expenses.

D. - M.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), LR 24:328 (February 1998), LR 25:26 (January 1999), LR 26:1019 (May 2000), LR 29:577 (April 2003), LR 31:1330 (June 2005).

Lamarr Davis
Chairman

0506#042

RULE

**Office of the Governor
Office of Elderly Affairs**

Family Caregiver Support Program
(LAC 4:VII.1101, 1105, 1237, 1245, and 1275)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Governor's Office of Elderly Affairs (GOEA) has repealed LAC 4:VII.1105, 1237, and 1275. These Sections have been repealed to agree with changes in legislation or are requirements in either state or federal regulations

This Rule also amends §1101, Office of Elderly Affairs, to repeal selected text, and §1245, Family Caregiver Support Program, to clarify service definitions and support services. The significant change is in the minimum number of hours of respite care. This change is a result as a recommendation from the Governor's Office of Elderly Affairs Task Force.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

Subchapter A. State Agency on Aging

§1101. Office of Elderly Affairs

A. - A.2.j. ...

3. GOEA serves as the focal point for the development and administration of public policy regarding Louisiana's elderly citizens. GOEA is the sole state agency designated by the governor and the legislature to develop and administer the state plan on aging. GOEA also

administers several statewide programs including the Adult Protective Services Program for the Elderly and the Long Term Care Ombudsman Program.

- B. - B.1.j. ...
- k. Repealed.
- l. Repealed.
- m. - q. ...
- 2. - 2.f. Repealed.

C. - D.8.b.xvii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931 to R.S. 46:935, R.S. 14:403.2, OAA Sections 203, 305, 307 and 731, and 45 CFR 1321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2199 (November 1999), LR 1016 (May 2002), LR 31:1330 (June 2005).

§1105. State Plan on Aging

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931, R.S. 49:432, OAA Section 203(b), OAA Section 307, OAA Section 731, and 45 CFR 1321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2205 (November 1999), LR 28:1016 (May 2002), repealed LR 31:1331 (June 2005).

Subchapter E. Uniform Service Requirements

§1237. Long-Term Care Assistance Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2802(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:1257 (November 1992), amended LR 19:627 (May 1993), LR 24:1765 (September 1998), LR 25:871 (May 1999), repealed LR 31:1331 (June 2005).

§1245. Family Caregiver Support Program

A. ...

B. Definitions

Chore—various maintenance activities inside and around the outside of the home such as lawn cutting, yard clean-ups, replacing fuses, light bulbs, electric plugs, frayed cords, door locks, installing screens and storm windows, weather stripping around doors, replacing broken windowpanes, or replacing light bulbs.

Home Repair/Modification—minor modification of homes necessary to facilitate the ability of older individuals to remain at home, and not available to the client from other programs. Not more than \$150 per client may be expended under this part for such modification. Services include installing grab bars in the bathroom or building a ramp.

In-Home Respite—temporary care provided in the home of the qualifying individual in order to provide a brief period of relief or rest for the caregiver.

Individual Care Support—enables caregivers to choose a family member to provide temporary personal support, care, and companionship in the home of the qualifying individual on a temporary basis.

Mobile Day Care—provided in communities where the staff and supplies move from a central location to sites throughout the area depending on available sites. Priority areas should target low-income rural elders.

Outreach—one-on-one contacts initiated by the area agency on aging or contracted agency for the purpose of identifying potential clients or their caregivers and encouraging use of existing services and benefits.

C. Support Services

1. Funds allocated under this program for services provided by an area agency on aging, or entity that such agency has contracted with, shall be expended in five basic categories listed below. All appropriate state licensing requirements must be met.

a. *Information*—about available services. Examples include, but are not limited to public information, community education, information and referral, and outreach services.

b. *Assistance*—gaining access to the services. Examples include, but are not limited to information and assistance, case management, transportation, and assisted transportation.

c. *Counseling/Support Programs/Groups and Caregiver Training*—to caregivers to assist in making decisions and solving problems relating to their care giving roles. Examples include, but are not limited to individual counseling, support groups, or caregiver training.

d. *Respite Care*—to enable caregivers to be temporarily relieved from their care-giving responsibilities. Examples include, but are not limited to adult day care/adult day health, mobile day care, group respite, in-home respite, and institutional respite. Temporary means not more than 120 hours per calendar year per qualifying individual. The area agency on aging may request an exception to this rule, in writing, at the beginning of each fiscal year based upon need.

e. *Supplemental Services*—on a limited basis, to complement the care provided by caregivers. Examples include, but are not limited to chore, homemaker, home repair/modification, personal care service, sitter service, material aid, or any other services approved by GOEA.

2. - 3. ...

4. The area agency on aging may use not more than 20 percent of the funds allocated under this program to provide supplemental services. An area agency on aging may request from GOEA, at the beginning of each fiscal year, to allocate up to an additional 10 percent of the funds under this program. The request must demonstrate need. An area agency on aging, or entity that such agency has contracted with, may use other funds to provide additional supplemental services.

5. ...

6. Caregivers, served by the NFCSP, may contract with other family members, not identified as clients in the NFCSP, to provide services such as individual care support, as outlined in procedures developed by the GOEA.

7. Area agencies on aging may provide vouchers to caregivers to obtain services and support to care for their loved ones as outlined in procedures developed by the GOEA. Families choose which services will meet their needs and receive vouchers to pay for those services and support. Caregivers may be able to select from an array of services and supplies, such as respite, day care, personal support aides, pharmacy supplies, adult diapers, chore

services, home repair/modifications, individual care support, prescription medications, and transportation.

D. - E. ...

F. Coordination with Service Providers. Each area agency on aging shall coordinate the activities of the agency, or entity that such agency has contracted with, or with the Senior Companion Program located in the planning and service area, with activities of other community agencies and voluntary organizations providing the types of services described in §1245.C.

G. - G3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931 to R.S. 46:935, Sections 371, 372, 373, and 374 of the Older Americans Act of 1965, as Amended in 2000, (P. L. 106-501); and 42 U.S.C. 6001.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 27:1518 (September 2001), amended LR 31:1331 (June 2005).

Subchapter F. Hearing Procedures

§1275. Hearing Procedures for Persons Filing Appeals in the Long Term Care Assistance Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2802(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:1257 (November 1992), amended LR 26:81 (January 2000), repealed LR 31:1332 (June 2005).

Godfrey White
Executive Director

0506#043

RULE

Office of the Governor Real Estate Appraisers Board

Real Estate Appraisers
(LAC 46: LXVII.Chapters 101-105)

Under the authority of the Louisiana Real Estate Appraisers Law, R.S. 37:3391 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., the Louisiana Real Estate Appraisers Board has amended LAC 46:LXVII.Real Estate.Subpart 2.Appraisers, so as to coincide with the amended provisions of the Louisiana Real Estate Appraisers Law (R.S. 37:3391 et seq.).

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate Subpart 2. Appraisers

Chapter 101. Authority

§10101. Adoption

A. The rules and regulations of the Louisiana Real Estate Appraisers Board contained herein have been adopted pursuant to and in compliance with R.S. 37:3391 et seq. and any violation of these rules or regulations shall be sufficient cause for any disciplinary action permitted by law.

B. The terms *license* and *certificate* as used throughout the Louisiana Real Estate Appraisers Law and Appraiser Board Rules and Regulations are synonymous.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1425 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1332 (June 2005).

Chapter 103. License Requirements

§10301. Applications

A. Applications for examination must be submitted on forms prescribed by the board and must be notarized and accompanied by the prescribed fees specified in R.S. 37:3407.

B. An examination authorization will be issued by the board on receipt of a properly completed application.

C. When an applicant has made a false statement of material fact on an initial or renewal application for a license, or in any document submitted in connection with the application process, such false statement may in itself be grounds for refusal of a license.

D. The responsibility for timely submission of the renewal application and payment of the required fees rests solely with the applicant.

E. A nonresident real property appraiser licensed in another state, commonwealth, or territory shall register with the board to qualify to appraise real property in this state, provided that:

1. the licensing program in the state, commonwealth, or territory under which the appraiser holds a license has not been disapproved by the Appraisal Subcommittee;

2. the appraiser's business in this state is of a temporary nature; and

3. the appraiser submits a completed application form prescribed by the board, including an irrevocable consent to service of process in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1425 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1332 (June 2005).

§10303. Examination

A. Applicants for a certified residential or certified general real property appraiser license must pass the appropriate examination issued or endorsed by the Appraiser Qualifications Board (AQB).

B. Any applicant who fails to pass the initial examination may reapply to take a subsequent examination, provided a new examination processing fee is submitted within 90 days of the last test date and a new examination authorization is obtained. After 90 days the applicant's file shall be closed and remittance of all prescribed fees and a new application shall be required. The board, at its discretion, may extend the 90 day retake period upon showing that factors beyond the control of the applicant warrants such an extension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1425 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1332 (June 2005).

§10305. Fees

A. Except as otherwise provided in the rules and regulations of the board, all fees submitted to the board are nonrefundable.

B. The application fee for a license shall cover a period of two calendar years and shall not be prorated.

C. The initial education provider fee shall cover a period of one calendar year and shall not be prorated.

D. Payment of any fee with a check that is returned by a financial institution, wherein the reason for not paying the check is not the fault of the financial institution, shall be grounds for the cancellation of the transaction for which the fee was submitted and/or the suspension or revocation of a license or certificate.

E. Persons issuing checks that are returned by financial institutions will be notified of the return of the check by certified mail to the address registered with the board. Within 10 days from the mailing of the notification, the person issuing the check shall remit a certified check, cashier's check or money order payable to the Louisiana Real Estate Appraisers Board in the amount of the returned check plus a \$25 processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1425 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1333 (June 2005).

§10307. Education Requirements

A. The board shall prescribe and define the subjects related to real property appraisal that will satisfy the requirements for qualifying and continuing education.

B. The board shall consider for credit, on an individual basis, course work completed by applicants through non-approved providers. The applicant shall apply for approval by submitting documentation of attendance, hours completed, date of attendance, course outline or content information and, if applicable, verification of successful completion of an examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1425 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1333 (June 2005).

§10308. Appraiser Trainees

A. An appraiser trainee shall not remain licensed in this category in excess of six years. If a trainee is unable to satisfy the qualifications for licensure as a certified residential or certified general real property appraiser at the end of the six-year period, the trainee must reapply as an appraiser trainee to continue performing real property appraisals.

B. An appraiser trainee shall not sign and issue an appraisal report that does not also include the supervising appraiser's signature.

C. The scope of work for the appraiser trainee shall be limited to the appraisal of those properties that the supervising appraiser is licensed to appraise.

D. A trainee shall not perform any appraisals under the supervision of a licensed appraiser who is not in good standing with the board.

E. Effective January 1, 2006, all appraiser trainees shall complete the hours needed to satisfy the qualifying education requirement for a certified residential or certified general license prior to taking any other seminars or classes for continuing education credit.

F. Any individual licensed with the board as a certified residential or certified general real property appraiser may engage a licensed appraiser trainee to assist in the performance of real estate appraisals, provided the certified appraiser meets the following criteria:

1. has been licensed and in good standing with the board for at least two full years;

2. has no more than three trainees working under his/her supervision at any one time, either as employees or subcontractors;

3. agrees to actively and personally supervise the licensed appraiser trainee's work product, as specified below, subject to the guidelines and requirements of the Uniform Standards of Professional Appraisal Practice, and be responsible for the trainee's conduct.

a. Active and personal supervision implies that the supervisor will not sign or endorse an appraisal report that was not substantially produced by the appraiser trainee. The term *substantial* means that the trainee contributed materially and in a verifiable manner to the research and/or analysis that led to the final opinion of value expressed in the appraisal.

4. The supervising appraiser shall accompany the licensed appraiser trainee on inspections of the subject property for a minimum of the first 50 appraisals performed by the trainee. The trainee may then perform property inspections without the presence of the supervising appraiser provided that the supervising appraiser feels the appraiser trainee is competent to do so.

5. The supervising appraiser shall make available to the trainee a copy of every appraisal report wherein the trainee has provided substantial professional assistance in the preparation of the report as defined above.

6. The supervising appraiser shall sign every appraisal report prepared by the trainee who acts under the supervising appraiser's active and personal supervision.

7. The supervising appraiser shall immediately notify the board in writing of any termination of supervision of a licensed appraiser trainee.

8. The supervising appraiser shall keep copies of appraisal reports prepared by the trainee for a period of five years, or two years after the final disposition of any judicial proceeding in which testimony is given, whichever period expires last.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 31:1333 (June 2005).

§10309. Application for Experience Credit

A. Applicants for a certified residential or certified general real property appraiser license shall satisfy the education and testing requirements prior to submission of the application for experience credit.

B. Applicants for a certified residential or certified general real property appraiser license shall list their appraisal experience on the application provided by the board. Computer generated forms will be accepted, provided

that all necessary data is submitted in a format similar to that published by the board.

C. In accordance with R.S. 1950, Title 37, Chapter 51, Louisiana Real Estate Appraisers Law, the board shall have the authority to request and review copies of any appraisal reports listed in the application for experience credit.

D. Only those real property appraisals consistent with the Uniform Standards of Professional Appraisal Practice will be accepted by the board for experience credit.

E. The board may require an applicant to successfully complete additional educational training consisting of not less than 15 or more than 30 instructional hours of course work approved by the board. Such hours shall not later be used to satisfy the continuing education requirement.

F. Appraisals performed for an owner or instructor of a school approved by the board to offer qualifying education course work shall not be accepted for experience credit if performed by the applicant within one year from the date he or she completed the course work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1426 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1333 (June 2005).

§10311. Residential Experience Requirements

A. A minimum of 250 credit points (2,500 hours), performed over a period of at least 24 months, is required for licensure as a certified residential real property appraiser. The maximum allowable credit that can be applied toward the experience requirement in a 12-month period is 125 points; however, there is no minimum point requirement. For example:

- 2004 140 points = 1.00 experience year
- 2003 120 points = 0.96 experience year
- 2002 100 points = 0.80 experience year
- 360 points = 2.76 experience years

1. When an appraisal report is signed by more than one person, credit for said assignment must be divided equally among all signatories. For the purpose of granting credit, a person signing in the capacity of a review or supervisory appraiser is not considered as a co-signer on the report, provided that his or her role as such is clearly indicated in the report.

2. If the applicant was unable to sign the report but is mentioned in the certification as having provided significant professional assistance, a proportional amount of credit based on the number of contributors to the report can be requested. Credit will not be granted if professional assistance was not disclosed.

B. Only appraisals of single-family, one to four unit residential property, vacant sites suitable for single-family, or farm/timber acreage which included the valuation of a single-family dwelling shall be considered for residential experience.

C. At least 125 experience credit points must come from complete appraisals reported in self contained or summary reports.

D. Residential experience credit points shall be awarded as follows.

1. one unit dwelling (house, townhouse, condominium)	1 point
2. two to four unit dwelling (apartment, duplex, condominium)	2 points
3. residential lot (1 2- 4 family) (not to exceed five points per subdivision)	1/2 point
4. residential subdivision sites (not to exceed five points per subdivision)	1/2 point
5. farm or timber acreage suitable for a house site-less than 10 acres	1 point
farm or timber acreage suitable for a house site-10 to 100 acres	2 points
farm or timber acreage suitable for a house site-over 100 acres	3 points
6. rural residence-one unit primary dwelling-10 acres or less	1 point
7. ranchette-part time rural use-10 to 25 acres-with main dwelling and outbuildings, such as additional residence, barns, and/or other outbuildings	3 points
8. all other unusual structures or acreage-larger or more complex than typical properties described herein - points to be determined by Board upon submission	1/2 - 5 points
9. review of appraisals shall be worth 20% of the points awarded for the appraisal (not to exceed 20 points per year)	

E. Applications for experience credit must be notarized and accompanied by the prescribed fees specified in R.S. 37:3407.

F. Verification of experience may include any or all of the following:

1. client verification of appraisal reports for which the applicant has requested experience credit;
2. submission of selected reports to the board upon request to determine compliance with Uniform Standards of Professional Appraisal Practice (USPAP);
3. field inspection of all reports identified by the applicant at the applicant's office during normal business hours;
4. requiring the applicant to personally appear before the board, or provide additional information deemed necessary by the board to make an informed decision on the application for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1426 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board of Certification, LR 29:126 (February 2003), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1334 (June 2005).

§10313. General Experience Requirements

A. A minimum of 300 credit points (3,000 hours), performed over a period of at least 36 months, is required for as a certified general real property appraiser. The maximum allowable credit that can be applied toward the experience requirement in a 12-month period is 100 points; however, there is no minimum point requirement. For example:

- 2004 103 points = 1.00 experience year
- 2003 145 points = 1.00 experience year
- 2002 53 points = 0.53 experience year
- 2001 60 points = 0.60 experience year
- 361 points = 3.13 experience years

1. When an appraisal report is signed by more than one person, credit for said assignment must be divided equally among all signatories. For the purpose of granting

credit, a person signing in the capacity of a review or supervisory appraiser is not considered as a co-signer on the report, provided that his or her role as such is clearly indicated in the report.

2. If the applicant for experience credit was unable to sign the report but is mentioned in the certification as having provided significant professional assistance, a proportional amount of credit based on the number of contributors to the report can be requested. Credit will not be granted if professional assistance was not disclosed.

B. A maximum of 100 residential experience credit points may be applied toward the total points required for a certified general real property appraiser license.

C. At least 150 experience credit points must come from complete appraisals reported in self contained or summary appraisal reports. These reports must include a direct sales approach, cost data approach, and income data approach.

D. General experience credit points shall be awarded as follows.

1. apartments (5 - 20 units)	4 points
apartments (21 - 100 units)	8 points
apartments (over 100 units)	10 points
2. hotels/motels (50 or fewer units)	6 points
hotels/motels (51-150 units)	8 points
hotels/motels (over 150 units)	10 points
3. meeting/conference/auditorium (20,000 square feet or less)	4 points
meeting/conference/auditorium (over 20,000 square feet)	6 points
4. industrial/warehouse buildings (20,000 square feet or less)	4 points
industrial/warehouse buildings (over 20,000 square feet)	8 points
industrial warehouse buildings (multiple tenant over 100,000 square feet)	10 points
5. office buildings (10,000 square feet)	4 points
office buildings (over 10,000 square feet)	8 points
office buildings (multiple tenant over 100,000 square feet)	10 points
6. condominiums (must include income approach) (5 - 30 units)	6 points
condominiums (must include income approach) (over 30 units)	10 points
7. retail buildings (10,000 square feet or less)	6 points
retail buildings (single or multiple tenant over 10,000 square feet)	8 points
retail buildings (single or multiple tenant over 50,000 square feet)	10 points
8. non-residential acreage for commercial or multi-family use (100 acres or less)	3 points
over 100 acres (direct sales analysis only)	6 points
over 100 acres (including income approach)	8 points
9. timber/farm acreage for commercial or multi-family use (100 - 200 acres)	3 points
over 200 acres (direct sales analysis only)	6 points
over 200 acres (including income approach to value)	8 points
10. all other unusual structures that are much larger or more complex than the typical properties described in items (1) - (9)	Submit to Board
11. pasture or grazing enterprises (25 - 50 acres)	1 point
pasture or grazing enterprises (51 - 100 acres)	2 points
pasture or grazing enterprises (101 - 500 acres)	3 points
pasture or grazing enterprises (501 - 2,000 acres)	6 points
pasture or grazing enterprises (over 2,000 acres)	8 points
12. row crop enterprises (25 - 50 acres)	2 points
row crop enterprises (51 - 100 acres)	3 points
row crop enterprises (101 - 500 acres)	4 points
row crop enterprises (501 - 2,000 acres)	6 points
row crop enterprises (over 2,000 acres)	10 points

13. orchard/vineyard, plant nursery enterprises (50 acres or less)	2 points
orchard/vineyard, plant nursery enterprises (51 - 100 acres)	4 points
orchard/vineyard, plant nursery enterprises (101 - 500 acres)	8 points
orchard/vineyard, plant nursery enterprises (over 500 acres)	10 points
14. aquaculture enterprises (50 acres or less)	2 points
aquaculture enterprises (51 - 100 acres)	4 points
aquaculture enterprises (101 - 500)	8 points
aquaculture enterprises (over 500 acres)	10 points
15. truck farm enterprises (50 acres or less)	2 points
truck farm enterprises (51 - 100 acres)	4 points
truck farm enterprises (101 - 500 acres)	6 points
truck farm enterprises (over 500 acres)	8 points
16. dairy enterprises (50 or less cow milking herd)	4 points
dairy enterprises (51 - 100 cow milking herd)	6 points
dairy enterprises (over 100 cow milking herd)	8 points
17. diversified agricultural operations of over 500 acres involving two or more of the above enterprises, assuming multiple disciplines are exhibited in the report	10 points
18. timberland appraisals (40 - 100 acres)	2 points
timberland appraisals (100 - 500 acres)	3 points
timberland appraisals (500 - 2,000 acres)	5 points
timberland appraisals (2,000 - 10,000 acres)	7 points
timberland appraisals (over 10,000 acres) (submit to Board for determination)	
19. specialized agricultural properties (submit to Board for determination)	
20. No more than 40% of the cumulative points may be earned from any one category (1-19). Applicants may request a waiver of this requirement based on unique depth of experience in a single area.	
21. Review of appraisals shall be worth 20% of the points awarded for the appraisal (Cannot exceed 20 points per year).	

E. Verification of experience may include any or all of the following:

1. client verification of appraisal reports for which the applicant has requested experience credit;
2. submission of selected reports to the board upon request to determine compliance with Uniform Standards of Professional Appraisal Practice (USPAP);
3. field inspection of all reports identified by the applicant at the applicant's office during normal business hours;
4. requiring the applicant to personally appear before the board, or provide additional information deemed necessary by the board to make an informed decision on the application for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1427 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board of Certification, LR 29:126 (February 2003), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1334 (June 2005).

§10315. Appraisal Review Requirements

A. In reviewing an appraisal, the appraiser must observe the following guidelines:

1. identify the report being reviewed, the real estate and real property interest being appraised, the effective date of the opinion in the report being reviewed, and the date of the review;
2. identify the scope of the review process to be conducted;

3. form an opinion as to the adequacy and relevance of the data and the propriety of any adjustments to the data;

4. form an opinion as to the appropriateness of the appraisal methods and techniques used to develop the reasons for any disagreements;

5. form an opinion as to the correctness and appropriateness of the analyses, opinions, and/or conclusions in the report being reviewed, and develop the reasons for any disagreements;

6. state in the letter of transmittal whether or not exterior or interior building inspections were made and, if so, when and by whom;

7. the review must be in writing.

B. In reporting the results of an appraisal review, the appraiser must:

1. disclose the nature, extent, and detail of the review process undertaken;

2. disclose the information that must be considered in §10315.A.1 and 2;

3. set forth the opinions, reasons, and conclusions required in §10315.3, 4, and 5;

4. include a signed certification.

C. No more than 20 experience credit points in a 12-month period shall be awarded for review of appraisals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1428 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1335 (June 2005).

Chapter 104. Education Providers/Course Approval

§10401. Approval of Education Providers

A. Upon approval by the board, education providers shall be approved for a period of one year, expiring annually on December 31.

B. The occurrence of any of the following events shall constitute grounds for refusal to grant approval as an education provider:

1. the applicant has been convicted of a forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or a crime involving moral turpitude in any court of competent jurisdiction;

2. the applicant has made a false statement of material fact on the application;

3. the applicant refuses to agree to monitoring of courses by the board or its duly authorized representatives.

C. Certificates issued to education providers will be issued in the legal name of the applicant.

D. Education providers shall:

1. submit monthly schedules and attendance reports to the board as required;

2. ensure that course offerings satisfy all requirements mandated by the board;

3. maintain the attendance records of each student for a period of five years following the date the student completed a course offered by the provider;

4. provide each student with a written cost and refund policy regarding the course offering;

5. ensure that all advertisements published or distributed include the name of the provider as registered with the board;

6. report any change in business address or telephone number to the board in writing within 10 days of the date of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1336 (June 2005).

§10403. Approval of Qualifying/Continuing Education Courses

A. Education providers must apply directly to the board for qualifying and continuing education course approval. Application forms will be provided by the board. Information to be submitted for each course offering shall include:

1. course content;

2. program structuring;

3. course completion standards;

4. instructor qualifications;

5. minimum number of classroom hours;

6. textbook and course materials;

7. any additional information as requested by the board.

B. Any request for additional course approval from an approved education provider must be approved by the board at least 30 days prior to the course presentation.

C. All approved courses will be valid through December 31 following the initial approval date. The board may extend such approval for the next renewal period if course materials remain current or are updated as changes in the law or rules require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1336 (June 2005).

§10405. Course Requirements

A. The board may require approved providers to follow model curriculum guidelines to assure comprehensive coverage of appraisal topics which meet the educational requirements for trainee, certified residential, and certified general real property appraiser licenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1336 (June 2005).

§10407. Qualifying Education

A. A class hour is defined as 60 minutes, of which at least 50 minutes are instruction attended by the student. The prescribed number of class hours includes time for examinations.

B. Courses taken to satisfy the qualifying education requirement will only be granted where the minimum length of the course is at least 15 instructional hours and successful completion of a final examination pertinent to that educational offering is required.

C. Experience may not be substituted for education.

D. Distance education is defined as any education process based on the geographical separation of student and instructor. A distance education course is acceptable to meet class hour requirements if:

1. the course provides a reciprocal environment where the student has an appropriate level of verbal or written communication with the instructor and/or other students; and

2. one of the following requirements is met:

a. the course must be presented by an accredited college, community or junior college (Commission on Colleges, regional or national accreditation association), or university that offers distance education programs; or

b. the course must have received approval from the International Distance Education Certification Center (IDECC) for the course design and delivery method, and either:

i. the approval of the Appraiser Qualifications Board through the AQB Course Approval Program; or

ii. the approval of content, delivery and examinations by the licensing jurisdiction.

E. Courses taken to satisfy the qualifying education requirement must not be repetitive. USPAP courses taken in different years are not considered repetitive. Courses shall foster problem-solving skills in the education process by utilizing case studies as a major teaching method when applicable.

F. Applicants must take the *15-Hour National USPAP Course*, or its equivalent, and pass the associated *15-Hour National USPAP Course Examination*. The course instructor must be an AQB Certified USPAP Instructor who is also a state certified real property appraiser. Course equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB. USPAP education presented in a distance education format must be designed to foster appropriate student-to-student, student to instructor, and student to material interaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1336 (June 2005).

§10409. Continuing Education

A. The purpose of continuing education is to ensure that appraisers participate in a program that maintains and increases their skill, knowledge, and competency in real property appraising.

B. Credit towards the continuing education hour requirements for each appraiser classification may be granted only where the length of the educational offering is at least 2 hours.

C. Credit may be granted for education offerings that are consistent with the purpose of continuing education and cover those real estate appraisal topics, including, but not limited to:

1. ad valorem taxation;
2. arbitration, dispute resolution;
3. courses related to the practice of real estate appraisal or consulting;
4. development cost estimating;

5. ethics and standards of professional practice, USPAP;

6. land use planning, zoning;

7. management, leasing, brokerage, and timesharing;

8. property development, partial interests;

9. real estate appraisal;

10. real estate financing and investment;

11. real estate law, easements, and legal interests;

12. real estate litigation, damages, condemnation;

13. real estate appraisal related computer applications;

14. real estate appraisal securities and syndication;

15. real property appraisal specialization;

16. Louisiana Real Estate Appraisers Law and rules and regulations of the Louisiana Real Estate Appraisers Board.

D. Up to one half of an individual's continuing education requirement may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities that are determined to be equivalent to obtaining continuing education. Credit for instructing any given course or seminar can only be awarded once during a continuing education cycle.

E. Educational offerings taken by an individual in order to fulfill the class hour requirement for a different classification than his/her current classification may be simultaneously counted towards the continuing education requirement for his/her current classification.

F. In addition to the requirements described in §10407.D., distance education courses intended for use as continuing education must include at least one of the following:

1. a written examination proctored by an official approved by the college or university, or by the sponsoring organization; or

2. the student successfully completes prescribed course mechanisms required to demonstrate knowledge of the subject matter.

G. Real estate appraisal related field trips may be acceptable for credit toward the continuing education requirements; however, transit time to or from the field trip should not be included when awarding credit unless instruction occurs during said transit time.

H. Appraisers must successfully complete the *7-Hour National USPAP Update Course*, or its equivalent every two calendar years. Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB.

I. The equivalent of 15 class hours of instruction in courses or seminars for each year during the period preceding the renewal is required. For example, a two-year continuing education cycle would require 30 hours. The class hour requirement may be fulfilled at any time during the cycle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1430 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1337 (June 2005).

§10411. Instructor Qualifications

A. Instructors for qualifying education courses must satisfy at least one of the following qualification requirements:

1. a baccalaureate degree in any field and three years of experience directly related to the subject matter to be taught;
2. a masters degree in any field and one year of experience directly related to the subject matter to be taught;
3. a masters or higher degree in a field that is directly related to the subject matter to be taught;
4. five years of real estate appraisal teaching experience directly related to the subject matter to be taught; or
5. seven years of real estate appraisal experience directly related to the subject matter to be taught.

B. Instructors for continuing education courses must satisfy at least one of the following qualification requirements:

1. three years of experience directly related to the subject matter to be taught;
2. a baccalaureate or higher degree in a field directly related to the subject matter to be taught;
3. three years of experience teaching the subject matter to be taught; or
4. a combination of education and experience equivalent to any of the above.

C. Instructors of the 15-Hour National USPAP Course and 7-Hour National USPAP Update Course must be certified by the Appraiser Qualifications Board (AQB).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1430 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1338 (June 2005).

§10415. Americans with Disabilities Act (ADA)

Compliance

A. For purposes of meeting the requirements of the Americans With Disabilities Act (ADA), the board may permit an alternative method of course delivery other than the regular method of presentation. Verification of the disability of the individual requiring completion of the course work through an alternative delivery method may be required by the board prior to granting such a request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1431 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1338 (June 2005).

Chapter 105. Investigations and Adjudicatory Proceedings

§10501. Investigations

A. The board may, upon its own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of a licensee or certificate holder, or any person who assumes to act as such. Written complaints shall bear the signature of the complainant or that of his legal representative before any action will be taken thereon by the board.

B. Upon documented probable cause, the executive director of the board may issue written authorization to investigate apparent violations of the Louisiana Real Estate Appraisers Law and/or the rules and regulations of the board.

C. Investigations shall be conducted by the staff of the Louisiana Real Estate Appraisers Board and/or the Louisiana Real Estate Commission.

D. If, during the course of an investigation, documented probable cause is established indicating that violations of the Louisiana Real Estate Appraisers Law and/or the rules and regulations of the board have been committed by any licensee or certificate holder other than the licensee or certificate holder against whom the original complaint was made, the additional licensee or certificate holder(s) may be added as respondent(s) to the investigation in the absence of any written complaint alleging such violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1431 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1338 (June 2005).

§10503. Technical assistance

A. In any investigation conducted by the staff of the Commission, the chairman The executive director of the board may be requested to assign may request a member of the board to provide technical assistance to the investigator conducting the from a member of the board in any investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1431 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1338 (June 2005).

§10505. Cooperation

A. Every licensee or certificate holder shall cooperate fully with and answer all questions propounded by the staff member(s) conducting an investigation.

B. Every licensee or certificate holder shall produce any document, book, or record in his/her possession, or under his/her control, concerning any matter under investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1432 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1338 (June 2005).

§10507. Adjudicatory Proceedings

A. As the result of an investigation, when it appears that violations of the Louisiana Real Estate Appraisers Law and/or rules and regulations of the board may have been committed by a licensee or certificate holder, the violations may be adjudicated through informal or formal adjudicatory proceedings.

1. Informal Adjudicatory Proceedings

a. The complaint may be concluded informally without a public hearing on the recommendation of the hearing examiner and the concurrence of the executive director.

b. An informal hearing may be conducted only when there is an admission by the respondent that the violation(s) were committed as alleged.

c. A preliminary notice of adjudication shall be issued to advise the respondent of the violation(s) alleged and to advise the respondent that the matter can be resolved informally should the respondent desire to admit to committing the act(s) specified and submits a written request that the matter be resolved informally.

d. A hearing officer shall be appointed by the executive director to conduct an informal hearing with the respondent.

e. The informal hearing shall be attended by the hearing examiner and, if necessary, the case investigator, or in the absence of the case investigator, a designated representative. The hearing examiner shall inform the hearing officer of the administrative, jurisdictional, and other matters relevant to the proceedings.

f. Following an admission by the respondent that the violations were committed as alleged, the hearing officer may enter into a recommended stipulations and consent order to include the imposition of any sanctions authorized by the Louisiana Real Estate Appraisers Law.

g. No evidence will be presented, no witnesses will be called and no formal transcript of the proceedings will be prepared by the board.

h. In the written document the respondent must stipulate to having committed the act(s) in violation of the Louisiana Real Estate Appraisers Law or the rules and regulations of the board, accept the sanctions recommended by the hearing officer, and waive any rights to request a rehearing, reopening, or reconsideration by the board, and the right to judicial appeal of the consent order.

i. At the informal hearing, the respondent shall admit to having committed the act(s) specified, accept the sanctions recommended by the hearing officer, and waive the specified appellate rights, or the alleged violations shall be referred to a formal adjudicatory hearing.

j. If the respondent does execute a stipulation and consent order, the executive director shall submit the document to the board at the next regular meeting for approval and for authorization to allow the executive director to execute the consent order in the name of the board.

k. Any consent order executed as a result of an informal hearing shall be effective on the date approved by the board.

2. Formal Adjudicatory Proceedings

a. All formal public adjudicatory hearings shall be conducted under the auspices of R.S. 37:3409 and Chapter 13, Title 49 of the Louisiana Revised Statutes.

b. Board members who have provided technical assistance in any matter adjudicated at a formal adjudicatory proceeding shall recuse themselves and not participate in any portion of the proceedings.

c. The order issued by the board pursuant to any formal public adjudicatory proceeding shall become effective on the eleventh day following the date the order is issued by the board and entered into the record at the proceedings.

d. If a request for rehearing, reopening, or reconsideration of the order of the board is timely filed and denied by the board, the order shall become final on mailing of the notice of the board's final decision on the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1432 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1338 (June 2005).

§10509. Appellate Proceedings

A. Rehearings

1. An order of the board shall be subject to rehearing, reopening or reconsideration by the board on receipt of a written request from a respondent. An application for rehearing, reopening or reconsideration must be postmarked or received at the office of the board within ten days from the date of entry of the order rendered by the board.

2. The date of entry is the date the order is issued by the board and entered into the record at the formal adjudicatory proceedings.

3. The request shall be reviewed by the board attorney for compliance with the Administrative Procedure Act. A finding by the board attorney that the request does not establish grounds for rehearing, reopening or reconsideration shall result in a denial of the request.

B. Judicial Review

1. Proceedings for judicial review of an order issued by the board may be instituted by filing a Petition for Judicial Review in the Nineteenth Judicial District Court in the Parish of East Baton Rouge.

2. In the event a request for rehearing, reopening or reconsideration has been filed with the board, the party making the request shall have thirty days from the final decision on the request within which to file a Petition for Judicial Review.

3. If a request for rehearing, reopening or reconsideration is not filed with the board, the Petition for Judicial Review must be filed in the Nineteenth Judicial District Court within thirty days after the mailing of the order of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 31:1339 (June 2005).

§10511. Costs of Adjudicatory Proceedings

A. On a finding that a respondent has committed the violation(s) as alleged in any formal or informal adjudicatory proceeding, the respondent may be assessed the administrative costs of the proceeding as determined by the board. Payment of these costs shall be a condition of satisfying any order issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 31:1339 (June 2005).

§10513. Stay of Enforcement

A. The filing of a petition for judicial review does not itself stay enforcement of an order issued by the board. A stay of enforcement will be granted only when directed by the court conducting a judicial review of adjudication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 31:1339 (June 2005).

Julius C. Willie
Executive Director

0506#023

RULE

Department of Health and Hospitals Board of Nursing

Licensure as Advanced Practice Registered Nurse (LAC 46:XLVII.4507)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Nursing (Board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:920 adopts Rules amending the Professional and Occupational Standards pertaining to Licensure as Advanced Practice Registered Nurse. The amendments of the Rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 45. Advanced Practice Registered Nurses

§4507. Licensure as Advanced Practice Registered Nurse

A. Initial Licensure

1. After January 1, 1996, the applicant shall meet the following requirements:

a. holds a current, unencumbered, unrestricted and valid registered nurse license in Louisiana and there are no grounds for disciplinary proceedings, as stated in R.S. 37:921;

b. completion of a minimum of a master's degree with a concentration in the respective advanced practice nursing specialty and/or functional role or completion of a post master's concentration in the respective advanced practice nursing specialty and/or functional role from an accredited college or university that meets the curriculum guidelines established by the board. Exception to the master's degree will be granted to those applicants who provide documentation as requested by the board that, prior to December 31, 1995, the applicant completed or was continuously enrolled in a formalized post-basic education program preparing for the advanced practice nursing specialty and/or functional role as approved by the board prior to December 31, 1995 as follows:

i. a program of studies offered through an institution of higher education which qualifies the graduate to take a certification examination in the advanced practice specialty and/or functional role; or

ii. a program of studies accepted by a nationally recognized certifying body which is recognized by the Louisiana State Board of Nursing; or

iii. a program which is individually recognized by the Board of Nursing based on established criteria; as stated in LAC 46:XLVII.4509;

c. submission of a completed application on a form furnished by the board;

d. submission of evidence of current certification in the respective advanced practice nursing specialty and/or functional role by a nationally recognized certifying body approved by the board. When specialty and/or functional role certification is not available, in addition to meeting the above requirements, the individual will be required to meet the commensurate requirements specified below in Paragraph 2;

e. submission of a non-refundable fee as specified in LAC 46:XLVII.3341;

f. after initial licensure, applicants seeking licensure for advanced practice in an additional specialty/role shall meet the requirements stated in LAC 46:XLVII.4507.A.1.a-d.

2. Commensurate requirements when certification is not available:

a. holds the minimum of a master's degree with a concentration in the respective advanced practice nursing specialty and/or functional role from a regionally accredited college or university or a program otherwise approved by the board and has practiced with a APRN temporary permit for a minimum of six months to a maximum of 24 months; and

b. have provided a minimum of 800 hours of patient care under the direction of an approved preceptor within the past 24 months; up to 400 of these may be earned through clinical practicum in a masters program; and

c. submit an affidavit for waiver of Certification Examination on a form provided by the board.

3. An APRN license shall be issued with an expiration date that coincides with the applicant's RN license.

B. Temporary Permit: Initial Applicants

1. An APRN applicant who possesses a current RN license or a valid RN temporary permit, may be granted a temporary permit which allows the applicant to practice under guidance of a licensed APRN, physician, dentist or approved preceptor within the practice specialty and/or functional role of the applicant, except as provided for in R.S. 37:930.A.3:

a. in the process of applying for initial licensure under LAC 46:XLVII.4507.A; and

b. has been accepted as a first-time candidate for the national professional certification examination; or

c. in the process of meeting the practice eligibility requirements for the national professional certification examination for the advanced nursing practice specialty and/or functional role as recognized by the board; or

d. in the process of meeting the practice requirements for licensure by commensurate requirements; or

e. is awaiting certification results based upon initial application; and

f. there are no grounds for disciplinary proceedings as stated in R.S. 37:921.

2. A nurse practicing under the temporary permit shall use the title advanced practice registered nurse applicant or APRN applicant.

3. Upon receipt of initial certification examination results:

a. the temporary permit shall expire;

b. applicant shall submit or cause to be submitted, a copy of the results to the board;

c. unsuccessful candidates shall:

i. cease to practice as an APRN applicant (does not prohibit practice as a registered nurse);

ii. return the temporary permit to the board;

iii. notify the employer of the results.

4. Upon completion of the commensurate requirements or at the end of two years, the temporary permit shall expire.

5. An advanced practice registered nurse seeking licensure in either an additional advanced practice nursing category or area of specialization, may seek a temporary permit as stated in LAC 46:XLVII.4507.B and D.

6. The APRN temporary permit may be extended until receipt of initial certification results.

C. Licensure by Endorsement. The board may issue a license by endorsement if the applicant has practiced under the laws of another state and if, in the opinion of the board, the applicant meets the requirements for licensure as an APRN in this jurisdiction.

1. If the applicant is applying from another jurisdiction that licenses the category of APRN for which the applicant is seeking licensure, the applicant shall submit:

a. a completed application on a form furnished by the board;

b. the required nonrefundable fee as set forth in LAC 46:XLVII.3341;

c. verification of current RN licensure in this jurisdiction or documentation that the applicant has applied for licensure as a RN and meets the requirements of this jurisdiction, and there are no grounds for disciplinary proceeding as stated in R.S. 37:921;

d. verification of licensure status directly from the jurisdiction of original licensure in the advanced practice category;

e. verification of current unencumbered license in the advanced practice category directly from the jurisdiction of current or most recent employment as an APRN;

f. verification of educational requirements as stated in LAC 46:XLVII.4507.A.1.b;

g. verification of current national certification in the respective specialty and/or functional role area as recognized by the board; or meets commensurate requirements as specified in LAC 46:XLVII.4507.A.2;

h. documentation of meeting the requirements in LAC 46:XLVII.4515.

2. If the applicant is applying from a jurisdiction that does not license the APRN category for which the applicant is seeking licensure, the applicant shall submit LAC 46:XLVII.4507.C.1.a, b, c, f, g, and h as stated above, plus:

a. information regarding the applicant's qualifications for advanced practice directly from the board in the state where the applicant first practiced in the APRN category;

b. information regarding the applicant's qualifications for advanced practice directly from the board in the state where the applicant was last employed in the APRN category.

3. If the applicant is applying from a jurisdiction that does not verify advanced practice or does not meet the

endorsement requirements, the applicant shall qualify by meeting the requirements for initial APRN licensure, LAC 46:XLVII.4507.A and B.

D. Temporary Permit: Endorsement Applicants

1. A nurse seeking APRN licensure by endorsement, and has been issued a RN temporary permit, may be issued a temporary permit to practice as an APRN for a maximum of 90 days if the applicant submits:

a. a completed APRN application on a form furnished by the board;

b. the required nonrefundable fee as set forth in LAC 46:XLVII.3341;

c. evidence of meeting the educational and certification requirements specified in LAC 46:XLVII.4507.A.1.b and d; or

d. documentation of registration for the certifying examination within 90 days.

2. The APRN temporary permit may be extended until receipt of initial certification results.

E. Renewal of Licenses by Certification, Commensurate Requirements, or Grandfathering

1. The date for renewal of licensure to practice as an APRN shall coincide with renewal of the applicant's RN license. Renewal of the APRN license is contingent upon renewal of the RN license and verification that there are no grounds for disciplinary proceedings as stated in R.S. 37:921. An applicant for renewal of an APRN license shall submit to the board:

a. a completed application on a form furnished by the board;

b. evidence of current certification/recertification, unless the APRN has been licensed by the board in accordance with R.S. 37:912.B.(3)(4); or in accordance with commensurate requirements when certification is not available (R.S. 37:920.A.2). Effective January 1, 2002, and required for relicensure in 2003, APRNs licensed by the board in accordance with commensurate requirements when certification is not available (R.S. 37:920.A.2.) shall comply with the requirements specified in E.2. below;

c. the licensure renewal fee as specified in LAC 46:XLVII.3341.

2. APRNs initially licensed in accordance with R.S. 37:912.B(3)(4) (grandfathered) and are not advanced practice certified, or R.S. 37:920.A.(2) and LAC 46:XLVII.4507.A.2 whose category and area of specialization does not provide for certification/recertification (commensurate requirements) shall submit the following documentation for renewal, in addition to meeting the requirements specified above in §4507.E.1.a.-c.

a. a minimum of 300 hours of practice in advanced practice registered nursing, as defined in R.S.37:913.3.a, within a 12-month period; and

b. a minimum of 2 college credit hours per year of relevance to the advanced practice role; or

c. a minimum of 30 continuing education (C.E.) contact hours approved by the board each year. Of the 30 contact hours, a maximum of 10 C.E. contact hours may be approved Continuing Medical Education (CMEs);

d. the above Subparagraphs b or c will meet the C.E. Requirements for the registered nurse and the advanced practice registered nurse licensure renewal.

F. Reinstatement of an APRN License

1. Reinstatement of an APRN license, which has lapsed or been inactive for less than four years. An APRN who has failed to renew his/her license, or has had an inactive licensure status less than four years, may apply for reinstatement by submitting to the board:

- a. evidence of current RN licensure;
- b. completed application on a form furnished by the board;
- c. evidence of current certification/recertification by a national certifying body accepted by the board; or
- d. APRNs initially licensed in accordance with R.S. 37:912.B(3)(4) or 920.A.(2.) and 4507.A.2 whose specialty and/or functional role does not provide for certification/recertification shall apply for a six month temporary permit, and practice under the temporary permit and current practice standards set forth by the respective advanced practice nursing specialty and/or functional role; and submit the following documentation with the application for reinstatement for each year of inactive or lapsed status:
 - i. a minimum of 300 hours of practice in advanced practice registered nursing as defined in R.S. 37:913.(3)(a) for each year of inactive or lapsed status up to a maximum of 800 hours; and
 - ii. a minimum of 2 college credit hours per year of relevance to the advanced practice role; or
 - iii. a minimum of 30 continuing education (C.E.) contact hours approved by the board each year. Of the 30 contact hours, a maximum of 10 C.E. contact hours may be approved Continuing Medical Education (CMEs); and
- e. the required fee as specified in LAC 46:XLVII.3341.

2. Reinstatement of an APRN license, which has lapsed or been inactive four years or more. If the applicant's APRN license has been lapsed or inactive for four or more years, in addition to meeting the above requirements in Subsection F.1.a-e., the applicant shall:

- a. apply for a six month temporary permit; and
- b. practice under the temporary permit and current practice standards set forth by the respective advanced practice nursing specialty and/or functional role; and
- c. if seeking certification/recertification, successfully complete the number of clinical practice hours required by the national certifying body approved by the board, under the guidance of a preceptor approved by the board; and
- d. submit evidence of current certification by a national certifying body approved by the board; or
- e. have a minimum of 800 hours of clinical practice in the area of clinical specialization when specialty certification is not available; and
- f. submit evidence of compliance with §4507.E.2 b. or c for each year of inactive or lapsed status; and
- g. cause to have submitted a final evaluation by the approved preceptor verifying successful completion of six months of full time practice or the equivalent hours in the area of specialization (minimum of 800 hours).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:281 (April 1996), amended LR 27:724 (May 2001), LR 29:580 (April 2003), LR 31:1340 (June 2005).

Barbara L. Morvant
Executive Director

0506#004

RULE

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

Professional Services Program—Physician Assistants

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S.49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing the enrollment and reimbursement of physician assistants under the Professional Services Program.

In order to participate in the Medicaid Program, a physician assistant must enroll as a provider and obtain an individual Medicaid provider number. Effective for dates of service on or after July 1, 2005, all claims for services provided by a physician assistant must identify the physician assistant as the attending provider.

Unless otherwise excluded by the Medicaid Program, service coverage shall be determined by individual licensure, scope of practice, and delegation by the supervising physician. The supervising physician must be a Medicaid enrolled provider. Clinical practice guidelines and protocols shall be available for review upon request by authorized representatives of the Medicaid Program.

The reimbursement rate for physician assistant services shall be 80 percent of the rate on file on the professional services fee schedule for covered services and 100 percent of the rate on file for a designated group of procedures as determined by the Medicaid Program.

A physician assistant shall not bill separately for his/her services when he/she is employed by or under contract with a Medicaid enrolled provider whose reimbursement is based on cost reports that include the cost of the physician assistant's salary.

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

Frederick P. Cerise, M.D., M.P.H.
Secretary

0506#055

RULE

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

**Public Information Program and
Medical Reimbursement Plan
(LAC 22:I.339, 2103, and 2105)**

Editor's Note: This Rule is being repromulgated to correct an error upon submission. The original Rule may be viewed in its entirety on pages 1099-1100 of the May 20, 2005 edition of the *Louisiana Register*.

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Department of Public Safety and Corrections, Corrections Services, has amended the contents of §339, Public Information Program and Media Access, §2103, Applicability, and §2105, Medical Reimbursement Plan Pursuant to R.S. 15:831 (B)(1).

Within the Department of Public Safety and Corrections, the Office of Youth Development has been statutorily separated from the Office of Corrections Services. Therefore, Title 22 is being re-codified into two sections: adult offenders and juvenile offenders. The purpose of the amendments of the aforementioned regulations is to further this effort by reorganizing all policies deemed to be internal management or any policy that has since been written into an existing regulation.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult Services

§339. Public Information Program and Media Access

A. ...

B. Applicability—Deputy Secretary, Chief of Operations, Undersecretary, Wardens, the Director of Probation and Parole, and the Director of Prison Enterprises. Each unit head shall develop procedures to facilitate interaction with the public, the media, and other agencies and shall ensure that necessary information and instructions are furnished to affected employees and inmates.

C. - D. ...

* * *

E. - E.1.a. ...

b. contact person for routine requests for information;
c. - f.

2. The unit head or designee shall facilitate all routine media inquiries, interview requests and/or correctional facility visits. Such requests must be made within a reasonable timeframe, considering the scope of the story and the unit's ability to adequately prepare for the visit. The unit head will give timely notice to the secretary, chief of operations, communications director, and assistant secretary as appropriate of any significant or potentially controversial event.

3. The unit head shall notify the secretary, chief of operations, communications director and assistant secretary as appropriate of national and international media requests made to the department upon receiving the request.

4. All media visitors will be provided with an escorting staff member for the duration of the visit.

5. Only those persons authorized by the secretary or unit head shall release information to the media regarding official matters. Authorized spokespersons shall be knowledgeable of issues and departmental policy and shall ensure the accuracy of information before releasing it.

6. In the event of an institutional emergency, all public and media access to the institution may be limited. The warden or his media relations designee will periodically brief all media on the situation. A media briefing center may be established at a remote location.

7. All on-site media contacts with inmates are at the sole discretion of the unit head.

8. Written permission should be obtained from an inmate prior to interviewing, photographing, and/or audio or video recording of the inmate. Death row inmates must also have their attorney's written approval prior to an interview, photograph, and/or audio or video recording. No remuneration will be provided to any inmate.

9. Interviews with inmates housed in maximum custody areas for behavioral problems and/or poor conduct records are discouraged.

10. Access to inmates should also be restricted or disallowed to prevent them from profiting from their crimes, either materially or through enhanced status as a result of media coverage.

F. - F.1.f. ...

2. Written requests shall be forwarded to the secretary for final review prior to project commencement.

3. All commercial productions are required to read, understand and sign a Location Agreement Form upon their arrival at the unit. The unit head or designee may require review of the material prior to distribution solely to insure that it comports with the Location Agreement Form.

G. - J. ...

AUTHORITY NOTE: Promulgated in accordance with American Correctional Association (ACA) Standards 2-CO-1A-25 through 27-1 (Administration of Correctional Agencies) 3-4020 through 3-4022 (Adult Correctional Institutions).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 25:1260 (July 1999), amended LR 31:1100 (May 2005), repromulgated LR 31:1343 (June 2005).

**Chapter 21. Medical Reimbursement Plan
§2103. Applicability**

Applicability—deputy secretary, chief of operations, undersecretary, wardens, and administrators of local jail facilities. The unit head is responsible for implementation and continued adherence to this regulation and for conveying its contents to employees and inmates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:831(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services LR 26:331 (February 2000), amended LR 31:1100 (May 2005), repromulgated LR 31:1343 (June 2005).

**§2105. Medical Reimbursement Plan Pursuant to R.S.
15:831(B)(1)**

A. Inmates Housed in State Institutions

1. Procedures concerning medical co-payments are outlined in Department Regulation No. B-06-001 "Health Care." Please see Health Care Policy No. HC-13 "Health Screens, Appraisals and Examinations."

A.2. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 15:831(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 26:331 (February 2000), amended LR 26:2623 (November 2000), LR 31:1100 (May 2005), repromulgated LR 31:1343 (June 2005).

Richard L. Stalder
Secretary

0506#011

RULE

Department of Revenue Office of Alcohol and Tobacco Control

Prohibition of Certain Unfair Business Practices in Malt Beverage Industry (LAC 55:VII.317)

Under the authority of R.S. 26:793 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., The Department of Revenue, Office of Alcohol and Tobacco Control, amends LAC 55:VII.317 pertaining to comprehensive education of tobacco vendors as part of the licensing process.

Title 55, Chapter 3, entitled "Alcoholic Beverages," provides, inter alia, for regulation of business practices in regard to the marketing and sale of alcoholic beverages in Louisiana. This amendment to the regulation adds definitions and provides for certain fair business practices which promote safe, responsible, and uniform marketing of low alcohol content beverages.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Subpart 1. Beer and Liquor

Chapter 3. Alcoholic Beverages

§317. Regulation IX—Prohibition of Certain Unfair Business Practices

A. Definitions

Enhancer—an item used as part of a display and which may be awarded to a customer who shops in a retail outlet voluntarily participating in a contest, offer, promotion, sweepstakes, or advertising or marketing campaign, the object of which is to award the enhancer to a winner thereof.

Sweepstakes—any program which employs any enhancer(s) that exceed \$155 in value as part of a retail display for any contest, offer, promotion, or advertising or marketing campaign.

B. - B.5. ...

C. Marketing and Sale of Alcoholic Beverages in Louisiana

1. ...

2. Exceptions

a. - j.iii. ...

k. Coupons and Rebates. Except as otherwise provided by law, coupon and rebate offers, promotions or marketing campaign of alcoholic beverages are allowable in accordance with the following restrictions.

i. Any such coupon or rebate offer, promotion, or marketing campaign must be redeemable directly by the manufacturer or a third party, including but not limited to, clearinghouse retained by the industry member at its sole expense.

ii. No retailer can be required to participate in any such offer, promotion or marketing campaign.

iii. No retailer can be required to bear any of the costs associated with any such offer, promotion or marketing campaign.

iv. No one under the legal drinking age during the time of the offer, promotion or marketing campaign may participate in any such offer, promotion or marketing campaign.

v. All coupon or rebate offers, promotions and marketing campaigns must be for a specified time, not to exceed 90 days from the first date on which such offers may be redeemable.

vi. No coupon or rebate offer, promotion or marketing campaign may result in any sale of alcoholic beverages for a price of less than six percent above the invoice price paid therefore by the retailer.

l. Enhancers. Enhancers, as defined in this Chapter, may be used as part of a contest, offer, promotion, sweepstakes, or advertising or marketing campaign.

i. Items may include ice chests, grills, rafts, and other items not to exceed \$155 in value.

ii. Industry members utilizing enhancers must provide either entry forms and a drop box in which all entries must be placed, a mailing address to which entries may be sent, or an Internet or other electronic address where electronic entries may be accepted, and post the date of the official prize drawing.

m. Sweepstakes. Sweepstakes, as defined in this Chapter, may be used as part of a contest, promotion, or advertising or marketing campaign with the following restrictions.

i. Enhancers that exceed \$155 in value, such as 4-wheel all-terrain vehicles, trips, etc., may be utilized as part of a sweepstakes.

ii. Industry members and wholesalers must offer the opportunity to participate in any sweepstakes conducted to the entire retailer base which participating wholesalers serve.

iii. Participation by retailers must be voluntary.

iv. Enhancers cannot be displayed within any retail outlet.

v. Photographs or models of enhancers may be displayed, provided the photographs or models used do not exceed \$155 in value.

vi. Industry members conducting sweepstakes must provide either entry forms and a drop box in which all entries must be placed, a mailing address to which entries may be sent or an Internet or other electronic address where electronic entries may be accepted, and post a date on which an official prize drawing will occur.

n. Industry members are prohibited from purchasing enhancers from any retail outlet participating in the display or sweepstakes.

o. Retail owners, industry members, and their employees and family members are not eligible to

participate in any display or sweepstakes drawing allowed under provisions of this Section.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:287, R.S. 26:150(A), R.S. 26:75(C)(2), and R.S. 26:275(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 4:463 (November 1978), amended LR 5:11 (January 1979), amended by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 17:607 (June 1991), LR 20:671 (June 1994), amended by the Department of Revenue, Office of Alcoholic Beverage Control, LR 22:116 (February 1996), LR 26:2631 (November 2000), LR 28:1484 (June 2002), LR 31:1344 (June 2005).

Murphy J. Painter
Commissioner

0506#049

RULE

Department of Social Services Office of Family Support

Food Stamp Program—Standard Utility Allowance (SUA);
Basic Utility Allowance (BUA) (LAC 67:III.1965 and 1966)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamps.

Section 4104 of P.L. 107-171 authorizes changes that simplify the application of the standard utility allowance (SUA) and basic utility allowance (BUA) as it relates to food stamp households residing in public housing, using a shared utility meter, and paying excess utility costs. These households shall now be allowed to claim the full SUA as a shelter deduction if heating or cooling costs are incurred, or the full BUA as a shelter deduction if heating or cooling costs are not incurred.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter I. Income and Deductions

§1965. Standard Utility Allowance (SUA)

A. ...

B. Effective February 1, 2005, households living in public housing with shared meters that are only charged for excess utilities shall use the SUA if heating or cooling costs are incurred.

C. The full SUA shall be allowed to all parties who contribute to the utility costs, if these costs include heating or cooling costs, when the household shares a residence and utility costs with other individuals.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:51551 et seq., 7 CFR 272 and 273.9, P.L. 104-193, P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:64 (February 1983), amended by the Department of Social Services, Office of Family Support, LR 21:187 (February 1995), LR 23:82

(January 1997), LR 24:108 (January 1998), LR 29:606 (April 2003), LR 31:1345 (June 2005).

§1966. Basic Utility Allowance (BUA)

A. Households which do not incur heating or cooling costs separate and apart from their rent or mortgage use a mandatory single Basic Utility Allowance (BUA). To be eligible, a household must be billed on a regular basis for utility costs.

B. Effective February 1, 2005, households living in public housing with shared meters that are only charged for excess utilities shall use the BUA if heating or cooling costs are not incurred.

C. The full BUA shall be allowed to all parties who contribute to the utility costs, if these costs do not include heating or cooling costs, when the household shares a residence and utility costs with other individuals.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:108 (January 1998), amended LR 29:606 (April 2003), LR 31:1345 (June 2005).

Ann Silverberg Williamson
Secretary

0506#047

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Special Licenses and License Fee Waivers
(LAC 76:I.327-335)

Editor's Note: This Rule is being repromulgated to correct a submission error. The original Rule may be viewed in its entirety on pages 1103-1104 of the May 2005 edition of the *Louisiana Register*.

The Wildlife and Fisheries Commission has amended and enacted provisions for special licenses and license fee waivers.

Title 76

WILDLIFE AND FISHERIES

Part I. Wildlife and Fisheries Commission and Agencies Thereunder

Chapter 3. Special Powers and Duties

Subchapter H. Electronic Licenses Issuance

§327. Recreational Electronic Licensing

A. - O. ...

P. - P.5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(21), R.S. 56:641.1 and R.S. 56:647.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Management and Finance, LR 24:505 (March 1998), amended by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:1078 (May 2000), amended by Department of Wildlife and Fisheries, Office of Management and Finance, LR 27:1243 (August 2001), amended by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:354 (February 2002), LR 28:2570 (December 2002), LR 31:1103 (May 2005), repromulgated LR 31:1345 (June 2005).

Subchapter I. Special Licenses and License Fee Waivers
§329. Outdoor Press Licenses

A. In lieu of recreational basic fishing and recreational saltwater fishing license, the secretary may issue a special outdoor press fishing license or a letter of waiver of license fees for fishing to a nonresident member of the outdoor press which will include basic and saltwater fishing. For the purpose of hunting, the secretary may issue a special outdoor press hunting license or a letter of waiver of license fees for hunting to a nonresident member of the outdoor press who meet all other legal requirements to obtain a hunting license. Such waiver may include basic hunting, big game, bow, muzzleloader, turkey, Louisiana duck license and WMA hunting permit.

1. A fee of \$20 will be charged for each Outdoor Press Fishing License issued; provided however, that the secretary may waive the fees referenced in this Section in accordance with law. Each license or letter of waiver of fees to fish under this provision shall be valid for a period of three consecutive days. A fee of \$20 will be charged for each outdoor press hunting license. Each license or letter of waiver of fees for hunting shall be valid for a period of three consecutive days. A fee of \$20 will be charged for both the hunting and the fishing license if purchased for periods that begin on the same date.

2. Each license or letter of waiver of fees will be issued from the Baton Rouge headquarters location.

3. To qualify for a special outdoor press hunting or fishing license or letter of waiver of fees, an applicant must submit to the Department of Wildlife and Fisheries an original completed application form with a legible photostatic copy of the applicant's driver's license, and proof of membership in a bona fide outdoor press association recognized by the department. Evidence of such status shall be demonstrated to the satisfaction of the secretary. In lieu of membership in a bona fide outdoor press association, the secretary, for good cause shown including but not limited to clippings or tear sheets of articles or broadcast copies of previous work, may waive this requirement. In addition, the applicant shall submit a letter of assignment from the publication, television or radio company.

4. In no case will the secretary approve an application from any individual or group not directly involved in producing stories or broadcast materials pertaining to Louisiana fishing, hunting and/or outdoor recreation opportunities.

5. Only completed applications with all supporting documents and applicable license fees attached, as specified in Paragraph 3 above, shall be considered for approval.

6. The applicant shall be required, upon completion of the assignment, to provide a copy of the final product.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:109 and R.S. 56:647.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1103 (May 2005), repromulgated LR 31:1346 (June 2005).

§331. Special Disability Fishing and Hunting Licenses

A. In lieu of recreational basic fishing and recreational saltwater fishing licenses the department may issue a special disability fishing license to residents who qualify as *developmentally disabled* as defined in R.S. 28:751; and in lieu of basic hunting, big game hunting, bow, muzzleloader, turkey stamp, and duck hunting licenses, and WMA hunting

permit, the department may issue a special disability hunting license to residents who qualify as *developmentally disabled* as defined in R.S. 28:751 and who meet all other legal requirements to obtain a hunting license. Developmentally disabled may include, but is not limited to mental retardation, cerebral palsy, downs syndrome, spina bifida, and multiple sclerosis.

1. Special disability licenses shall be issued annually and will be exempt from license fees.

2. Anyone fishing with a special disability fishing license must be accompanied by a validly licensed fisherman. Anyone hunting with a special disability hunting license must be accompanied by a validly licensed hunter.

3. All special disability fishing and hunting licenses shall be issued from the Baton Rouge headquarters location.

4. To qualify for special disability licenses an applicant must submit to the Department of Wildlife and Fisheries, the following:

a. a valid Louisiana driver's license or identification card issued by the Department of Motor Vehicles;

b. a completed application form for Developmentally Disabled License(s);

c. proof that applicant has resided in Louisiana consecutively for the immediate 12 months prior to making application as required by the department (i.e., resident driver's license of guardian or care giver, voter's registration card, vehicle registration, certification by guardian or care giver, etc.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:104, R.S. 56:109 and R.S. 56:302.2.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1104 (May 2005), repromulgated LR 31:1346 (June 2005).

§333. Charitable Organizations, Youth Groups and Schools; Fee Waivers

A. In lieu of recreational basic fishing and recreational saltwater fishing licenses the secretary may issue a letter of waiver of fees for fishing to members of bona fide charitable organizations, youth groups or schools. For the purpose of hunting, the secretary may issue a letter of waiver of license fees for hunting to members of bona fide charitable organizations, youth groups or schools who meet all other legal requirements to obtain a hunting license, which will include basic hunting, big game, bow, muzzleloader, turkey, Louisiana duck license and WMA hunting permit.

B. Evidence of such status shall be demonstrated to the satisfaction of the secretary.

C. Each letter authorizing a waiver of fees under this provision shall be valid for a period not to exceed three consecutive days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:104, R.S. 56:109 and R.S. 56:302.2.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1104 (May 2005), repromulgated LR 31:1346 (June 2005).

§335. Conferences; Fee Waivers

A. In lieu of recreational basic fishing and recreational saltwater fishing licenses the secretary may issue a letter of waiver of fees for fishing to registered non-resident participants in conferences hosted by bona fide outdoor press associations recognized by the department.

B. For the purpose of hunting, the secretary may issue a letter of waiver of license fees for hunting to registered non-

resident participants in conferences hosted by bona fide outdoor press associations recognized by the department who meet all other legal requirements to obtain a hunting license. Such waiver may include basic hunting, big game, bow, muzzleloader, turkey, Louisiana duck license and WMA hunting permit.

C. Evidence of such status shall be demonstrated to the satisfaction of the secretary.

D. Each letter authorizing a waiver of fees under this provision shall be valid for a period not to exceed three consecutive days. The said three day period shall be at

designated times which are during or immediately contiguous to the official dates of the conference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:104, R.S. 56:109 and R.S. 56:302.2.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1104 (May 2005), repromulgated LR 31:1346 (June 2005).

Dwight Landreneau
Secretary

0506#026

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State
Accountability System
(LAC 28:LXXXIII.Chapters 3, 5, and 31)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC Part LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components.

These changes take advantage of new flexibility in guidance for No Child Left Behind and address situations that were not considered when the accountability policy was initially written.

Title 28 EDUCATION

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

Chapter 3. School Performance Score Component

§307. Incentive Points

A. Students repeating the 4th or 8th grade must retake all parts of the LEAP 21 exam.

B. If, during spring testing, a repeating 4th grade student or Option I 8th grade student scores at a higher achievement level on a LEAP 21 test of mathematics, English language arts, science or social studies than the previous spring, the retaining school shall receive 50 incentive points per improved subject in its accountability index. A student may earn a maximum of 200 incentive points for his/her school.

C. Beginning with summer school results in 2005, if a 4th or 8th grade student scores at a higher achievement level on a LEAP test of mathematics or English language arts than the previous spring, the school where the student tested in the spring earns 50 incentive points per improved subject. The incentive points will be included in school performance score calculations the following academic year.

D. Option II 8th grade students (students passing one part of the LEAP 21 that have been placed on a high school campus) must retake the part of the LEAP 21 exam they failed.

1. If, during spring testing, an Option II 8th grade student receives a score of approaching basic or above on the LEAP 21 test for which he/she received a score of unsatisfactory the previous spring, the high school in which

the Option II 8th grader is enrolled, shall earn 50 incentive points in its 9th grade NRT index.

E. Students repeating the GEE 21 ELA, math, science, and/or social studies tests shall not earn incentive points.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2739 (December 2003), amended LR 31:

Chapter 5. Calculating the NRT Index

§515. State Assessments and Accountability

A. - F. ...

G. Scores earned by any student during an academic year who transferred into the LEA after October 1 of the same academic year shall not be included in the School Performance Score (SPS) or Subgroup Performance Score (GPS).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:

§517. Inclusion of Students

A. As a general rule for the school performance score calculations, the test score of every student who is enrolled in any school in a LEA on October 1 of the academic year and who is eligible to take a test at a given school within the same LEA shall be included in that school's performance score regardless of how long that student has been enrolled in that school.

B. A school that has at least 10 percent of its testing population transferring from other schools within the LEA after October 1 but before the conclusion of spring testing may request the LEA file an appeal (as described in §3109) and provide the Louisiana Department of Education with sufficient evidence that excluding these students from school performance score calculations would change its academic assistance or school improvement level; or its growth or rewards label.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:

Chapter 31. Data Correction and Appeals/Waivers Procedure

§3101. Appeals/Waivers Process

A. ...

B. The LDE shall review appeal/waiver requests and make recommendations to the SBESE within 60 days, beginning the last day of the appeals/waiver filing period. Within this interval, the LDE shall notify LEAs of its recommendations and allow them to respond in writing. The LDE's recommendations and LEA responses will be forwarded to SBESE for final disposition.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December 2003), amended LR 30:1620 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2257 (October 2004), LR 31:

§3109. Criteria for Appeal

A. LEA superintendents shall notify the LDE in writing of any changes to existing school configurations, changes to option status for alternative schools or pair/share status during the LDE accountability status verification process prior to the calculation of the school performance scores and subgroup component scores. Appeal recalculations shall be made using the information provided to the LDE in the following instances.

1. At least 10 percent of the students eligible for spring testing transferred into the school after October 1 of the same academic year from schools within the district (see §517).

a. Recalculations based on intra-district transfer shall exclude all such students from the growth calculation and the prior baseline calculation.

b. Any transfers resulting from school and district decisions shall not be included in recalculations (transfers to alternative programs, discipline centers, dropout prevention programs, pre-GED skills options programs, etc.).

c. Only changes in the Growth SPS and the Growth Label will be reflected on the School Report Cards.

d. No changes shall be made on the new Baseline SPS or the Performance Label.

2. An alternative school changes its option status by meeting the eligibility requirements.

3. A school's (inclusive of those paired or shared) enrollment has significantly changed by 50 percent or more from the previous academic year as a result of redistricting by the local governing board of education.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2752 (December 2003), amended LR 30:1620 (August 2004), repromulgated LR 30:1997 (September 2004), amended LR 31:

§3111. Criteria for Waiver

A. Factors beyond the reasonable control of the local governing board of education and also beyond the reasonable control of the school exist.

B. A school lacks the statistically significant number of testing units for the CRT and NRT necessary to calculate the SPS and has no systematic "feeding" pattern into another school by which data could be "shared" because the school is:

1. a lab school;
2. a Type 1, 2, or 3 charter school;
3. operated by the Department of Corrections; or
4. beyond the sovereign borders of Louisiana;
5. an SSD #1 or #2 school;
6. a SBESE school;
7. non-diploma bound school.

C. The student body of the school (Pre-K through K-2) comprised of primarily Pre-K and K students (greater than 50 percent of the total student membership) and has no systematic "feeding" pattern into another school or schools by which it could be "paired."

1. *Feeding Pattern*—the plan used by local governing boards of education to transfer students from one school to another for educational services as a result of pupil progression into higher grades.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2752 (December 2003), amended LR 31:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office, which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit comments until 4:30 p.m., August 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 111—The Louisiana School,
District, and State Accountability System**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state governmental units. The proposed changes more clearly define incentive points, state assessments and accountability, inclusion of students, appeals/waivers process, and appeal/waiver criteria.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
0506#036

H. Gordon Monk
Acting Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—National Board Certification (LAC 28:I.903)

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 an amendment to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy will allow a teacher from out-of-state, who holds certification/licensure in the state of origin and National Board Certification (NBC) the opportunity to become Louisiana certified. This certificate will be issued a corresponding area for which certification is being sought. The examination required for NBC will be accepted to fulfill testing requirements for Louisiana. Teachers from out-of-state with NBC or appropriate evaluations from their immediate previous assignment will be exempt from the Louisiana Teacher Assistance and Assessment Program component. Teachers holding Louisiana certification will be allowed to add corresponding areas to their certificates as well as renew their Level 2 or Level 3 certificate based upon NBC earned during the validity period of the Level 2 and Level 3 certificates.

Current policy does not allow National Board Certified teachers the option of gaining certification or using their National Board Certification to fulfill any Louisiana guidelines for additional certification.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183 (April 1975), amended LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:435 (October 1975), LR 1:541 (December 1975), LR 28:2505 (December 2002), LR 29:117, 119, 121 (February 2003), LR 31:

* * *

National Board Certification as a Pathway for Out-of-State Certification or Pathway to Add Certification Areas to a Louisiana Certificate

Individuals who have met National Board Certification (NBC) through the National Board for Professional Teaching Standards may qualify to use that certificate in Louisiana to qualify under the following pathways.

Pathway 1—Out-of-State Teacher:

Out-of-state individuals who have obtained National Board Certification (NBC) and certification/licensure in the state of origin may be issued Level 1, Level 2, or Level 3 Louisiana teaching certificates in corresponding areas for which certification is being sought. The examination required for NBC will be accepted to fulfill the testing requirements for certification.

Out-of-state teachers who provide NBC or appropriate evaluation results from their immediate previous teaching assignment will be exempt from participation in the Louisiana Teacher Assistance and Assessment Program. Appropriate evaluation results shall be defined as satisfactory annual evaluation results identified by and certified by the immediate previous out-of-state school district(s).

Pathway 2—In-State Teacher:

NBC teachers with an existing Louisiana teaching certificate may have added to their certificate, the addition (add-on) or endorsement in the corresponding area for which NBC is held.

Teachers with an existing Level 2 or Level 3 Louisiana teaching certificate may renew that certificate based upon completion of NBC during the period of certificate validity, as satisfaction in full of the 150 continuing learning units required for renewal.

* * *

Interested persons may submit written comments until 4:30 p.m., August 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

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.

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit comments until 4:30 p.m., August 9, 2005, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746—Louisiana Standards for
State Certification of School Personnel
National Board Certification**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This policy will allow a teacher from out-of-state, who holds certification/licensure in the state of origin and National Board Certification (NBC) the opportunity to become Louisiana certified. This certificate will be issued a corresponding area for which certification is being sought. The examination required for NBC will be accepted to fulfill testing requirements for Louisiana. Teachers from out-of-state with NBC or appropriate evaluations from their immediate previous assignment will be exempt from the Louisiana Teacher Assistance and Assessment Program component. Teachers holding Louisiana certification will be allowed to add corresponding areas to their certificates as well as renew their Level 2 or Level 3 certificate based upon NBC earned during the validity period of the Level 2 and Level 3 certificates. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This policy will attract highly qualified teachers to Louisiana and also give Louisiana certified teachers credit for earning National Board Certification.

Marlyn J. Langley
Deputy Superintendent
0506#035

H. Gordon Monk
Acting Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification
of School Personnel—Out-of-Field Authority to Teach
(LAC 28:1.903)

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 an amendment to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:1.903.A. This policy, approved by the board April 2005, will allow a Louisiana employing school district the option of a two-year renewal of Out-of-Field Authorities to Teach (OFAT) for individual pursuing certification in special education areas. Those specific areas are: Academically Gifted, Early Interventionist, Hearing Impaired, Visually Impaired and Significant Disabilities. This policy will also allow a one-year renewal of the OFAT certificate in the area of Mild-Moderate.

The current policy allows a maximum of three years for an individual to be employed on an OFAT certificate. Since the special education areas require an extensive amount of hours for completion and the coursework is not readily available for individuals to complete, the department recommended that a renewal be allowed for those special education areas only.

**Title 28
EDUCATION**

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

A. Bulletin 746

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), LR 28:2505-2508 (December 2002), LR 29:117, 119 (February 2003), LR 29:119-121 (February 2003), LR 29:121, 123 (February 2003), LR 31:

* * *

Effective July 2002, Revised May 2002

Types of Teaching Authorizations and Certifications

STANDARD TEACHING AUTHORIZATIONS			
Teachers holding standard teaching authorizations and certifications may meet the requirements of the NCLB mandate.			
Professional Level Certificates (Issued beginning July 1, 2002)			
Level 1 Professional Certificate (Three-year term)	Teachers must graduate from a State-approved teacher preparation program (traditional or alternative path), pass PRAXIS, and be recommended by a university to receive a Level 1 Professional Certificate. -or- Teacher must complete a State-approved Practitioner Teacher Program, pass PRAXIS, and be recommended by the Practitioner Teacher Program provider to receive a Level 1 Professional Certificate. -or- Teacher must meet the requirements of an out-of-state certified teacher.	A lapsed Level 1 certificate may be renewed once for an additional three years, upon recommendation of the parish superintendent (or corresponding administrative officer of a private school system) who wishes to employ such teachers, subject to the approval of Teacher Certification and Higher Education, or upon the presentation of six semester hours of resident, extension, or correspondence credit directly related to the area of certification.	
Level 2 Professional Certificate	Teachers with a Level 1 Professional Certificate must pass the Louisiana Teacher Assistance and Assessment Program and teach for three years to receive a Level 2 Professional Certificate.	Teachers must complete 150 clock hours of professional development over a five-year time period in order to have a Level 2 Professional License renewed.	
Level 3 Professional Certificate	Teachers with a Level 1 or Level 2 Certificate are eligible for a Level 3 Certificate if they complete a Masters Degree, teach for five years, and pass the Louisiana Teacher Assistance and Assessment Program.	Teachers must complete 150 clock hours of professional development over a five-year time period in order to have a Level 3 Professional License renewed.	
Standard Teaching Certificates (Issued prior to July 1, 2002)			
Type C Certificate	Type C certificates will not be issued after July 1, 2002.		
Type B Certificate	Candidates currently holding Type A or Type B certificates will continue to hold these certificates, which are valid for life, provided the holder does not allow any period of five or more consecutive years of disuse to accrue and/or the certificate is not revoked by the State Board of Elementary and Secondary Education, acting in accordance with law.		
Type A Certificate			
Out-of-State Certificate			
A teacher certified in another state who meets all requirements for a Louisiana certificate, except for the PRAXIS examinations.	Individual submits application to LDE. Valid for three years and non-renewable.	Teacher must take and pass the appropriate PRAXIS examinations -or- Teacher provides evidence of at least four years of successful teaching experience in another state, completes one year of employment as a teacher in Louisiana public school systems, and secures recommendation of the local superintendent of the employing school system for continued employment	
Practitioner Licenses			
Teachers holding standard teaching authorizations and certifications may meet the requirements of the NCLB mandate.			
One-year license that can be held a maximum of three years, renewable annually.	The District and the alternate certification program provider must identify the individual as a practitioner teacher (PL1), a non-master's alternate certification program teacher (PL2), a master's alternate certification program teacher (PL3), or as a teacher who is not in one of the three new alternate certification programs (PL4) but qualifies for a PL.	Teacher must be admitted to and enrolled in a State-approved Practitioner Teacher Program (PL1), Non-Master's Alternate Certification Program (PL2), or Master's Degree Alternate Certification Program (PL3), which necessitates meeting all program requirements including baccalaureate degree, stipulated GPA, and passing scores on the Praxis PPST and content area exams. A teacher receiving a PL4 license is not in a new alternate certification program, has passed the Praxis content specialty exam or has 31 hours in the content area of certification, but has not yet completed all requirements for full certification.	The alternate certification teacher (PL1, PL2, and PL3) must remain enrolled in the respective program and fulfill all coursework, teaching assignments, and prescribed activities as identified by the program provider. The PL4 teacher must complete all alternate program coursework that remains, complete all Praxis requirements for the certification area, and achieve a 2.50 GPA. Program requirements must be completed within the three-year maximum that the license can be held. PL2 and PL3 teachers must demonstrate progress toward program requirements by successfully completing at least 9 semester hours each year to remain on the PL license.
Non-Standard Temporary Authorizations to Teach* (Teachers holding non-standard teaching authorizations and certifications DO NOT meet NCLB mandate requirements.)			
Temporary Authority to Teach A teacher may hold a one-year Temporary Authorization to Teach for a maximum of three years while pursuing a specific certification area. He/she may not be issued another Temporary Certification at the end of the three years for the same certification area unless the Louisiana Department of Education designates the area as one	Districts may recommend that teachers be given one-year temporary authorizations to teach according to the stipulated conditions. Districts submit the application to LDE and provide an affidavit signed by the local superintendent that "there is no regularly certified, competent, and suitable person available for that position" and that the	Conditions	Requirements to renew Temporary Authorization to Teach and/or Move to Another Certification Level
		a. Individual who graduates from teacher preparation program but does not pass PRAXIS	Teacher must prepare for the PRAXIS and take the necessary examinations at least twice a year.
		b. Individual who holds a minimum of a baccalaureate degree from a regionally-accredited institution and who applies for admission to a Practitioner Teacher Program or other alternate program but does not pass the PPST or the content specialty examination of the PRAXIS required for admission to the program.	Teacher must successfully complete a minimum of six credit hours per year in the subject area(s) that he/she is attempting to pass on the PRAXIS; candidate must reapply for admission to a Practitioner Teacher Program or other alternate program.

designates the area as one that requires extensive hours for completion.	position" and that the applicant is the best qualified person for the position.	c. Individual who holds a minimum of a baccalaureate degree from a regionally-accredited institution and who is hired after the start of the Practitioner Teacher Program	Teacher must apply for admission to a Practitioner Teacher Program or other alternate program and pass the appropriate PRAXIS examinations required for admission to the program.
Out-of-Field Authorization to Teach A teacher may hold a one-year Out-of-Field Authorization to Teach, renewable annually, for a maximum of three years. If the teacher is actively pursuing certification in the field and LDE designates the certification area as one requiring extensive hours for completion, two additional years of renewability may be granted. These designated areas are: Academically Gifted, Early Interventionist, Hearing Impaired, Visually Impaired, and Significant Disabilities. One additional year of renewability may be granted for applicant pursuing Mild/Moderate certification.	District submits application to LDE; renewable annually for maximum of three years. The employing district superintendent must provide a signed statement certifying that "there is no regularly certified, competent, and suitable person available for the position" and that applicant is the best-qualified person available for the position.	a. Individual holds a Louisiana teaching certificate, but is teaching outside of the certified area.	Teacher must obtain a prescription/outline of course work required for add-on certification in the area of the teaching assignment. Teacher must successfully complete a minimum of six credit hours per year of courses that lead toward certification in the area in which he/she is teaching; or the secondary-certified teacher who is teaching out-of-field may opt to take and pass the required PRAXIS content specialty examination for the specific 7-12 academic certification area, if the area has been declared as a primary or secondary teaching focus area. The district must support a teacher's efforts in this area.
Temporary Employment Permit	Under condition (a) the district submits application to LDE; renewable annually for a period not to exceed three total years.	a. Individual meets all certification requirements, with the exception of passing all portions of the NTE examination, but scores within ten percent of the composite score required for passage of all exams. (Formerly classified as EP)	Superintendent and President of the school board to which the individual has applied for employment must submit a signed affidavit to the LDE stipulating that there is no other applicant who has met all of the certification requirements available for employment for a specific teaching position. Such permit shall be in effect for not more than one year, but may be renewed annually, twice. One can remain on this temporary certificate for a period not to exceed three years. Such renewal of the permit shall be accomplished in the same manner as the granting of the original permit. The granting of such emergency teaching permit shall not waive the requirement that the person successfully complete the exam. While employed on an emergency teaching permit, employment period does not count toward tenure.
	Under condition (b) the individual submits application to LDE; renewable annually for a period not to exceed three total years.	b. Individual meets all certification requirements, with the exception of passing one of the components of the PRAXIS, but has an aggregate score equal to or above the total required on all tests. (Formerly classified as TEP)	Temporary Employment Permits are issued at the request of individuals, who must submit all application materials required for issuance of a regular certificate to LDE. An individual can be re-issued a permit two times only if evidence is presented that the required test has been retaken within one year from the date the permit was last issued. One can remain on this temporary certificate for a period not to exceed three years.
Process for Renewing Lapsed Professional Certificates Type C, B, and A Certificates and Level 1, 2, and 3 Certificates			
Type C, Type B, and Type A certificates will lapse for disuse if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed educator for at least one semester (90 consecutive days).			
Level 1, 2 and Level 3 professional certificates will lapse for disuse (a) if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed educator for at least one semester [90 consecutive days], or (b) if the holder fails to complete the required number of professional development hours during his employ.			
Full reinstatement of a lapsed certificate shall be made only on evidence that the holder earned six semester hours (or equivalent) of resident, extension, correspondence, or online credit in courses approved by the Division of Teacher Certification and Higher Education or a dean of a Louisiana College of Education. The six semester credit hours must be earned during the five-year period immediately preceding reinstatement. If the holder of a lapsed certificate has not earned the required six credit hours, the lapsed certificate may be reactivated (at the level that was attained prior to disuse) for a period of one year, during which time the holder of certificate is required to complete six semester credit hours of coursework and present evidence of successful completion to the Division of Teacher Certification and Higher Education. Failure to complete the necessary coursework during the one-year reactivation period will result in a lapsed certificate that cannot be reinstated until evidence of completed coursework is provided.			

*A declination letter sent to a school district must be corrected within 10 working days. If the district does not comply with the request for additional information within the 10 days, the district must remove the teacher upon the 11th working day.

* * *

Interested persons may submit written comments until 4:30 p.m., August 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel Out-of-Field Authority to Teach

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This policy will allow a Louisiana employing school district the option of a two-year renewal of Out-of-Field Authorities to Teach (OFAT) for individual pursuing certification in special education areas. Those specific areas are: Academically Gifted, Early Interventionist, Hearing Impaired, Visually Impaired and Significant Disabilities. This policy will also allow a one-year renewal of the OFAT certificate in the area of Mild/Moderate. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy. This policy specifies designated areas that require extensive hours for completion for additional certification endorsements.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This policy would give certified teachers the opportunity of continued employment in their role as teachers of children with special needs while they continue to pursue full certification in these high-need areas.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will allow an employing school district to request a one or two year renewal of the Out-of-Field Authority to teach certification for an individual currently working on designated special education certification endorsements.

Marlyn J. Langley
Deputy Superintendent
0506#037

H. Gordon Monk
Acting Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 996—Louisiana Standards for Approval of Teacher Education Programs (LAC 28:XLV.1107 and 1109)

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 996—Louisiana Standards for Approval of Teacher Education Programs*, referenced in LAC 28:I.905.A. Proposed revisions to Bulletin 996 would incorporate both the Louisiana Reading Competencies and the Grade Level Expectations into existing policy. Each teacher preparation program seeking Louisiana State Board of Elementary and Secondary Education approval is required to incorporate and adhere to the NCATE standards and the NCATE accreditation process. Additionally, each Louisiana teacher preparation unit is required to address key state educational initiatives as identified and delimited in the Louisiana State Supplement for Teacher Preparation Program Approval, a component of *Bulletin 996—Louisiana Standards for Approval of Teacher Education Programs*.

This revision insures that those charged with recommending unit accreditation for Louisiana teacher education programs will evaluate programs for inclusion of both the Louisiana Reading Competencies and the Grade Level Expectations.

Title 28 EDUCATION

PART XLV. Bulletin 996—Standards for Approval of Teacher Education Programs **Chapter 11. The Components of Effective Teacher Preparation** **Subchapter A. Standard A—Candidates Provide Effective Teaching for All Students** **§1107. Curriculum**

A. The teacher education curricula provide candidates at both the initial and advanced levels with knowledge and

skills to effectively incorporate the Louisiana Content Standards and Grade Level Expectations in instructional delivery.

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1734 (August 2002), amended LR 31:

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

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

Unacceptable	Acceptable	Target
Candidates understand the components of the Louisiana Reading Competencies.	Candidates utilize the Louisiana Reading Competencies in K-12 classrooms.	Candidates effectively utilize the Louisiana Reading Competencies in K-12 classrooms to impact learning.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1734 (August 2002), amended LR 31:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office, which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit comments until 4:30 p.m., August 9, 2005, 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 996—Louisiana Standards for Approval of Teacher Education Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Proposed revisions to Bulletin 996 would incorporate both the Louisiana Reading Competencies and the Grade Level Expectations into existing policy. Each teacher preparation program seeking Louisiana State Board of Elementary and Secondary Education approval is required to incorporate and adhere to the NCATE standards and the NCATE accreditation process. Additionally, each Louisiana teacher preparation unit is required to address key state educational initiatives as identified and delineated in the Louisiana State Supplement for Teacher Preparation Program Approval, a component of *Bulletin 996—Louisiana Standards for Approval of Teacher Education Programs*. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
0506#034

H. Gordon Monk
Acting Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Scholarship/Grant Programs—Core Curriculum, Graduate Students, and Rockefeller State Wildlife Scholarship (LAC 28:IV.701, 703, and 1107)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant Rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance- Higher Education Scholarship and Grant Programs
Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards**

§701. General Provisions

A. - E.11.c. ...

12. A student who successfully completes an undergraduate degree without having exhausted his period of award eligibility shall receive an award for the remainder of

his eligibility if he enrolls in graduate or professional school at an eligible college or university no later than the fall semester immediately following the first anniversary of the student's completion of an undergraduate degree and has met the requirements for continued eligibility set forth in §705.A.6. The remaining eligibility may not be used to pursue a second undergraduate degree.

F. - G.2. ...

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), amended LR 23:1645-1648 (December 1997), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999), LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26:1995 (September 2000), LR 26:2000 (September 2000), repromulgated LR 27:1848 (November 2001), amended LR 28:447 (March 2002), LR 28:2331 (November 2002), LR 29:880 (June 2003), LR 29:2372 (November 2003), LR 30:1161 (June 2004), LR 31:

§703. Establishing Eligibility

A.4.g.ii. ...

5.a. graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3; and

i.(a). for students graduating in Academic Year (High School) 2001-2002 and prior, at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting a core curriculum as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or
1	Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language

1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE); or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum); BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1 credit) Computer/Technology Applications (1 credit) Computer Architecture (1 credit) Computer/Technology Literacy (1/2 credit) Computer Science I (1 credit) Computer Science II (1 credit) Computer Systems and Networking I (1 credit) Computer Systems and Networking II (1 credit) Desktop Publishing (1/2 credit) Digital Graphics and Animation (1/2 credit) Introduction to Business Computer Applications (1 credit) Multimedia Productions (1 credit) Technology Education Computer Applications (1 credit) Telecommunications (1/2 credit) Web Mastering (1/2 credit) Word Processing (1 credit) Independent Study in Technology Applications (1 credit)
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(b). for students graduating in Academic Year (High School) 2002-2003 through 2003-2004, at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting a core curriculum as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or
1	Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language

1/2	<p>Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE); or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum); BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included):</p> <p>Advanced Technical Drafting (1/2 or 1 credit) Business Computer Applications (1/2 or 1 credit) Computer Applications or Computer/Technology Applications (1/2 or 1 credit) Computer Architecture (1/2 or 1 credit) Computer/Technology Literacy (1/2 or 1 credit) Computer Science I (1/2 or 1 credit) Computer Science II (1/2 or 1 credit) Computer Systems and Networking I (1/2 or 1 credit) Computer Systems and Networking II (1/2 or 1 credit) Desktop Publishing (1/2 or 1 credit) Digital Graphics & Animation (1/2 credit) Introduction to Business Computer Applications (1/2 or 1 credit) Multimedia Productions or Multimedia Presentations (1/2 or 1 credit) Technology Education Computer Applications (1/2 or 1 credit) Telecommunications (1/2 credit) Web Mastering or Web Design (1/2 credit) Word Processing (1/2 or 1 credit) Independent Study in Technology Applications (1/2 or 1 credit)</p>
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1/2	<p>Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE); or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum); BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included):</p> <p>Advanced Technical Drafting (1/2 or 1 credit) Business Computer Applications (1/2 or 1 credit) Computer Applications or Computer/Technology Applications (1/2 or 1 credit) Computer Architecture (1/2 or 1 credit) Computer Electronics I (1/2 or 1 credit) Computer Electronics II (1/2 or 1 credit) Computer/Technology Literacy (1/2 or 1 credit) Computer Science I (1/2 or 1 credit) Computer Science II (1/2 or 1 credit) Computer Systems and Networking I (1/2 or 1 credit) Computer Systems and Networking II (1/2 or 1 credit) Desktop Publishing (1/2 or 1 credit) Digital Graphics & Animation (1/2 credit) Introduction to Business Computer Applications (1/2 or 1 credit) Multimedia Productions or Multimedia Presentations (1/2 or 1 credit) Technology Education Computer Applications (1/2 or 1 credit) Telecommunications (1/2 credit) Web Mastering or Web Design (1/2 credit) Word Processing (1/2 or 1 credit) Independent Study in Technology Applications (1/2 or 1 credit)</p>
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(c). for students graduating in Academic Year (High School) 2004-2005 through 2006-2007, at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting a core curriculum as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or
1	Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language

(d). Beginning with the graduates of Academic Year (High School) 2007-2008, at the time of high school graduation, an applicant must have successfully completed 17.5 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for one unit; provided however, that such Agriscience unit shall not be considered a science elective for the purpose of the math or science elective requirement below)
1	An elective from among other math or science subjects listed in this core curriculum
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or

1	Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE) or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum). BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1/2 or 1 credit) Business Computer Applications (1/2 or 1 credit) Computer Applications or Computer/Technology Applications (1/2 or 1 credit) Computer Architecture (1/2 or 1 credit) Computer Electronics I (1/2 or 1 credit) Computer Electronics II (1/2 or 1 credit) Computer/Technology Literacy (1/2 or 1 credit) Computer Science I (1/2 or 1 credit) Computer Science II (1/2 or 1 credit) Computer Systems and Networking I (1/2 or 1 credit) Computer Systems and Networking II (1/2 or 1 credit) Desktop Publishing (1/2 or 1 credit) Digital Graphics & Animation (1/2 credit) Introduction to Business Computer Applications (1/2 or 1 credit) Multimedia Productions or Multimedia Presentations (1/2 or 1 credit) Technology Education Computer Applications (1/2 or 1 credit) Telecommunications (1/2 credit) Web Mastering or Web Design (1/2 credit) Word Processing (1/2 or 1 credit) Independent Study in Technology Applications (1/2 or 1 credit)

A.5.a.ii. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64 and 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999 and 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219 and 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330 and 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:

Chapter 11. Rockefeller State Wildlife Scholarship

§1107. Maintaining Eligibility

A. To continue receiving the Rockefeller State Wildlife Scholarship, recipients must meet all of the following criteria:

1. have received the scholarship for not more than seven academic years (five undergraduate and two graduate); and
2. at the close of each academic year (ending with the spring semester or quarter), have earned at least 24 hours

total credit during the fall, winter and spring terms at an institution defining 12 semester or eight quarter hours as the minimum for full-time undergraduate status or earn at least 18 hours total graduate credit during the fall, winter and spring terms at an institution defining nine semester hours as the minimum for full-time graduate status unless granted an exception for cause by LASFAC; and

3. achieve a cumulative grade point average of at least 2.50 as an undergraduate student at the end of each academic year or achieve a cumulative grade point average of at least 3.00 as a graduate student at the end of each academic year; and

4. continue to enroll each subsequent semester or quarter (excluding summer sessions and intersessions) at the same institution unless granted an exception for cause and/or approval for transfer of the award by LASFAC; and

5. continue to pursue a course of study leading to an undergraduate or graduate degree in wildlife, forestry or marine science.

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 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1859 (November 2001), amended LR 31:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., July 10, 2005, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Scholarship/Grant Programs
Core Curriculum, Graduate Students, and
Rockefeller State Wildlife Scholarship**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated effects on economic benefits to directly affected persons or non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
0506#032

H. Gordon Monk
Acting Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Tuition Trust Authority Office of Student Financial Assistance

START Savings Program—Miscellaneous Provisions (LAC 28:VI.315)

The Louisiana Tuition Trust Authority announces its intention to amend its START Savings Program Rules (R.S. 17:3091, et seq.).

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Title 28 EDUCATION

Part VI. Student Financial Assistance—Higher Education Savings—Tuition Trust Authority

Chapter 3. Education Savings Account

§315. Miscellaneous Provisions

A. - B.10. ...

11. For the year ending December 31, 2004, the Louisiana Education Tuition and Savings Fund earned an interest rate of 4.72 percent.

12. For the year ending December 31, 2004, the Earnings Enhancements Fund earned an interest rate of 5.12 percent.

C. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., July 10, 2005, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: START Savings Program Miscellaneous Provisions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units as a result of these changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These changes adopt interest rates for deposits and earnings enhancements for the year ending December 31, 2004, which

have slightly declined. START account holders will earn slightly less than in past years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
0506#031

H. Gordon Monk
Acting Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment

Brownfields Cleanup Revolving Loan Fund Program (LAC 33:VI.1101, 1103, 1105, 1107, 1109, 1111, 1113, 1115, 1117, and 1119)(IA005)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to adopt the Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation regulations, LAC 33:VI.1101, 1103, 1105, 1107, 1109, 1111, 1113, 1115, 1117, and 1119 (Log #IA005).

This Rule implements the Louisiana Brownfields Cleanup Revolving Loan Fund Program, which was created and authorized by Act 655 of the 2004 Regular Legislative Session. The Rule will provide for eligibility and ranking criteria for applicants and properties, loan procedures, eligible and ineligible costs, and other loan requirements. This loan program will provide below-market-rate interest loans to local government, qualified non-profit, and private entities to clean up brownfields properties. Brownfields are real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. This program seeks to promote the cleanup, redevelopment, and reuse of these brownfields properties, thereby returning currently idled, abandoned, and underused properties to productive use. This will, in turn, result in increased jobs, state and local tax revenues, and community revitalization. There are currently estimated to be 450,000 to 600,000 brownfields in the United States, and it is believed that Louisiana has its proportionate share. This loan program will provide an affordable source of funding to assist in the cleanup of these properties. In addition, this funding will complement local brownfields program activities that already exist in the state. The basis and rationale for this rule are to promote the cleanup, redevelopment, and reuse of brownfields throughout the state. Brownfields revolving loan programs have already been used throughout the United States, and also in Louisiana, to successfully promote brownfields redevelopment.

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

Title 33

ENVIRONMENTAL QUALITY

Part VI. Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation

Chapter 11. Brownfields Cleanup Revolving Loan Fund Program

§1101. Introduction

A. The Louisiana Legislature has found that the cleanup, redevelopment, and reuse of brownfields sites in the state should be encouraged and facilitated for the benefit of the citizens of the state by way of economic development, health, and aesthetics. The legislature has also found that providing loans for the cleanup of brownfields sites will result in benefits to the public by reducing risk to public health and the environment.

B. The purpose of these regulations is to establish procedures for the establishment and operation of a Brownfields Cleanup Revolving Loan Fund Program that will make low-interest loans available to political subdivisions, public trusts, quasi-governmental organizations, nonprofit organizations, or private entities for the cleanup of brownfields properties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2551-2552.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:

§1103. Authority

A. Act 655 of the 2004 Regular Session of the Louisiana Legislature enacted R.S. 30:2551-2552, which authorize the creation of a Brownfields Cleanup Revolving Loan Fund. This act also authorizes the department to make loans to political subdivisions, public trusts, quasi-governmental organizations, nonprofit organizations, or private entities for the cleanup of brownfields properties.

B. Act 655 of 2004 further provides authority for the department to establish regulations and procedures for the loan program and authorizes political subdivisions, public trusts, quasi-governmental organizations, nonprofit organizations, or private entities to make loans from the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2551-2552.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:

§1105. Definitions

Applicant—any entity that submits an application for a loan in accordance with these regulations.

Bonds—bonds, notes, renewal notes, certificates of indebtedness, refunding bonds, interim certificates, debentures, warrants, commercial paper, or other obligations or evidences of indebtedness authorized to be issued by the department.

Brownfields Site—real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. Such property may also be referred to as a brownfield or as brownfields property.

Department—the Department of Environmental Quality.

Eligible Costs—those project costs that are reasonable, necessary, and allocable to the project, permitted by appropriate federal and state cost principles and approved in

the loan agreement, and that are not prohibited by federal or state regulations or guidance.

Fund—the Brownfields Cleanup Revolving Loan Fund.

In-Kind Contributions—non-cash third-party contributions made directly to a federally assisted project or program, including donated time and effort, real and nonexpendable personal property, and goods and services that meet the requirements of applicable federal guidance.

Loan—a loan of money from the Brownfields Cleanup Revolving Loan Fund.

Nonprofit Organization—any corporation, trust, association, cooperative, or other organization that is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest; is not organized principally for profit; and uses net proceeds to maintain, improve, or expand the operation of the organization.

Responsible Person—a responsible person as defined in R.S. 30:2285.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2551-2552.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:

§1107. Eligibility for Participation in the Program

A. Applicant Eligibility. The applicant must meet all of the following requirements to be eligible to participate in the Brownfields Cleanup Revolving Loan Fund Program.

1. The applicant must be authorized to incur debt and enter into legally binding agreements.

2. The applicant must own the brownfields site to be remediated using loan funds prior to the initial disbursement of funds.

3. The applicant must not be a *responsible person* as defined in LAC 33:VI.1105.

4. The applicant must demonstrate the financial ability to repay the loan in a timely fashion.

5. The applicant must not be subject to any unpaid fines or penalties for lack of compliance with environmental laws or regulations at the brownfields site subject to the loan.

6. The applicant must not be subject to any past-due fees owed to the department.

7. The credit history of the applicant must be in good standing.

8. Applicants for loans made from federal brownfields funding sources must meet requirements for such applicants provided in federal guidance.

B. Site Eligibility. All sites must meet the following requirements in order to be eligible and to remain eligible to participate in the Brownfields Cleanup Revolving Loan Fund Program.

1. Only brownfields sites located in the state of Louisiana are eligible.

2. The site must be eligible for participation in the Louisiana Voluntary Remediation Program as provided in LAC 33:VI.Chapter 9, and the applicant must enter the program by submitting a completed voluntary remediation application for the site to the department within 120 days of the execution of the loan agreement, unless an extension is granted by the administrative authority. The site must remain in the Louisiana Voluntary Remediation Program to remain eligible for the loan program. All application and oversight

fees associated with the voluntary remediation shall be paid in a timely fashion in accordance with those regulations.

3. Cleanup of the site shall be accomplished within 18 months of the date of the execution of the loan agreement, unless an extension is granted by the administrative authority.

4. The cleanup of contamination associated with motor fuels underground storage tanks that are eligible for the Louisiana Motor Fuels Underground Storage Tank Trust Fund is not eligible for the loan program.

5. Sites at which only petroleum contamination is present (petroleum-only sites) must meet eligibility requirements for petroleum sites found in federal guidance.

6. Sites at which loans would be funded from federal brownfields funding sources must meet all requirements provided in federal guidance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2551-2552.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:

§1109. Ineligible and Eligible Costs

A. Ineligible Costs. Loan funds cannot be used for:

1. payment of penalties or fines, or for federal cost-sharing requirements;

2. indirect costs or for any administrative costs such as direct costs associated with grant administration incurred to comply with the Uniform Administrative Requirements for Grants in 40 CFR Part 30 (however, loan funds may be used for programmatic costs);

3. payment of any fees or oversight cost reimbursements required by the department;

4. site acquisition or development/redevelopment and construction activities that are not corrective actions;

5. pre-cleanup activities (i.e., site investigation and identification of the nature and extent of contamination and associated data collection);

6. monitoring and data collection necessary to apply for, or comply with, environmental permits under other state or federal laws, unless such a permit is a required component of the corrective action;

7. ordinary operating expenses of the local government or nonprofit or private organization;

8. personal injury compensation or damages arising out of the project;

9. purchase of any equipment costing more than \$5,000;

10. cleanup of a substance that occurs in a natural condition at a site; or

11. any other costs prohibited by federal regulation or guidance.

B. Eligible Costs. Loan funds may be used for:

1. programmatic costs that are integral to achieving the purposes of the loan as described in the most current edition of the federal "Proposal Guidelines for Brownfields Assessment, Revolving Loan Fund, and Cleanup Grants" guidance document or its equivalent;

2. preparation of a voluntary remediation application, including development of the voluntary remedial action plan, as described in LAC 33:VI.911.B;

3. remediation of an eligible site pursuant to and in conformance with the Louisiana Voluntary Remediation Program;

4. preparation of a voluntary remedial action report, as described in LAC 33:VI.913.C.1;

5. required public notice, public hearing, and other community involvement activities associated with the remediation of an eligible site; and

6. purchase of environmental insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2551-2552.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:

§1111. Loan Requirements

A. The maximum loan amount shall be \$200,000 per brownfields site and shall not exceed the estimated cost of the project. Under special circumstances this maximum loan amount may be increased by the department. The department may award loans that are less than the total project cost for a brownfields site. Loan amounts cannot be increased after the loan award due to cost overruns or other reasons. The borrower must apply for another loan to get additional funds.

B. The interest rate for loans will be updated by the department as needed and will be less than the current prime interest rate. Loan agreements may provide for reduction or forgiving of interest rates for early repayment of the loan. There shall be no penalties imposed for early repayment of a loan.

C. The term of the loan (the time period over which the loan must be paid back) shall not exceed 20 years from the date of the completion of the project. The actual term for each loan shall be determined by the department and the department may require a shorter loan term based on circumstances. Loan principal and interest repayment schedules shall be set by the department, with the first installment being due within one year of the date of the project's completion.

D. A match (cost-share) of up to 20 percent of the loan amount may be required of the applicant by the department for any loan made. Eligible "in-kind" contributions may be allowed as cost-shares by the department.

E. Applicants must demonstrate their ability to repay the loans. The department may require a loan recipient to provide security or collateral for the loan, including the subject property. A local government or nonprofit applicant may be required to provide evidence of a dedicated revenue source to repay the loan.

F. Applicants subject to oversight by the State Bond Commission must comply with R.S. 30:2552.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2551-2552.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:

§1113. Loan Application Process

A. The department may choose to accept loan applications on a continuous basis as funding permits or may announce specific application periods for acceptance of loan applications. If the department announces specific application periods, loan applications must be received on or before the deadline set by the department.

B. Applicants for loans shall complete and submit to the department an application package in a format specified by the department, including a Brownfields Cleanup Revolving Loan Fund Application Form that will be provided by the

department. The application package must also include, but is not limited to:

1. a complete description of the project, including the sources and uses of funds, the project schedule, the estimated cost to complete the project, the estimated completion date, the amount of loan funds requested, and the source of other funding, if needed, to complete the project;

2. the last three years of the borrower's financial statements, which shall include the income statement, balance sheet, and cash flow statement, and tax returns;

3. an interim financial statement no more than 90 days old;

4. two years of financial projections, which must include an income statement, balance sheet, cash flow statement, and notes to the financial statements for each year;

5. an approved remedial investigation report as described in LAC 33:VI.911.B.3;

6. a written access agreement providing the department and its authorized representatives full access to the site;

7. an agreement to maintain financial records of the project, to conduct financial audits of these financial records, and to make the records available to the department promptly upon request;

8. if a cost-share is required by the department during this loan application period, a description of how the applicant will provide the cost-share for the project;

9. all information regarding the site required by the department to assist the department in determining eligibility of the site for participation in the loan program;

10. other information regarding the project requested in the application package to assist the department in ranking the project for funding;

11. proof of ownership of the property, or a purchase agreement with the current owner of the property, including evidence of clear title;

12. an appraisal of the estimated value of the property after the voluntary remedial action is complete;

13. discussion and evidence, as requested in the application form, demonstrating the eligibility under these regulations of the applicant and the property for a revolving loan;

14. a comprehensive redevelopment plan describing the future redevelopment and use of the property, including cost estimates for the redevelopment plan, and any economic and community benefits resulting from the cleanup and redevelopment of the property; and

15. other items specified in the application form or otherwise required by the department.

C. The department may request clarification or further information from applicants after receiving the applications. The department also reserves the right to reject incomplete applications.

D. Brownfields Cleanup Revolving Loan Fund applications accepted by the department may be ranked according to prioritization criteria to be established by the department.

E. Applicants will be accepted for loan funding based upon ranking and site-specific criteria, state-wide priorities, funds currently allocated and available for lending, and other relevant factors as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2551-2552.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:

§1115. Loan Agreements, Closing of Loans, and Disbursement of Loan Funds

A. Upon selection of an applicant to receive a loan, the department will prepare and execute a loan agreement with the applicant. The loan agreement will provide for:

1. the loan term;
2. the repayment schedule;
3. the interest rate;
4. provisions in case of default;
5. a cost-share, if required;
6. timelines and budgets for completing various phases of the project of voluntary remediation;
7. provisions for disbursement of loan funds to the borrower;
8. any required security or collateral for the loan; and
9. other necessary provisions as determined by the department.

B. No loan funds shall be disbursed to the borrower until the loan agreement is executed and until such costs are incurred by the borrower.

C. Disbursement requests shall be of the form and type required by the department and shall be supplemented with copies of all invoices for each cost incurred. The borrower shall maintain complete documentation of all project costs for audit purposes. The borrower shall be responsible for maintaining financial control of the project by carefully reviewing all disbursement requests and supplemental documentation before submitting disbursement requests to the department. The borrower must certify each disbursement request before submittal.

D. Disbursement requests must be received by the date established by the department.

E. The borrower shall promptly remit each disbursement to the firm or individual to whom payment is due, and the borrower is solely responsible for paying those firms or individuals. The department may at its discretion make certain payments directly to such firms or individuals as provided in specific loan agreements.

F. Documentation of project costs paid for with revolving loan funds, as well as disbursement requests and invoices, must record and account for costs separately from any project costs paid or to be paid for from other funding sources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2551-2552.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:

§1117. Recordkeeping, Confidentiality of Records, and Inspection of Records and Participating Sites

A. The applicant must maintain complete financial and other records as required in the loan application and loan agreement, and make them available promptly to the department upon request as provided in Subsection B of this Section. Financial records must account for and record costs and expenditures to be funded with revolving loan funds separately from costs and expenditures to be funded from other funding sources. Recordkeeping shall meet the

requirements of applicable federal guidance, and all records shall be kept by the borrower until the loan is completely repaid or at least three years after the cleanup is completed, whichever is later.

B. From the time of first submission of the loan application, throughout all stages of remediation, and at any time during the applicant's participation in the loan program, authorized representatives of the department shall have the right to inspect any and all projects, and any and all incidental works, areas, facilities, and premises otherwise pertaining to the project for which the application was made. The department shall further have the same right to inspect any and all books, accounts, records, contracts or other instruments, documents, or information possessed by the applicant or entity representing the applicant that relates to the receipt, deposit, or expenditure of loan funds or to the planning, design, construction, and operation of any facilities that may have been constructed as a result of such loan funds. By submittal of a revolving loan fund application, the applicant shall be deemed to consent and agree to the right of reasonable inspection and the applicant shall allow the department all necessary and reasonable access and opportunity for such purposes.

C. Any requests for confidentiality of any documents submitted by an applicant or loan recipient must be handled in accordance with and will be governed by LAC 33.I.Chapter 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2551-2552.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:

§1119. Prioritization of Applicants and Sites to Receive Loan Funds

A. Applicants may be prioritized for receipt of loan funds based on the ranking criteria in this Section. These factors may be further elaborated, refined, or detailed in the loan application.

B. The criteria (not in order of importance) for ranking applicants are as follows:

1. the potential of the site for redevelopment and productive reuse;
2. the potential for creation of temporary and permanent jobs and/or increased state and local tax revenues by the cleanup, redevelopment, and reuse of the site;
3. the potential of the project to create greenspace;
4. the ability of the applicant to repay the loan;
5. other cleanup funds available to the applicant to supplement revolving loan fund dollars;
6. funds available to the applicant to redevelop the property;
7. the degree of need for community revitalization in the area surrounding the site, as evidenced by significant deterioration, job loss, majority low-income households, or other factors as determined by the department;
8. the estimated value of the remediated property as compared to the estimated cost of the cleanup of that property; and
9. other ranking factors provided by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2551-2552.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:

A public hearing will be held on July 26, 2005, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by IA005. Such comments must be received no later than August 2, 2005, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs and Regulation Development Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of IA005. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Brownfields Cleanup Revolving Loan Fund Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation costs for the program are estimated at \$229,300, mostly for personnel and operating costs which will be funded by the LDEQ Hazardous Waste Site Cleanup Fund, and \$800,000 to capitalize the Brownfields Cleanup Revolving Loan Fund (RLF), which will be funded with federal brownfield grants.

Savings cannot be currently quantified, but local governments that are eligible for and borrow funds from the RLF at below-market interest rates will incur significant savings. There would be no net increased costs to local

governments, as there would be similar administrative and paperwork requirements if loans were obtained from other sources (i.e., bonds or private lenders).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These effects cannot be accurately quantified at this time, but local revenues may be increased if inactive brownfield properties are redeveloped and put back into use due to this program (thereby creating jobs, property taxes, sales taxes, etc.). There will be a slight increase in state revenues due to the small interest rate paid on the RLF loans.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These costs and/or benefits cannot be accurately quantified at this time, but persons and non-governmental groups may be positively affected if inactive brownfield properties are redeveloped and put back into use due to this program (e.g., creation of temporary and permanent jobs or other business opportunities).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no net effect on competition. Employment should show a net increase where inactive brownfield properties are redeveloped as a result of RLF loans.

Wilbert F. Jordan, Jr.
Assistant Secretary
0506#018

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Drinking Water Revolving Loan Fund
(LAC 33:IX.2201, 2203, 2205, 2207,
2209, 2211, and 2213)(WQ061)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to repeal the Water Quality regulations, LAC 33:IX.2201, 2205, 2207, 2209, 2211, and 2213 (Log #WQ061).

This Rule repeals Chapter 22, Drinking Water Revolving Loan Fund, in the Water Quality regulations. The department no longer has the authority to administer the Drinking Water Revolving Loan Fund. Act 67 of the 2003 Regular Session of the Legislature transferred the administration of the fund from the Department of Environmental Quality to the Department of Health and Hospitals. The basis and rationale for this proposed Rule are to remove language from the regulations that is no longer applicable.

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

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 22. Drinking Water Revolving Loan Fund

§2201. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Municipal Facilities Division, LR 24:28 (January 1998), repealed by the Office of Environmental Assessment, LR 31:

§2203. Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Municipal Facilities Division, LR 24:28 (January 1998), repealed by the Office of Environmental Assessment, LR 31:

§2205. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Municipal Facilities Division, LR 24:28 (January 1998), repealed by the Office of Environmental Assessment, LR 31:

§2207. Eligibility for Participation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Municipal Facilities Division, LR 24:29 (January 1998), repealed by the Office of Environmental Assessment, LR 31:

§2209. Application Requirements and Loan Conditions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Municipal Facilities Division, LR 24:29 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2552 (November 2000), repealed by the Office of Environmental Assessment, LR 31:

§2211. Events of Default and Remedies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Municipal Facilities Division, LR 24:30 (January 1998), repealed by the Office of Environmental Assessment, LR 31:

§2213. Miscellaneous

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Municipal Facilities Division, LR 24:30 (January 1998), repealed by the Office of Environmental Assessment, LR 31:

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment

Nonattainment New Source Review;
Prevention of Significant Deterioration
(LAC 33:III.504 and 509)(AQ246F)

A public hearing will be held on July 26, 2005, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ061. Such comments must be received no later than August 2, 2005, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs and Regulation Development Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ061. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Drinking Water Revolving Loan Fund**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no expected implementation costs or savings to state or local governmental units by the proposed Rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units by the proposed Rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups by the proposed Rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition or employment by the proposed Rule.

Wilbert F. Jordan, Jr.
Assistant Secretary
0506#017

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.504 and 509 (Log #AQ246F).

On December 31, 2002, the United States Environmental Protection Agency published a final New Source Review (NSR) Rule revising the regulations that implement the Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) provisions of the Clean Air Act. To be approvable under the State Implementation Plan (SIP), states implementing Part C (PSD permit program in §51.166) or Part D (nonattainment NSR permit program in §51.165) must include EPA's December 31, 2002, changes as minimum program elements. States must adopt and submit revisions to their Part 51 permitting programs implementing these minimum program elements no later than January 2, 2006 (67 FR 80240). This Rule is also being proposed as a revision to the Louisiana State Implementation Plan for air quality.

EPA's NSR revisions (hereinafter Federal NSR Reform Rule) include five major elements:

Baseline Emissions—changes the method for determining the source's emissions before a change is made (the baseline against which emissions increases are measured);

Applicability Test—changes the method for estimating the emissions after the change;

Clean Unit Exclusion—disregards increases from emissions units that have installed controls within the last 10 years;

Pollution Control Project Exclusion—exempts certain projects that will cause a significant increase in emissions of one pollutant, but reduce emissions of another pollutant; and

Plantwide Applicability Limits—allows facilities to establish a cap on emissions and trade increases and decreases under the cap, without installing controls on new or modified emissions units.

The basis and rationale for this proposed Rule are to adopt the Federal NSR Reform Rule as mandated by the U.S. EPA.

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

Title 33 ENVIRONMENTAL QUALITY Part III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

A. Applicability. The provisions of this Section apply to the construction of any new *major stationary source* or to

any *major modification* at a major stationary source, as defined herein, provided such source or modification will be located within a nonattainment area so designated in accordance with Section 107 of the federal Clean Air Act, and will emit a regulated pollutant for which it is major and for which the area is designated nonattainment. If any provision of this Section, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Section, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

1. For an area that is designated incomplete data, transitional nonattainment, marginal, moderate, serious, or severe nonattainment for the ozone national ambient air quality standard, VOC and NO_x are the regulated pollutants under this Section. VOC and NO_x emissions shall not be aggregated for purposes of determining major stationary source status and significant net emissions increases.

2. ...

3. Except as specified in Paragraph A.5 of this Section, the emissions increase that would result from a proposed modification, without regard to project decreases, shall be compared to the trigger values listed in Subsection L.Table 1 of this Section to determine whether a calculation of the net emissions increase over the contemporaneous period must be performed.

a. Actual-to-Projected-Actual Applicability Test for Projects That Only Involve Existing Emissions Units. The emissions increase of a regulated pollutant shall be calculated by summing the difference between the *projected actual emissions*, as defined in Subsection K of this Section, and the *baseline actual emissions*, as defined in Subsection K of this Section, specifically Subparagraphs a and b of the definition, for each existing emissions unit.

b. Actual-to-Potential Test for Projects That Only Involve Construction of New Emissions Units. The emissions increase of a regulated pollutant shall be calculated by summing the difference between the *potential to emit*, as defined in Subsection K of this Section, from each new emissions unit following completion of the project and the *baseline actual emissions*, as defined in Subsection K of this Section, specifically Subparagraph c of the definition, of these units before the project.

c. Emissions Test for Projects that Involve Clean Units. For a project that will be constructed and operated at a Clean Unit without causing the emissions unit to lose its Clean Unit designation, no emissions increase is deemed to occur.

d. Hybrid Test for Projects That Involve Multiple Types of Emissions Units. The emissions increase of a regulated pollutant shall be calculated using the methods specified in Subparagraphs A.3.a-c of this Section, as applicable, with respect to each emissions unit, for each type of emissions unit. For example, if a project involves both an existing emissions unit and a Clean Unit, the projected increase is determined by summing the values determined using the method specified in Subparagraph A.3.a of this Section for the existing unit and using the method specified in Subparagraph A.3.c of this Section for the Clean Unit.

4. Except as specified in Paragraph A.5 of this Section, the net emissions increase shall be compared to the significant net emissions increase values listed in Subsection

L.Table 1 of this Section to determine whether a nonattainment new source review must be performed.

5. An owner or operator undertaking a *pollution control project*, as defined in Subsection K of this Section, shall comply with Subsection I of this Section.

6. For any major stationary source with a plantwide applicability limit (PAL) for a regulated pollutant, the owner or operator shall comply with Subsection J of this Section.

7. For applications deemed administratively complete in accordance with LAC 33:III.519.A prior to December 20, 2001, the requirements of this Section shall not apply to NO_x increases; furthermore, the 1.40 to 1 VOC internal offset ratio for serious ozone nonattainment areas shall not apply. In such situations, a 1.30 to 1 internal offset ratio shall apply to VOC if lowest achievable emission rate (LAER) is not utilized.

8. For applications deemed administratively complete in accordance with LAC 33:III.519.A on or after December 20, 2001 and prior to June 23, 2003, the provisions of this Section governing serious ozone nonattainment areas shall apply to VOC and NO_x increases. For applications deemed administratively complete in accordance with LAC 33:III.519.A on or after June 23, 2003, the provisions of this Section governing severe ozone nonattainment areas shall apply to VOC and NO_x increases.

B. - D.3. ...

4. For any new major stationary source or major modification in accordance with this Section, it shall be assured that the total tonnage of the emissions increase that would result from the proposed construction or modification shall be offset by an equal or greater reduction as applicable, in the actual emissions of the regulated pollutant from the same or other sources in accordance with Paragraph F.9 of this Section. The total tonnage of increased emissions, in tons per year, shall be determined by summing the difference between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit. A higher level of offset reduction may be required in order to demonstrate that a net air quality benefit will occur.

5. - 8.d. ...

9. For existing emissions units at a major stationary source, other than projects at a Clean Unit or at a source with a PAL, in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use, for the purpose of calculating projected actual emissions, the method specified in Subparagraphs K.*Projected Actual Emissions*.a-c of this Section, the following shall apply.

a. Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

i. a description of the project;

ii. identification of the emissions units whose emissions of a regulated pollutant could be affected by the project; and

iii. a description of the applicability test used to determine that the project is not a major modification for any regulated pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under Subparagraph K.*Projected Actual*

Emissions.c of this Section (i.e., demand growth) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

b. If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in Subparagraph D.9.a of this Section to the administrative authority. Nothing in this Subparagraph shall be construed to require the owner or operator of such a unit to obtain any determination from the administrative authority before beginning actual construction.

c. The owner or operator shall monitor the emissions of any regulated pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in Clause D.9.a.ii of this Section, and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated pollutant at such emissions unit.

d. If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the administrative authority within 60 days after the end of each year during which records must be generated under Subparagraph D.9.c of this Section setting out the unit's annual emissions during the year that preceded submission of the report.

e. If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the administrative authority if the annual emissions, in tons per year, from the project identified in Subparagraph D.9.a of this Section, exceed the baseline actual emissions, as documented and maintained in accordance with Clause D.9.a.iii of this Section, by a *significant* amount, as defined in Subsection K of this Section, for that regulated pollutant, and if such emissions differ from the preconstruction projection as documented and maintained in accordance with Clause D.9.a.iii of this Section. Such report shall be submitted to the administrative authority within 60 days after the end of such year. The report shall contain the following:

- i. the name, address, and telephone number of the major stationary source;
- ii. the annual emissions as calculated in accordance with Subparagraph D.9.c of this Section; and
- iii. any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

10. The owner or operator of the source shall make the information required to be documented and maintained in accordance with Paragraph D.9 of this Section available for review upon a request for inspection by the administrative authority or the general public in accordance with the requirements contained in 40 CFR 70.4(b)(3)(viii).

E. - F.10. ...

11. Decreases in actual emissions resulting from the installation of add-on control technology or application of pollution prevention measures that were relied upon in

designating an emissions unit as a Clean Unit or a project as a pollution control project (PCP) cannot be used as offsets.

12. Decreases in actual emissions occurring at a Clean Unit cannot be used as offsets, except as provided in Paragraphs G.8 and H.10 of this Section. Similarly, decreases in actual emissions occurring at a PCP cannot be used as offsets, except as provided in Subparagraph I.6.d of this Section.

G. Clean Unit Test for Emissions Units That are Subject to LAER. An owner or operator of a major stationary source has the option of using the Clean Unit test to determine whether emissions increases at a Clean Unit are part of a project that is a major modification according to the following provisions.

1. Applicability. The provisions of this Subsection apply to any emissions unit for which the administrative authority has issued a major new source review (NSR) permit within the past 10 years.

2. General Provisions for Clean Units. The following provisions apply to a Clean Unit.

a. Any project for which the owner or operator begins actual construction after the effective date of the Clean Unit designation, as determined in accordance with Paragraph G.4 of this Section, and before the expiration date, as determined in accordance with Paragraph G.5 of this Section, will be considered to have occurred while the emissions unit was a Clean Unit.

b. If a project at a Clean Unit does not cause the need for a change in the emission limitations or work practice requirements in the permit for the unit that were adopted in conjunction with LAER and the project would not alter any physical or operational characteristics that formed the basis for the LAER determination as specified in Subparagraph G.6.d of this Section, the emissions unit remains a Clean Unit.

c. If a project causes the need for a change in the emission limitations or work practice requirements in the permit for the unit that were adopted in conjunction with LAER or the project would alter any physical or operational characteristics that formed the basis for the LAER determination as specified in Subparagraph G.6.d of this Section, then the emissions unit loses its designation as a Clean Unit upon issuance of the necessary permit revisions, unless the unit requalifies as a Clean Unit in accordance with Subparagraph G.3.c of this Section. If the owner or operator begins actual construction on the project without first applying to revise the emissions unit's permit, the Clean Unit designation ends immediately prior to the time when actual construction begins.

d. A project that causes an emissions unit to lose its designation as a Clean Unit is subject to the applicability requirements of Subparagraphs A.3.a, b, and d and Paragraph A.4 of this Section as if the emissions unit is not a Clean Unit.

e. Certain Emissions Units with PSD Permits. For emissions units that meet the following requirements, the best available control technology (BACT) level of emissions reductions and/or work practice requirements shall satisfy the requirement for LAER in meeting the requirements for Clean Units under Paragraphs G.3-8 of this Section. For these emissions units, all requirements for the LAER

determination under Subparagraphs G.2.b and c of this Section shall also apply to the BACT permit terms and conditions. In addition, the requirements of Clause G.7.a.ii of this Section do not apply to emissions units that qualify for Clean Unit status under this Subparagraph.

i. The emissions unit must have received a prevention of significant deterioration (PSD) permit within the last 10 years and such permit must require the emissions unit to comply with BACT.

ii. The emissions unit must be located in an area that was redesignated as nonattainment for the relevant pollutants after issuance of the PSD permit and before the effective date of the Clean Unit test provisions in the area.

3. Qualifying or Requalifying to Use the Clean Unit Applicability Test. An emissions unit automatically qualifies as a Clean Unit when the unit meets the criteria in Subparagraphs G.3.a and b of this Section. After the original Clean Unit designation expires in accordance with Paragraph G.5 of this Section or is lost in accordance with Subparagraph G.2.c of this Section, such emissions unit may requalify as a Clean Unit under either Subparagraph G.3.c of this Section or under the Clean Unit provisions in Subsection H of this Section. To requalify as a Clean Unit under Subparagraph G.3.c of this Section, the emissions unit must obtain a new major NSR permit issued through the applicable nonattainment major NSR program and meet all the criteria in Subparagraph G.3.c of this Section. Clean Unit designation applies individually for each pollutant emitted by the emissions unit.

a. Permitting Requirement. The emissions unit must have received a major NSR permit within the past 10 years. The owner or operator must maintain and be able to provide information that would demonstrate that this permitting requirement is met.

b. Qualifying Air Pollution Control Technologies. Air pollutant emissions from the emissions unit must be reduced through the use of an air pollution control technology, which includes *pollution prevention* as defined in Subsection K of this Section or work practices, that meets both the following requirements.

i. The control technology achieves the LAER level of emissions reductions as determined through issuance of a major NSR permit within the past 10 years. However, the emissions unit is not eligible for Clean Unit designation if the LAER determination resulted in no requirement to reduce emissions below the level of a standard, uncontrolled, new emissions unit of the same type.

ii. The owner or operator made an investment to install the control technology. For the purpose of this determination, an *investment* includes expenses to research the application of a pollution prevention technique to the emissions unit or expenses to apply a pollution prevention technique to an emissions unit.

c. Requalifying for the Clean Unit Designation. The emissions unit must obtain a new major NSR permit that requires compliance with the current-day LAER, and the emissions unit must meet the requirements in Subparagraphs G.3.a and b of this Section.

4. Effective Date of the Clean Unit Designation. The effective date of an emissions unit's Clean Unit designation (i.e., the date on which the owner or operator may begin to use the Clean Unit test to determine whether a project at the

emissions unit is a major modification) is determined according to one of the following provisions, as applicable.

a. For original Clean Unit designation and emissions units that requalify as Clean Units by implementing a new control technology to meet current-day LAER, the effective date is the date the emissions unit's air pollution control technology is placed into service, or three years after the issuance date of the major NSR permit, whichever is earlier, but no sooner than the date that provisions for the Clean Unit applicability test are approved by the administrator for incorporation into the State Implementation Plan.

b. For emissions units that requalify for the Clean Unit designation using an existing control technology, the effective date is the date the new, major NSR permit is issued.

5. Clean Unit Designation Expiration. An emissions unit's Clean Unit designation expires (i.e., the date on which the owner or operator may no longer use the Clean Unit test to determine whether a project affecting the emissions unit is, or is part of, a major modification) according to one of the following provisions, as applicable.

a. For any emissions unit that automatically qualifies as a Clean Unit under Subparagraphs G.3.a and b of this Section by implementing new control technology to meet current-day LAER, the Clean Unit designation expires 10 years after the effective date, or the date the equipment went into service, whichever is earlier; or it expires at any time the owner or operator fails to comply with the provisions for maintaining Clean Unit designation in Paragraph G.7 of this Section.

b. For any emissions unit that requalifies as a Clean Unit under Subparagraph G.3.c of this Section using an existing control technology, the Clean Unit designation expires 10 years after the effective date; or it expires any time the owner or operator fails to comply with the provisions for maintaining Clean Unit designation in Paragraph G.7 of this Section.

6. Required Title V Permit Content for a Clean Unit. After the effective date of the Clean Unit designation, and in accordance with the provisions of the applicable Title V permit program under 40 CFR Part 70, but no later than when the Title V permit is renewed, the Title V permit for the major stationary source must include the following terms and conditions related to the Clean Unit:

a. a statement indicating that the emissions unit qualifies as a Clean Unit and identifying the pollutants for which this Clean Unit designation applies;

b. the effective date of the Clean Unit designation. If this date is not known when the Clean Unit designation is initially recorded in the Title V permit (e.g., because the air pollution control technology is not yet in service), the permit must describe the event that will determine the effective date (e.g., the date the control technology is placed into service). Once the effective date is determined, the owner or operator must notify the administrative authority of the exact date. This specific effective date must be added to the source's Title V permit at the first opportunity, such as a modification, revision, reopening, or renewal of the Title V permit for any reason, whichever comes first, but in no case later than the next renewal;

c. the expiration date of the Clean Unit designation. If this date is not known when the Clean Unit designation is initially recorded into the Title V permit (e.g., because the air pollution control technology is not yet in service), then the permit must describe the event that will determine the expiration date (e.g., the date the control technology is placed into service). Once the expiration date is determined, the owner or operator must notify the administrative authority of the exact date. The expiration date must be added to the source's Title V permit at the first opportunity, such as a modification, revision, reopening, or renewal of the Title V permit for any reason, whichever comes first, but in no case later than the next renewal;

d. all emission limitations and work practice requirements adopted in conjunction with the LAER, and any physical or operational characteristics that formed the basis for the LAER determination (e.g., possibly the emissions unit's capacity or throughput);

e. monitoring, recordkeeping, and reporting requirements as necessary to demonstrate that the emissions unit continues to meet the criteria for maintaining the Clean Unit designation (see Paragraph G.7 of this Section);

f. terms reflecting the owner's or operator's duties to maintain the Clean Unit designation and the consequences of failing to do so, as presented in Paragraph G.7 of this Section.

7. Maintaining the Clean Unit Designation. To maintain the Clean Unit designation, the owner or operator must conform to all of the following restrictions. This Paragraph applies independently to each pollutant for which the emissions unit has the Clean Unit designation. That is, failing to conform to the restrictions for one pollutant affects Clean Unit designation only for that pollutant.

a. The Clean Unit must comply with the emission limitations and/or work practice requirements adopted in conjunction with the LAER that is recorded in the major NSR permit, and subsequently reflected in the Title V permit.

i. The owner or operator may not make a physical change in or change in the method of operation of the Clean Unit that causes the emissions unit to function in a manner that is inconsistent with the physical or operational characteristics that formed the basis for the LAER determination (e.g., possibly the emissions unit's capacity or throughput).

ii. The Clean Unit may not emit above a level that has been offset.

b. The Clean Unit must comply with any terms and conditions in the Title V permit related to the unit's Clean Unit designation.

c. The Clean Unit must continue to control emissions using the specific air pollution control technology that was the basis for its Clean Unit designation. If the emissions unit or control technology is replaced, then the Clean Unit designation ends.

8. Offsets and Netting at Clean Units. Emissions changes that occur at a Clean Unit must not be included in calculating a significant net emissions increase (i.e., must not be used in a "netting analysis") or be used for generating offsets, unless such use occurs before the effective date of the Clean Unit designation, or after the Clean Unit designation expires, or unless the emissions unit reduces

emissions below the level that qualified the unit as a Clean Unit. However, if the Clean Unit reduces emissions below the level that qualified the unit as a Clean Unit, then, the owner or operator may generate a credit for the difference between the level that qualified the unit as a Clean Unit and the new emission limitation if such reductions are surplus, quantifiable, and permanent. For purposes of generating offsets, the reductions must also be federally enforceable. For purposes of determining creditable net emissions increases and decreases, the reductions must also be enforceable as a practical matter.

9. Effect of Redesignation on the Clean Unit Designation. The Clean Unit designation of an emissions unit is not affected by redesignation of the attainment status of the area in which it is located. That is, if a Clean Unit is located in an attainment area and the area is redesignated to nonattainment, its Clean Unit designation is not affected. Similarly, redesignation from nonattainment to attainment does not affect the Clean Unit designation. However, if an existing Clean Unit designation expires, it must requalify under the requirements that are currently applicable in the area.

H. Clean Unit Provisions for Emissions Units That Achieve an Emission Limitation Comparable to LAER. The owner or operator of a major stationary source has the option of using the Clean Unit test to determine whether emissions increases at a Clean Unit are part of a project that is a major modification according to the following provisions.

1. Applicability. The provisions of this Subsection apply to emissions units that do not qualify as Clean Units under Subsection G of this Section, but which are achieving a level of emissions control comparable to LAER, as determined by the administrative authority in accordance with this Subsection.

2. General Provisions for Clean Units. The following provisions apply to a Clean Unit, if designated as such in accordance with this Subsection.

a. Any project for which the owner or operator begins actual construction after the effective date of the Clean Unit designation, as determined in accordance with Paragraph H.5 of this Section, and before the expiration date, as determined in accordance with Paragraph H.6 of this Section, will be considered to have occurred while the emissions unit was a Clean Unit.

b. If a project at a Clean Unit does not cause the need for a change in the emission limitations or work practice requirements in the permit for the unit that have been determined, in accordance with Paragraph H.4 of this Section, to be comparable to LAER, and the project would not alter any physical or operational characteristics that formed the basis for determining that the emissions unit's control technology achieves a level of emissions control comparable to LAER as specified in Subparagraph H.8.d of this Section, the emissions unit remains a Clean Unit.

c. If a project causes the need for a change in the emission limitations or work practice requirements in the permit for the unit that have been determined, in accordance with Paragraph H.4 of this Section, to be comparable to LAER, or the project would alter any physical or operational characteristics that formed the basis for determining that the emissions unit's control technology achieves a level of emissions control comparable to LAER as specified in

Subparagraph H.8.d of this Section, then the emissions unit loses its designation as a Clean Unit upon issuance of the necessary permit revisions, unless the unit requalifies as a Clean Unit in accordance with Subparagraph H.3.d of this Section. If the owner or operator begins actual construction on the project without first applying to revise the emissions unit's permit, the Clean Unit designation ends immediately prior to the time when actual construction begins.

d. A project that causes an emissions unit to lose its designation as a Clean Unit is subject to the applicability requirements of Subparagraphs A.3.a, b, and d and Paragraph A.4 of this Section as if the emissions unit were never a Clean Unit.

3. Qualifying or Requalifying to Use the Clean Unit Applicability Test. An emissions unit qualifies as a Clean Unit when the unit meets the criteria in Subparagraphs H.3.a-c of this Section. After the original Clean Unit designation expires in accordance with Paragraph H.6 of this Section or is lost in accordance with Subparagraph H.2.c of this Section, such emissions unit may requalify as a Clean Unit under either Subparagraph H.3.d of this Section or under the Clean Unit provisions in Subsection G of this Section. To requalify as a Clean Unit under Subparagraph H.3.d of this Section, the emissions unit must obtain a new permit issued in accordance with the requirements in Paragraphs H.7 and 8 of this Section and meet all the criteria in Subparagraph H.3.d of this Section. The administrative authority will make a separate Clean Unit designation for each pollutant emitted by the emissions unit for which the emissions unit qualifies as a Clean Unit.

a. Qualifying Air Pollution Control Technologies. Air pollutant emissions from the emissions unit must be reduced through the use of air pollution control technology, which includes *pollution prevention* as defined in Subsection K of this Section or work practices, that meets both the following requirements.

i. The owner or operator has demonstrated that the emissions unit's control technology is comparable to LAER according to the requirements of Paragraph H.4 of this Section. However, the emissions unit is not eligible for the Clean Unit designation if its emissions are not reduced below the level of a standard, uncontrolled emissions unit of the same type (e.g., if the LAER determinations to which it is compared have resulted in a determination that no control measures are required).

ii. The owner or operator made an investment to install the control technology. For the purpose of this determination, an *investment* includes expenses to research the application of a pollution prevention technique to the emissions unit or to retool the unit to apply a pollution prevention technique.

b. Impact of Emissions From the Unit. The administrative authority must determine that the allowable emissions from the emissions unit will not cause or contribute to a violation of any national ambient air quality standard or PSD increment, or adversely impact an air quality-related value, such as visibility, that has been identified for a federal Class I area by a federal land manager and for which information is available to the general public.

c. Date of Installation. An emissions unit may qualify as a Clean Unit even if the control technology on

which the Clean Unit designation is based was installed before the effective date of this Subsection. However, for such emissions units, the owner or operator must apply for the Clean Unit designation within two years after the plan requirements become effective. For technologies installed after the plan requirements become effective, the owner or operator must apply for the Clean Unit designation at the time the control technology is installed.

d. Requalifying as a Clean Unit. The emissions unit must obtain a new permit, in accordance with requirements in Paragraphs H.7 and 8 of this Section, that demonstrates that the emissions unit's control technology is achieving a level of emission control comparable to current-day LAER, and the emissions unit must meet the requirements in Clause H.3.a.i and Subparagraph H.3.b of this Section.

4. Demonstrating Control Effectiveness Comparable to LAER. The owner or operator may demonstrate that the emissions unit's control technology is comparable to LAER for purposes of Subparagraph H.3.a of this Section according to either Subparagraph H.4.a or b of this Section. Subparagraph H.4.c of this Section specifies the time for making this comparison.

a. Comparison to Previous LAER Determinations. The administrator maintains an on-line database of previous determinations of reasonably available control technology (RACT), BACT, and LAER in the RACT/BACT/LAER Clearinghouse (RBLC). The emissions unit's control technology is presumed to be comparable to LAER if it achieves an emission limitation that is at least as stringent as any one of the five best-performing similar sources for which a LAER determination has been made within the preceding five years, and for which information has been entered into the RBLC. The administrative authority shall also compare this presumption to any additional LAER determinations of which he or she is aware, and shall consider any information on achieved-in-practice pollution control technologies provided during the public comment period, to determine whether any presumptive determination that the control technology is comparable to LAER is correct.

b. The Substantially-as-Effective Test. The owner or operator may demonstrate that the emissions unit's control technology is substantially as effective as LAER. In addition, any other person may present evidence related to whether the control technology is substantially as effective as LAER during the public participation process required under Paragraph H.7 of this Section. The administrative authority shall consider such evidence on a case-by-case basis and determine whether the emissions unit's air pollution control technology is substantially as effective as LAER.

c. Time of Comparison

i. Installation Before Effective Date of State Implementation Plan Requirements. The owner or operator of an emissions unit whose control technology is installed before the effective date of plan requirements implementing this Paragraph may, at its option, either demonstrate that the emission limitation achieved by the emissions unit's control technology is comparable to the LAER requirements that applied at the time the control technology was installed, or demonstrate that the emission limitation achieved by the emissions unit's control technology is comparable to current-

day LAER requirements. The expiration date of the Clean Unit designation will depend on which option the owner or operator uses, as specified in Paragraph H.6 of this Section.

ii. Installation After Effective Date of State Implementation Plan Requirements. The owner or operator of an emissions unit whose control technology is installed after the effective date of plan requirements implementing this Paragraph must demonstrate that the emission limitation achieved by the emissions unit's control technology is comparable to current-day LAER requirements.

5. Effective Date of the Clean Unit Designation. The effective date of an emissions unit's Clean Unit designation (i.e., the date on which the owner or operator may begin to use the Clean Unit test to determine whether a project involving the emissions unit is a major modification) is the date that the permit required by Paragraph H.7 of this Section is issued or the date that the emissions unit's air pollution control technology is placed into service, whichever is later.

6. Clean Unit Designation Expiration. If the owner or operator demonstrates that the emission limitation achieved by the emissions unit's control technology is comparable to the LAER requirements that applied at the time the control technology was installed, then the Clean Unit designation expires 10 years from the date that the control technology was installed. For all other emissions units, the Clean Unit designation expires 10 years from the effective date of the Clean Unit designation, as determined according to Paragraph H.5 of this Section. In addition, for all emissions units, the Clean Unit designation expires any time the owner or operator fails to comply with the provisions for maintaining the Clean Unit designation in Paragraph H.9 of this Section.

7. Procedures for Designating Emissions Units as Clean Units. The administrative authority shall designate an emissions unit a Clean Unit only by issuing a permit through a permitting program that has been approved by the administrator and that conforms with the requirements of 40 CFR 51.160-164, including requirements for public notice of the proposed Clean Unit designation and opportunity for public comment. Such permit must also meet the requirements in Paragraph H.8 of this Section.

8. Required Permit Content. The permit required by Paragraph H.7 of this Section shall include the following terms and conditions that shall be incorporated into the major stationary source's Title V permit in accordance with the provisions of the applicable Title V permit program under 40 CFR Part 70, but no later than when the Title V permit is renewed:

a. a statement indicating that the emissions unit qualifies as a Clean Unit and identifying the pollutants for which this designation applies;

b. the effective date of the Clean Unit designation. If this date is not known when the administrative authority issues the permit (e.g., because the air pollution control technology is not yet in service), then the permit must describe the event that will determine the effective date (e.g., the date the control technology is placed into service). Once the effective date is known, then the owner or operator must notify the administrative authority of the exact date. This specific effective date must be added to the source's Title V permit at the first opportunity, such as a modification,

revision, reopening, or renewal of the Title V permit for any reason, whichever comes first, but in no case later than the next renewal;

c. the expiration date of the Clean Unit designation. If this date is not known when the administrative authority issues the permit (e.g., because the air pollution control technology is not yet in service), then the permit must describe the event that will determine the expiration date (e.g., the date the control technology is placed into service). Once the expiration date is known, then the owner or operator must notify the administrative authority of the exact date. The expiration date must be added to the source's Title V permit at the first opportunity, such as a modification, revision, reopening, or renewal of the Title V permit for any reason, whichever comes first, but in no case later than the next renewal;

d. all emission limitations and work practice requirements adopted in conjunction with emission limitations necessary to ensure that the control technology continues to achieve an emission limitation comparable to LAER, and any physical or operational characteristics that formed the basis for determining that the emissions unit's control technology achieves a level of emissions control comparable to LAER (e.g., possibly the emissions unit's capacity or throughput);

e. monitoring, recordkeeping, and reporting requirements as necessary to demonstrate that the emissions unit continues to meet the criteria for maintaining its Clean Unit designation (see Paragraph H.9 of this Section);

f. terms reflecting the owner's or operator's duties to maintain the Clean Unit designation and the consequences of failing to do so, as presented in Paragraph H.9 of this Section.

9. Maintaining Clean Unit Designation. To maintain the Clean Unit designation, the owner or operator must conform to all of the following restrictions. This Paragraph applies independently to each pollutant for which the administrative authority has designated the emissions unit a Clean Unit. That is, failing to conform to the restrictions for one pollutant affects the Clean Unit designation only for that pollutant.

a. The Clean Unit must comply with the emission limitations and/or work practice requirements adopted to ensure that the control technology continues to achieve emissions control comparable to LAER.

b. The owner or operator may not make a physical change in or change in the method of operation of the Clean Unit that causes the emissions unit to function in a manner that is inconsistent with the physical or operational characteristics that formed the basis for the determination that the control technology is achieving a level of emissions control that is comparable to LAER (e.g., possibly the emissions unit's capacity or throughput).

c. The Clean Unit may not emit above a level that has been offset.

d. The Clean Unit must comply with any terms and conditions in the Title V permit related to the unit's Clean Unit designation.

e. The Clean Unit must continue to control emissions using the specific air pollution control technology that was the basis for its Clean Unit designation. If the

emissions unit or control technology is replaced, then the Clean Unit designation ends.

10. Offsets and Netting at Clean Units. Emissions changes that occur at a Clean Unit must not be included in calculating a significant net emissions increase (i.e., must not be used in a "netting analysis") or be used for generating offsets, unless such use occurs before the effective date of State Implementation Plan requirements adopted to implement this Subsection or after the Clean Unit designation expires, or unless the emissions unit reduces emissions below the level that qualified the unit as a Clean Unit. However, if the Clean Unit reduces emissions below the level that qualified the unit as a Clean Unit, then the owner or operator may generate a credit for the difference between the level that qualified the unit as a Clean Unit and the emissions unit's new emission limitation if such reductions are surplus, quantifiable, and permanent. For purposes of generating offsets, the reductions must also be federally enforceable. For purposes of determining creditable net emissions increases and decreases, the reductions must also be enforceable as a practical matter.

11. Effect of Redesignation on the Clean Unit Designation. The Clean Unit designation of an emissions unit is not affected by redesignation of the attainment status of the area in which it is located. That is, if a Clean Unit is located in an attainment area and the area is redesignated to nonattainment, its Clean Unit designation is not affected. Similarly, redesignation from nonattainment to attainment does not affect the Clean Unit designation. However, if a Clean Unit's designation expires or is lost in accordance with Subparagraphs G.2.c and H.2.c of this Section, it must requalify under the requirements that are currently applicable.

I. PCP Exclusion Procedural Requirements

1. Before an owner or operator begins actual construction of a PCP, the owner or operator must either submit a notice to the administrative authority if the project is listed in Subparagraphs K.*Pollution Control Project (PCP)*.a-f of this Section, or if the project is not listed in Subparagraphs K.*Pollution Control Project (PCP)*.a-f of this Section, then the owner or operator must submit a permit application and obtain approval to use the PCP exclusion from the administrative authority consistent with the requirements in Paragraph I.5 of this Section. Regardless of whether the owner or operator submits a notice or a permit application, the project must meet the requirements in Paragraph I.2 of this Section, and the notice or permit application must contain the information required in Paragraph I.3 of this Section.

2. Any project that relies on the PCP exclusion must meet the following requirements.

a. Environmentally Beneficial Analysis. The environmental benefit from the emission reductions of pollutants regulated under the Clean Air Act must outweigh the environmental detriment of emissions increases in pollutants regulated under the Clean Air Act. A statement that a technology from Subparagraphs K.*Pollution Control Project (PCP)*.a-f of this Section is being used shall be presumed to satisfy this requirement.

b. Air Quality Analysis. The emissions increases from the project will not cause or contribute to a violation of any national ambient air quality standard or PSD increment,

or adversely impact an air quality-related value, such as visibility, that has been identified for a federal Class I area by a federal land manager and for which information is available to the general public.

3. Content of Notice or Permit Application. In the notice or permit application sent to the administrative authority, the owner or operator must include, at a minimum, the following information:

a. a description of the project;

b. the potential emissions increases and decreases of any pollutant regulated under the Clean Air Act and the projected emission increases and decreases using the method in Paragraph A.3 of this Section that will result from the project, and a copy of the environmentally beneficial analysis required by Subparagraph I.2.a of this Section;

c. a description of monitoring and recordkeeping, and all other methods, to be used on an ongoing basis to demonstrate that the project is environmentally beneficial. Methods should be sufficient to meet the requirements in 40 CFR Part 70;

d. a certification that the project will be designed and operated in a manner that is consistent with proper industry and engineering practices, in a manner that is consistent with the environmentally beneficial analysis and air quality analysis required by Subparagraphs I.2.a and b of this Section, in a manner that is consistent with information submitted in the notice or permit application, and in such a way as to minimize, within the physical configuration and operational standards usually associated with the emissions control device or strategy, emissions of collateral pollutants;

e. demonstration that the PCP will not have an adverse air quality impact (e.g., modeling, screening level modeling results, or a statement that the collateral emissions increase is included within the parameters used in the most recent modeling exercise) as required by Subparagraph I.2.b of this Section. An air quality impact analysis is not required for any pollutant that will not experience a significant emissions increase as a result of the project.

4. Notice Process for Listed Projects. For projects listed in Subparagraphs K.*Pollution Control Project (PCP)*.a-f of this Section, the owner or operator may begin actual construction of the project immediately after notice is sent to the administrative authority, unless otherwise prohibited under requirements of the State Implementation Plan. The owner or operator shall respond to any requests by its administrative authority for additional information that the administrative authority determines is necessary to evaluate the suitability of the project for the PCP exclusion.

5. Permit Process for Unlisted Projects. Before an owner or operator may begin actual construction of a PCP project that is not listed in Subparagraphs K.*Pollution Control Project (PCP)*.a-f of this Section, the project must be approved by the administrative authority and recorded in a Title V permit issued in accordance with the procedures of LAC 33:III.519. This includes the requirement that the administrative authority provide the public with notice of the proposed approval and with access to the environmentally beneficial analysis and the air quality analysis, and provide at least a 30-day period for the public and the administrator to submit comments. The administrative authority shall address all material comments received by the end of the comment period before taking final action on the permit.

6. Operational Requirements. Upon installation of the PCP, the owner or operator must comply with the requirements of Subparagraphs I.6.a-c of this Section.

a. General Duty. The owner or operator must operate the PCP in a manner that is consistent with proper industry and engineering practices, in a manner that is consistent with the environmentally beneficial analysis and air quality analysis required by Subparagraphs I.2.a and b of this Section, in a manner that is consistent with information submitted in the notice or permit application required by Paragraph I.3 of this Section, and in such a way as to minimize, within the physical configuration and operational standards usually associated with the emissions control device or strategy, emissions of collateral pollutants.

b. Recordkeeping. The owner or operator must maintain copies on site of the environmentally beneficial analysis, the air quality impacts analysis, and monitoring and other emission records to prove that the PCP operated consistent with the general duty requirements in Subparagraph I.6.a of this Section.

c. Permit Requirements. The owner or operator must comply with any provisions in the Title V permit related to use and approval of the PCP exclusion.

d. Generation of Emission Reduction Credits. Emission reductions created by a PCP shall not be included in calculating a significant net emissions increase, or be used for generating offsets, unless the emissions unit further reduces emissions after qualifying for the PCP exclusion (e.g., taking an operational restriction on the hours of operation). The owner or operator may generate a credit for the difference between the level of reduction that was used to qualify for the PCP exclusion and the new emission limit if such reductions are surplus, quantifiable, and permanent. For purposes of generating offsets, the reductions must also be federally enforceable. For purposes of determining creditable net emissions increases and decreases, the reductions must also be enforceable as a practical matter.

J. Actuals PALs

1. Applicability

a. The administrative authority may approve the use of an actuals PAL for any existing major stationary source, except as provided in Subparagraph J.1.b of this Section, if the PAL meets the requirements of this Subsection. The term "PAL" shall mean "actuals PAL" throughout this Subsection.

b. The administrative authority shall not allow an actuals PAL for VOC or NO_x for any major stationary source located in an extreme ozone nonattainment area.

c. Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements of this Subsection, and complies with the PAL permit:

i. is not a major modification for the PAL pollutant;

ii. does not have to be approved through this Section; and

iii. is not subject to the provisions in Paragraph B.1 of this Section (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the nonattainment major NSR program).

d. Except as provided under Clause J.1.c.iii of this Section, a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

2. Definitions. For purposes of this Subsection, the terms below shall have the meaning herein as follows. When a term is not defined in this Paragraph, it shall have the meaning given in Subsection K of this Section or in the Clean Air Act.

a. *Actuals PAL*—a PAL based on the *baseline actual emissions*, as defined in Subsection K of this Section, of all *emissions units*, as defined in Subsection K of this Section, at the source that emit or have the potential to emit the PAL pollutant.

b. *Allowable Emissions*—as defined in Subsection K of this Section, except with the following modifications.

i. The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

ii. An emissions unit's potential to emit shall be determined using the definition in Subsection K of this Section, except that the words "or enforceable as a practical matter" should be added after "federally enforceable."

c. *Major Emissions Unit*—

i. any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area; or

ii. any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the appropriate major stationary source threshold value listed in Subsection L. Table 1 of this Section for the PAL pollutant.

d. *Plantwide Applicability Limitation (PAL)*—an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with this Subsection.

e. *PAL Effective Date*—generally the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

f. *PAL Effective Period*—the period beginning with the PAL effective date and ending 10 years later.

g. *PAL Major Modification*—notwithstanding the definitions for *major modification* and *net emissions increase* in Subsection K of this Section, any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

h. *PAL Permit*—the major NSR permit, the minor NSR permit, or the state operating permit under a program that is approved into the State Implementation Plan or the Title V permit issued by the administrative authority that establishes a PAL for a major stationary source.

i. *PAL Pollutant*—the pollutant for which a PAL is established at a major stationary source.

j. *Significant Emissions Unit*—an emissions unit that emits or has the potential to emit a PAL pollutant in an

amount that is equal to or greater than the *significant* level, as defined in Subsection K of this Section or in the Clean Air Act, whichever is lower, for that PAL pollutant, but less than the amount that would qualify the unit as a *major emissions unit* as defined in Subparagraph J.2.c of this Section.

k. *Small Emissions Unit*—an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the *significant* level for that PAL pollutant, as defined in Subsection K of this Section or in the Clean Air Act, whichever is lower.

3. Permit Application Requirements. As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the administrative authority for approval:

a. a list of all emissions units at the source designated as small, significant, or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, federal or state applicable requirements, emission limitations, or work practices apply to each unit;

b. calculations of the baseline actual emissions with supporting documentation. Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction;

c. the calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by Subparagraph J.13.a of this Section.

4. General Requirements for Establishing PALs

a. The administrative authority may establish a PAL at a major stationary source, provided that at a minimum, the following requirements are met.

i. The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

ii. The PAL shall be established in a PAL permit that meets the public participation requirements in Paragraph J.5 of this Section.

iii. The PAL permit shall contain all the requirements of Paragraph J.7 of this Section.

iv. The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

v. Each PAL shall regulate emissions of only one pollutant.

vi. Each PAL shall have a PAL effective period of 10 years.

vii. The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in Paragraphs J.12-14 of this Section for each emissions unit under the PAL through the PAL effective period.

b. At no time during or after the PAL effective period are emissions reductions of a PAL pollutant, which occur during the PAL effective period, creditable as decreases for purposes of offsets under Subsection F of this Section unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

5. Public Participation Requirement for PALs. Procedures to establish, renew, or increase PALs for existing major stationary sources shall be the same as the procedures for permit issuance in accordance with LAC 33:III.519. These include the requirement that the administrative authority provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comments. The administrative authority shall address all material comments before taking final action on the permit.

6. Setting the 10-Year Actuals PAL Level

a. Except as provided in Subparagraph J.6.b of this Section, the actuals PAL level for a major stationary source shall be established as the sum of the *baseline actual emissions*, as defined in Subsection K of this Section, of the PAL pollutant for each emissions unit at the source, plus an amount equal to the applicable *significant* level for the PAL pollutant, as defined in Subsection K of this Section or in the Clean Air Act, whichever is lower. When establishing the actuals PAL level for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The administrative authority shall specify a reduced PAL level (in tons/yr) in the PAL permit to become effective on the future compliance date of any applicable federal or state regulatory requirement that the administrative authority is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO_x to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit.

b. For newly-constructed units, which do not include modifications to existing units, on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in Subparagraph J.6.a of this Section, the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

7. Contents of the PAL Permit. The PAL permit shall contain, at a minimum, the following information:

a. the PAL pollutant and the applicable source-wide emission limitation in tons per year;

b. the PAL permit effective date and the expiration date of the PAL (PAL effective period);

c. specification that if a major stationary source owner or operator applies to renew a PAL in accordance with Paragraph J.10 of this Section before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period, but shall remain in effect until a revised PAL permit is issued by the administrative authority;

d. a requirement that emission calculations for compliance purposes include emissions associated with startup, shutdown, and malfunction;

e. a requirement that, once the PAL expires, the major stationary source is subject to the requirements of Paragraph J.9 of this Section;

f. the calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by Subparagraph J.13.a of this Section;

g. a requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under Paragraph J.12 of this Section;

h. a requirement to retain the records required under Paragraph J.13 of this Section on site. Such records may be retained in an electronic format;

i. a requirement to submit the reports required under Paragraph J.14 of this Section by the required deadlines;

j. any other requirements that the administrative authority deems necessary to implement and enforce the PAL.

8. PAL Effective Period and Reopening of the PAL Permit

a. PAL Effective Period. The administrative authority shall specify a PAL effective period of 10 years.

b. Reopening of the PAL Permit

i. During the PAL effective period, the administrative authority shall reopen the PAL permit to:

(a). correct typographical/calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL;

(b). reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under Subsection F of this Section;

(c). revise the PAL to reflect an increase in the PAL as provided under Paragraph J.11 of this Section.

ii. The administrative authority has the discretion to reopen the PAL permit in order to:

(a). reduce the PAL to reflect newly applicable federal requirements [e.g., new source performance standards (NSPS)] with compliance dates after the PAL effective date;

(b). reduce the PAL consistent with any other requirement that is enforceable as a practical matter, and that the state may impose on the major stationary source;

(c). reduce the PAL if the administrative authority determines that a reduction is necessary to avoid causing or contributing to a national ambient air quality standard (NAAQS) or PSD increment violation, or to an adverse impact on an air quality-related value that has been identified for a federal Class I area by a federal land manager and for which information is available to the general public.

iii. Except for the permit reopening in Subclause J.8.b.i.(a) of this Section for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of Paragraph J.5 of this Section.

9. Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in Paragraph J.10 of this Section shall expire at the end of the PAL effective period, and the following requirements shall apply.

a. Each emissions unit, or each group of emissions units, that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the following procedures.

i. Within the time frame specified for PAL renewals in Subparagraph J.10.b of this Section, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit, or each group of emissions units, if such a distribution is more appropriate as decided by the administrative authority, by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under Subparagraph J.10.e of this Section, such distribution shall be made as if the PAL had been adjusted.

ii. The administrative authority shall decide whether and how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the administrative authority determines is appropriate.

b. Each emissions unit shall comply with the allowable emission limitation on a 12-month rolling basis. The administrative authority may approve the use of monitoring systems (source testing, emission factors, etc.) other than continuous emissions monitoring systems (CEMS), continuous emissions rate monitoring systems (CERMS), predictive emissions monitoring systems (PEMS), or continuous parameter monitoring systems (CPMS) to demonstrate compliance with the allowable emission limitation.

c. Until the administrative authority issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under Clause J.9.a.i of this Section, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

d. Any physical change or change in the method of operation at the major stationary source will be subject to the nonattainment major NSR requirements if such change meets the definition of *major modification* in Subsection K of this Section.

e. The major stationary source owner or operator shall continue to comply with any state or federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period, except for those emission limitations that had been established in accordance with Paragraph B.1 of this Section, but were eliminated by the PAL in

accordance with the provisions in Clause J.1.c.iii of this Section.

10. Renewal of a PAL

a. The administrative authority shall follow the procedures specified in Paragraph J.5 of this Section in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the administrative authority.

b. **Application Deadline.** A major stationary source owner or operator shall submit a timely application to the administrative authority to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.

c. **Application Requirements.** The application to renew a PAL permit shall contain the following information:

i. the information required in Subparagraphs J.3.a-c of this Section;

ii. a proposed PAL level;

iii. the sum of the potential to emit of all emissions units under the PAL, with supporting documentation;

iv. any other information the owner or operator wishes the administrative authority to consider in determining the appropriate level for renewing the PAL.

d. **PAL Adjustment.** In determining whether and how to adjust the PAL, the administrative authority shall consider the options outlined in Clauses J.10.d.i-ii of this Section. However, in no case may any such adjustment fail to comply with Clause J.10.d.iii of this Section.

i. If the emissions level calculated in accordance with Paragraph J.6 of this Section is equal to or greater than 80 percent of the PAL level, the administrative authority may renew the PAL at the same level without considering the factors set forth in Clause J.10.d.ii of this Section.

ii. The administrative authority may set the PAL at a level that he or she determines to be more representative of the source's baseline actual emissions, or that he or she determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the administrative authority in his or her written rationale.

iii. Notwithstanding Clauses J.10.d.i-ii of this Section:

(a) if the potential to emit of the major stationary source is less than the PAL, the administrative authority shall adjust the PAL to a level no greater than the potential to emit of the source; and

(b) the administrative authority shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the

provisions of Paragraph J.11 of this Section regarding increasing a PAL.

e. If the compliance date for a state or federal requirement that applies to the PAL source occurs during the PAL effective period, and if the administrative authority has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or Title V permit renewal, whichever occurs first.

11. Increasing a PAL During the PAL Effective Period

a. The administrative authority may increase a PAL emission limitation only if the major stationary source complies with the following provisions.

i. The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions units contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

ii. As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions units, exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

iii. The owner or operator shall obtain a major NSR permit for all emissions units identified in Clause J.11.a.i of this Section, regardless of the magnitude of the emissions increase resulting from them (i.e., no significant levels apply). These emissions units shall comply with any emissions requirements resulting from the nonattainment major NSR program process (e.g., LAER), even though they have also become subject to the PAL or continue to be subject to the PAL.

iv. The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

b. The administrative authority shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls as determined in accordance with Clause J.11.a.ii of this Section, plus the sum of the baseline actual emissions of the small emissions units.

c. The PAL permit shall be revised to reflect the increased PAL level in accordance with the public notice requirements of Paragraph J.5 of this Section.

12. Monitoring Requirements for PALs

a. General Requirements

i. Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

ii. The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in Clauses J.12.b.i-iv of this Section and must be approved by the administrative authority.

iii. Notwithstanding Clause J.12.a.ii of this Section, an owner or operator may also employ an alternative monitoring approach that meets the requirements of Clause J.12.a.i of this Section if approved by the administrative authority.

iv. Failure to use a monitoring system that meets the requirements of this Paragraph renders the PAL invalid.

b. Minimum Performance Requirements for Approved Monitoring Approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in Subparagraphs J.12.c-i of this Section:

i. mass balance calculations for activities using coatings or solvents;

ii. CEMS;

iii. CPMS or PEMS; and

iv. emission factors.

c. Mass Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

i. provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

ii. assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

iii. where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator shall use the highest value of the range to calculate the PAL pollutant emissions unless the administrative authority determines there is site-specific data or a site-specific monitoring program to support another content within the range.

d. CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:

i. CEMS must comply with applicable performance specifications found in 40 CFR Part 60, Appendix B; and

ii. CEMS must sample, analyze, and record data at least every 15 minutes while the emissions unit is operating.

e. CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

i. the CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameters and the PAL pollutant emissions across the range of operation of the emissions unit; and

ii. each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the administrative authority, while the emissions unit is operating.

f. Emission Factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

i. all emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;

ii. the emissions unit shall operate within the designated range of use for the emission factor, if applicable; and

iii. if technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six months of PAL permit issuance, unless the administrative authority determines that testing is not required.

g. A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.

h. Notwithstanding the requirements in Subparagraphs J.12.c-d of this Section, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameters and the PAL pollutant emissions rate at all operating points of the emissions unit, the administrative authority shall, at the time of permit issuance:

i. establish default values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating points; or

ii. determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameters and the PAL pollutant emissions is a violation of the PAL.

i. Revalidation. All data used to establish the PAL pollutant must be revalidated through performance testing or other scientifically valid means approved by the administrative authority. Such testing must occur at least once every five years after issuance of the PAL.

13. Recordkeeping Requirements

a. The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of this Subsection and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five years from the date of such record.

b. The PAL permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus five years:

- i. a copy of the PAL permit application and any applications for revisions to the PAL; and
- ii. each annual certification of compliance in accordance with Title V and the data relied on in certifying the compliance.

14. Reporting and Notification Requirements. The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the administrative authority in accordance with the applicable Title V operating permit program. The reports shall meet the following requirements.

a. Semiannual Report. The semiannual report shall be submitted to the administrative authority within 30 days of the end of each reporting period. This report shall contain the following information:

- i. the identification of the owner or operator and the permit number;
- ii. total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded in accordance with Subparagraph J.13.a of this Section;
- iii. all data relied upon, including but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions;
- iv. a list of any emissions units modified or added to the major stationary source during the preceding 6-month period;
- v. the number, duration, and cause of any deviations or monitoring malfunctions, other than the time associated with zero and span calibration checks, and any corrective action taken;
- vi. a notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by Subparagraph J.12.g of this Section;

vii. a signed statement by the responsible official, as defined by the applicable Title V operating permit program, certifying the truth, accuracy, and completeness of the information provided in the report.

b. Deviation Report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted in accordance with 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the applicable program implementing 40 CFR 70.6(a)(3)(iii)(B). The reports shall contain the following information:

- i. the identification of the owner or operator and the permit number;
- ii. the PAL requirement that experienced the deviation or that was exceeded;
- iii. emissions resulting from the deviation or the exceedance; and

iv. a signed statement by the responsible official, as defined by the applicable Title V operating permit program, certifying the truth, accuracy, and completeness of the information provided in the report.

c. Revalidation Results. The owner or operator shall submit to the administrative authority the results of any revalidation test or method within three months after completion of such test or method.

15. Transition Requirements

a. No administrative authority may issue a PAL that does not comply with the requirements of this Subsection after the administrator has approved regulations incorporating these requirements into the State Implementation Plan.

b. The administrative authority may supersede any PAL that was established prior to the date of approval of the State Implementation Plan by the administrator with a PAL that complies with the requirements of this Subsection.

K. Definitions. The terms in this Section are used as defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

Act—repealed.

Actual Emissions—the actual rate of emissions of a pollutant from an emissions unit as determined in accordance with the following, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under Subsection J of this Section. Instead, the definitions of *projected actual emissions* and *baseline actual emissions* in this Subsection shall apply for those purposes.

a. In general, *actual emissions* as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period that precedes the particular date and which is representative of normal major stationary source operation. A different time period shall be allowed upon a determination by the department that it is more representative of normal major stationary source operation. *Actual emissions* shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

b. The administrative authority may presume that source-specific allowable emissions for the unit are equivalent to the *actual emissions* of the unit.

c. For any emissions unit that has not begun normal operations on the particular date, *actual emissions* shall equal the allowable emissions of the unit.

Administrator—the *administrator* of the USEPA or an authorized representative.

Adverse Impact on Visibility—visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the mandatory federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of the visibility impairments and how these factors correlate with:

- a. times of visitor use of the mandatory federal Class I area; and
- b. the frequency and timing of natural conditions that reduce visibility.

This term does not include effects on integral vista as defined at 40 CFR 51.301, Definitions.

Allowable Emissions—the emissions rate of a major stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

- a. the applicable standard set forth in 40 CFR Part 60, 61, or 63;
- b. any applicable State Implementation Plan emissions limitation including those with a future compliance date; or
- c. the emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

Baseline Actual Emissions—the rate of emissions, in tons per year, of a regulated pollutant, determined as follows.

a. For any existing electric utility steam generating unit, *baseline actual emissions* means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The administrative authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

iii. For a regulated pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the *baseline actual emissions* for the emissions units being changed. A different consecutive 24-month period can be used for each regulated pollutant.

iv. The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Clause a.ii of this definition.

b. For an existing emissions unit, other than an electric utility steam generating unit, *baseline actual emissions* means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the administrative authority for a permit required under this Section, except that the 10-year period shall not include any period earlier than November 15, 1990.

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

iii. The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the administrator proposed or promulgated under 40 CFR Part 63, the *baseline actual emissions* need only be adjusted if the state has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of Paragraphs F.4 and 5 of this Section.

iv. For a regulated pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the *baseline actual emissions* for the emissions units being changed. A different consecutive 24-month period may be used for each regulated pollutant.

v. The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Clauses b.ii-iii of this definition.

c. For a new emissions unit, the *baseline actual emissions* for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero, and thereafter, for all other purposes, shall equal the unit's potential to emit.

d. For a PAL for a major stationary source, the *baseline actual emissions* shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in Subparagraph a of this definition, for other existing emissions units in accordance with the procedures contained in Subparagraph b of this definition, and for a new emissions unit in accordance with the procedures contained in Subparagraph c of this definition.

Begin Actual Construction—initiation of physical on-site construction activities on an emissions unit that are of a permanent nature. Such activities include, but are not limited to, installation of building support and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating this term refers to those on-site activities other than preparatory activities that mark the initiation of the change.

Best Available Control Technology (BACT)—as defined in LAC 33:III.509.

Building, Structure, Facility, or Installation—all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, or are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as

described in the Standard Industrial Classification Manual, 1987.

Clean Air Act—the federal Clean Air Act, 42 U.S.C. 7401-7671(q).

Clean Coal Technology—any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam, which was not in widespread use as of November 15, 1990.

Clean Coal Technology Demonstration Project—a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

Clean Unit—any emissions unit that has been issued a major NSR permit that requires compliance with BACT or LAER, that is complying with such BACT/LAER requirements, and qualifies as a Clean Unit in accordance with regulations approved by the administrator in accordance with Subsection G of this Section; or any emissions unit that has been designated by the administrative authority as a Clean Unit, based on the criteria in Subparagraphs H.3.a-d of this Section, using a plan-approved permitting process; or any emissions unit that has been designated as a Clean Unit by the administrator in accordance with 40 CFR 52.21(y)(3)(i)-(iv).

Commence—as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

- a. begun, or caused to begin, a continuous program of actual on-site construction of the major stationary source, to be completed within a reasonable time; or
- b. entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the major stationary source to be completed within a reasonable time.

Construction—any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in actual emissions.

Continuous Emissions Monitoring System (CEMS)—all of the equipment that may be required to meet the data acquisition and availability requirements of this Section, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

Continuous Emissions Rate Monitoring System (CERMS)—the total equipment required for the determination and recording of the pollutant mass emissions rate, in terms of mass per unit of time.

Continuous Parameter Monitoring System (CPMS)—all of the equipment necessary to meet the data acquisition and availability requirements of this Section, to monitor process and control device operational parameters (e.g., control

device secondary voltages and electric currents) and other information (e.g., gas flow rate, O₂ or CO₂ concentrations), and to record average operational parameter values on a continuous basis.

Electric Utility Steam Generating Unit—any steam-electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

Emissions Unit—any part of a major stationary source that emits or would have the potential to emit any regulated pollutant, and includes an *electric utility steam generating unit* as defined in this Subsection. For purposes of this Section, there are two types of *emissions units* as described below.

a. A *new emissions unit* is any emissions unit that is, or will be, newly constructed and that has existed for less than two years from the date such emissions unit first operated.

b. An *existing emissions unit* is any emissions unit that does not meet the requirements in Subparagraph a of this definition.

Federal Class I Area—any federal land that is classified or reclassified as a "Class I" area in accordance with the federal Clean Air Act.

Federal Land Manager—with respect to any lands in the United States, the secretary of the department with authority over such lands.

Federally Enforceable—all limitations and conditions which are *federally enforceable* by the administrator, including those requirements developed in accordance with 40 CFR Parts 60, 61, and 63, requirements within any applicable State Implementation Plan, any permit requirements established in accordance with 40 CFR 52.21 or under regulations approved in accordance with 40 CFR Part 51, Subpart I including 40 CFR 51.165 and 40 CFR 51.166.

Fugitive Emissions—those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

Lowest Achievable Emission Rate—for any source, the more stringent rate of emissions based on the following:

a. the most stringent emissions limitation that is contained in the implementation plan of any state for such class or category of major stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

b. the most stringent emissions limitation that is achieved in practice by such class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified major stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

Major Modification—

a. Any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase, as listed in Subsection L. Table 1 of this Section, of any regulated pollutant for which the stationary source is already major.

b. Any net emissions increase that is considered significant for VOC or NO_x shall be considered significant for ozone. VOC and NO_x emissions shall not be aggregated for the purpose of determining significant net emissions increases.

c. A physical change or change in the method of operation shall not include:

i. routine maintenance, repair, and replacement;

ii. use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in accordance with the Federal Power Act;

iii. use of an alternative fuel by reason of an order or rule under Section 125 of the Clean Air Act;

iv. use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

v. use of an alternative fuel or raw material by a stationary source that:

(a). the source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition that was established after December 12, 1976, in accordance with 40 CFR 52.21 or under regulations approved in accordance with 40 CFR Part 51, Subpart I or 40 CFR 51.166; or

(b). the source is approved to use under any permit issued under regulations approved in accordance with this Section;

vi. an increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition that was established after December 21, 1976, in accordance with 40 CFR 52.21 or regulations approved in accordance with 40 CFR Part 51, Subpart I or 40 CFR 51.166;

vii. any change in ownership at a stationary source;

viii. the addition, replacement, or use of a *PCP*, as defined in this Subsection, at an existing emissions unit meeting the requirements of Subsection I of this Section. A replacement control technology must provide more effective emissions control than that of the replaced control technology to qualify for this exclusion;

ix. the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(a). the State Implementation Plan for the state in which the project is located; and

(b). other requirements necessary to attain and maintain the national ambient air quality standard during the project and after it is terminated.

d. This definition shall not apply with respect to a particular regulated pollutant when the major stationary source is complying with the requirements under Subsection J of this Section for a PAL for that pollutant. Instead, the definition at Subparagraph J.2.g of this Section shall apply.

Major Stationary Source—

a. any stationary source (including all emission points and units of such source located within a contiguous area and under common control) of air pollutants which emits, or has the potential to emit, any regulated pollutant at or above the threshold values defined in Subsection L. Table 1 of this Section; or

b. any physical change that would occur at a stationary source not qualifying under Subparagraph a of this definition as a *major stationary source*, if the change would constitute a *major stationary source* by itself;

c. a *major stationary source* that is major for VOC or NO_x shall be considered major for ozone. VOC and NO_x emissions shall not be aggregated for the purpose of determining *major stationary source* status;

d. a stationary source shall not be a *major stationary source* due to fugitive emissions, to the extent that they are quantifiable, unless the source belongs to:

i. any category in Table A in LAC 33:III.509; or any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act;

e. a stationary source shall not be a *major stationary source* due to secondary emissions.

Mandatory Federal Class I Area—those federal lands that are international parks, national wilderness areas which exceed 5,000 acres in size, national memorial parks which exceed 5,000 acres in size, and national parks which exceed 6,000 acres in size, and that were in existence on August 7, 1977. These areas may not be redesignated.

Natural Conditions—includes naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

Necessary Preconstruction Approvals or Permits—those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation Plan.

Net Emissions Increase—the amount by which the sum of the following exceeds zero:

a.i. any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source as calculated in accordance with Paragraph A.3 of this Section; and

ii. any other creditable increases and decreases in actual emissions at the major stationary source over a period including the calendar year of the proposed increase, up to the date on which the proposed increase will occur, and the preceding four consecutive calendar years. Baseline actual emissions for calculating increases and decreases under this Clause shall be determined as provided in Subsection K. *Baseline Actual Emissions* of this Section except that Clauses a.iii and b.iv of that definition shall not apply;

b. an increase or decrease in actual emissions is creditable only if neither the department nor the administrator has relied on it in issuing a permit for the source under this regulation and, for a decrease, the administrator has not relied on it in issuing a permit under 40 CFR 52.21, which permit is in effect when the increase in actual emissions from the particular change occurs;

c. the increase or decrease in emissions did not occur at a Clean Unit, except as provided in Paragraphs G.8 and H.10 of this Section;

d. an increase in actual emissions is creditable only to the extent that the new level of allowable emissions exceeds the old level of actual emissions;

e. a decrease in actual emissions is creditable only to the extent that:

i. the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of allowable emissions;

ii. it is federally enforceable at and after the time that actual construction of the particular change begins;

iii. it has not been relied on by the state in demonstrating attainment or reasonable further progress;

iv. it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

v. the decrease in actual emissions did not result from the installation of add-on control technology or application of pollution prevention practices that were relied on in designating an emissions unit as a Clean Unit under 40 CFR 52.21(y) or under regulations approved in accordance with Subsection H of this Section or 40 CFR 51.166(u). That is, once an emissions unit has been designated as a Clean Unit, the owner or operator cannot later use the emissions reduction from the air pollution control measures that the Clean Unit designation is based on in calculating the net emissions increase for another emissions unit (i.e., must not use that reduction in a "netting analysis" for another emissions unit). However, any new emissions reductions that were not relied upon in a PCP excluded in accordance with Subsection I of this Section or for a Clean Unit designation are creditable to the extent they meet the requirements in Subparagraph I.6.d of this Section for the PCP and Paragraphs G.8 or H.10 of this Section for a Clean Unit;

f. an increase that results from a physical change at a major stationary source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days;

g. Subparagraph K.*Actual Emissions*.a of this Section shall not apply for determining creditable increases and decreases or after a change.

Nonattainment Area—for any air pollutant, an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the administrator to be reliable) to exceed any national ambient air quality standard for such pollutant. Such term includes any area identified under Subparagraphs (A)-(C) of Section 107(d)(1) of the Federal Clean Air Act.

Pollution Control Project (PCP)—any activity, set of work practices, or project, including *pollution prevention* as defined in this Subsection, undertaken at an existing emissions unit that reduces emissions of air pollutants from such unit. Such qualifying activities or projects can include the replacement or upgrade of an existing emissions control technology with a more effective unit. Other changes that may occur at the source are not considered part of the PCP if they are not necessary to reduce emissions through the PCP. Projects not listed in this definition may qualify for a case-

specific PCP exclusion in accordance with the requirements of Paragraphs I.2 and 5 of this Section. The following projects are presumed to be environmentally beneficial in accordance with Subparagraph I.2.a of this Section:

a. conventional or advanced flue gas desulfurization or sorbent injection for control of SO₂;

b. electrostatic precipitators, baghouses, high efficiency multiclones, or scrubbers for control of particulate matter or other pollutants;

c. flue gas recirculation, low-NO_x burners or combustors, selective non-catalytic reduction, selective catalytic reduction, low emission combustion (for IC engines), and oxidation/absorption catalyst for control of NO_x;

d. regenerative thermal oxidizers, catalytic oxidizers, condensers, thermal incinerators, hydrocarbon combustion flares, biofiltration, absorbers and adsorbers, and floating roofs for storage vessels for control of volatile organic compounds or hazardous air pollutants. For the purpose of this Section, *hydrocarbon combustion flare* means either a flare used to comply with an applicable NSPS or maximum achievable control technology (MACT) standard, including uses of flares during startup, shutdown, or malfunction permitted under such a standard, or a flare that serves to control emissions of waste streams comprised predominately of hydrocarbons and containing no more than 230 mg/dscm hydrogen sulfide;

e. activities or projects undertaken to accommodate switching, or partially switching, to an inherently less polluting fuel, to be limited to the following fuel switches:

i. switching from a heavier grade of fuel oil to a lighter fuel oil, or any grade of oil to 0.05 percent sulfur diesel (i.e., from a higher sulfur content #2 fuel or from #6 fuel to CA 0.05 percent sulfur #2 diesel);

ii. switching from coal, oil, or any solid fuel to natural gas, propane, or gasified coal;

iii. switching from coal to wood, excluding construction or demolition waste, chemical- or pesticide-treated wood, and other forms of "unclean" wood;

iv. switching from coal to #2 fuel oil (0.5 percent maximum sulfur content); and

v. switching from high sulfur coal to low sulfur coal (maximum 1.2 percent sulfur content);

f. activities or projects undertaken to accommodate switching from the use of one ozone depleting substance (ODS) to the use of a substance with a lower or zero ozone depletion potential (ODP), including changes to equipment needed to accommodate the activity or project, that meet the following requirements:

i. the productive capacity of the equipment is not increased as a result of the activity or project;

ii. the projected usage of the new substance is lower, on an ODP-weighted basis, than the baseline usage of the replaced ODS. To make this determination, the following procedures apply:

(a) determine the ODP of the substances by consulting 40 CFR Part 82, Subpart A, Appendices A and B;

(b) calculate the replaced ODP-weighted amount by multiplying the baseline actual usage (using the annualized average of any 24 consecutive months of usage within the past 10 years) by the ODP of the replaced ODS;

(c). calculate the projected ODP-weighted amount by multiplying the projected future annual usage of the new substance by its ODP;

(d). if the value calculated in Subclause f.ii.(b) of this definition is more than the value calculated in Subclause f.ii.(c) of this definition, then the projected use of the new substance is lower, on an ODP-weighted basis, than the baseline usage of the replaced ODS.

Pollution Prevention—any activity that, through process changes, product reformulation or redesign, or substitution of less polluting raw materials, eliminates or reduces the release of air pollutants, including fugitive emissions, and other pollutants to the environment prior to recycling, treatment, or disposal; it does not mean recycling (other than certain "in-process recycling" practices), energy recovery, treatment, or disposal.

Portable Stationary Source—a source that can be relocated to another operating site with limited dismantling and reassembly.

Potential to Emit—the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

Predictive Emissions Monitoring System (PEMS)—all of the equipment necessary to monitor process and control device operational parameters (e.g., control device secondary voltages and electric currents) and other information (e.g., gas flow rate, O₂ or CO₂ concentrations), and calculate and record the mass emissions rate (e.g., lb/hr) on a continuous basis.

Prevention of Significant Deterioration (PSD) Permit—any permit that is issued under a major source preconstruction permit program that has been approved by the administrator and incorporated into the State Implementation Plan to implement the requirements of 40 CFR 51.166, or under the program in 40 CFR 52.21.

Project—a physical change in, or change in the method of operation of, an existing major stationary source.

Projected Actual Emissions—the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source. In determining the *projected actual emissions* before beginning actual construction, the owner or operator of the major stationary source:

a. shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the state or federal

regulatory authorities, and compliance plans under the approved State Implementation Plan; and

b. shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and

c. shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the *baseline actual emissions* as defined in this Subsection and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or

d. in lieu of using the method set out in Subparagraphs a-c of this definition, may elect to use the emissions unit's *potential to emit*, in tons per year, as defined in this Subsection.

Regulated Pollutant—any air pollutant, the emission or ambient concentration of which is regulated in accordance with the Clean Air Act.

Secondary Emissions—emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this Section, *secondary emissions* must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. *Secondary emissions* include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. *Secondary emissions* do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Significant—in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates.

Pollutant	Emission Rate
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Ozone	40 tpy of volatile organic compounds
Lead	0.6 tpy

Stationary Source—any building, structure, facility, or installation which emits or may emit any regulated pollutant.

Temporary Clean Coal Technology Demonstration Project—a clean coal technology demonstration project that is operated for a period of five years or less, and that complies with the State Implementation Plan for the state in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

Temporary Source—a stationary source that changes its location or ceases to exist within one year from the date of initial start of operations.

Visibility Impairment—any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.

L. Table 1—Major Stationary Source/Major Modification Emission Thresholds

Table 1 Major Stationary Source/Major Modification Emission Thresholds			
Pollutant	Major Stationary Source Threshold Values (tons/year)	Major Modification Significant Net Increase (tons/year)	Offset Ratio Minimum
Ozone VOC/NO _x ¹		Trigger Values	
Marginal ¹	100	40(40) ²	1.10 to 1
Moderate	100	40(40) ²	1.15 to 1
Serious	50	25 ³ (5) ⁴	1.20 to 1 w/LAER or 1.40 to 1 internal w/o LAER
Severe	25	25 ³ (5) ⁴	1.30 to 1 w/LAER or 1.50 to 1 internal w/o LAER
CO			
Moderate	100	100	>1.00 to 1
Serious	50	50	>1.00 to 1
SO ₂	100	40	>1.00 to 1
PM ₁₀			
Moderate	100	15	>1.00 to 1
Serious	70	15	>1.00 to 1
Lead	100	0.6	>1.00 to 1

¹ For those parishes that are designated incomplete data or transitional nonattainment for ozone, the new source review rules for a marginal classification apply.

² Consideration of the net emissions increase will be triggered for any project that would increase emissions by 40 tons or more per year, without regard to any project decreases.

³ For serious and severe ozone nonattainment areas, the increase in emissions of VOC or NO_x resulting from any physical change or change in the method of operation of a stationary source shall be considered significant for purposes of determining the applicability of permit requirements, if the net emissions increase from the source equals or exceeds 25 tons per year of VOC or NO_x.

⁴ Consideration of the net emissions increase will be triggered for any project that would increase VOC or NO_x emissions by five tons or more per year, without regard to any project decreases, or for any project that would result in a 25 ton or more per year cumulative increase in emissions of VOC within the contemporaneous period or of NO_x for a period of five years after the effective date of the rescission of the NO_x waiver, and within the contemporaneous period thereafter.

VOC = volatile organic compounds

NO_x = oxides of nitrogen

CO = carbon monoxide

SO₂ = sulfur dioxide

PM₁₀ = particulate matter of less than 10 microns in diameter

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§509. Prevention of Significant Deterioration

A. Applicability Procedures

1. The requirements of this Section apply to the construction of any new *major stationary source*, as defined in Subsection B of this Section, or any project at an existing *major stationary source* in an area designated as attainment or unclassifiable under Sections 107(d)(1)(A)(ii) or (iii) of the Clean Air Act.

2. The requirements of Subsections J-R of this Section apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this Section otherwise provides.

3. No new major stationary source or major modification to which the requirements of Subsection J-Paragraph R.5 of this Section apply shall begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements. The administrative authority has authority to issue any such permit.

4. The requirements of the program will be applied in accordance with the following principles.

a. Except as otherwise provided in Paragraphs A.5 and 6 of this Section, and consistent with the definition of *major modification* contained in Subsection B of this Section, a project is a major modification for a regulated new source review (NSR) pollutant if it causes two types of emissions increases—a *significant* emissions increase, as defined in Subsection B of this Section, and a significant *net emissions increase*, as defined in Subsection B of this Section. The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

b. The procedure for calculating, before beginning actual construction, whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type of emissions units being modified, according to Subparagraphs A.4.c-f of this Section. The procedure for calculating, before beginning actual construction, whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is as defined in Subsection B. *Net Emissions Increase* of this Section. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

c. Actual-to-Projected-Actual Applicability Test for Projects That Only Involve Existing Emissions Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the *projected actual emissions*, as defined in Subsection B of this Section, and the *baseline actual emissions*, as defined in Subparagraphs B. *Baseline Actual Emissions*.a and b of this Section, for each existing emissions unit, equals or exceeds the *significant* amount for that pollutant, as defined in Subsection B of this Section.

d. Actual-to-Potential Test for Projects That Only Involve Construction of a New Emissions Unit. A significant emissions increase of a regulated NSR pollutant is projected

to occur if the sum of the difference between the *potential to emit*, as defined in Subsection B of this Section, from each new emissions unit following completion of the project and the *baseline actual emissions*, as defined in Subparagraph B. *Baseline Actual Emissions.c* of this Section, of these units before the project equals or exceeds the *significant* amount for that pollutant, as defined in Subsection B of this Section.

e. Emissions Test for Projects That Involve Clean Units. For a project that will be constructed and operated at a Clean Unit without causing the emissions unit to lose its Clean Unit designation, no emissions increase is deemed to occur.

f. Hybrid Test for Projects That Involve Multiple Types of Emissions Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in Subparagraphs A.4.c-e of this Section as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the *significant* amount for that pollutant, as defined in Subsection B of this Section. For example, if a project involves both an existing emissions unit and a Clean Unit, the projected increase is determined by summing the values determined using the method specified in Subparagraph A.4.c of this Section for the existing unit and using the method specified in Subparagraph A.4.e of this Section for the Clean Unit.

5. For any major stationary source for a plantwide applicability limit (PAL) for a regulated NSR pollutant, the major stationary source shall comply with the requirements under Subsection AA of this Section.

6. An owner or operator undertaking a *pollution control project (PCP)*, as defined in Subsection B of this Section, shall comply with the requirements under Subsection Z of this Section.

B. Definitions. For the purpose of this Section, the terms below shall have the meaning specified herein as follows.

Actual Emissions—the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with the following, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under Subsection AA of this Section. Instead, Subsection B. *Projected Actual Emissions* and *Baseline Actual Emissions* of this Section shall apply for those purposes.

a. In general, *actual emissions* as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period that precedes the particular date and which is representative of normal source operation. The administrative authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation. *Actual emissions* shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

b. The administrative authority may presume that source-specific allowable emissions for the unit are equivalent to the *actual emissions* of the unit.

c. For any emissions unit that has not begun normal operations on the particular date, *actual emissions* shall equal the potential to emit of the unit on that date.

Adverse Impact on Visibility—visibility impairment that interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairments, and how these factors correlate with:

a. times of visitor use of the federal Class I area; and

b. the frequency and timing of natural conditions that reduce visibility.

Allowable Emissions—the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits that restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

a. the applicable standards as set forth in 40 CFR Parts 60 and 61; or

b. the applicable implementation plan emissions limitation, including those with a future compliance date; or

c. the emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

Baseline Actual Emissions—the rate of emissions, in tons per year, of a regulated NSR pollutant, determined as follows.

a. For any existing electric utility steam generating unit, *baseline actual emissions* means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator projects to begin actual construction of the project. The administrative authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

iii. For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the *baseline actual emissions* for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

iv. The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Clause a.ii of this definition.

b. For an existing emissions unit, other than an electric utility steam generating unit, *baseline actual emissions* means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual

construction of the project, or the date a complete permit application is received by the administrative authority for a permit required under this Section, except that the 10-year period shall not include any period earlier than November 15, 1990.

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

iii. The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the administrative authority proposed or promulgated under 40 CFR Part 63, the *baseline actual emissions* need only be adjusted if the state has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).

iv. For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the *baseline actual emissions* for all the emissions units being changed. A different consecutive 24-month period may be used for each regulated NSR pollutant.

v. The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Clauses b.ii and iii of this definition.

c. For a new emissions unit, the *baseline actual emissions* for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero, and thereafter, for all other purposes, shall equal the unit's potential to emit.

d. For a PAL for a stationary source, the *baseline actual emissions* shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in Subparagraph a of this definition, for other existing emissions units in accordance with the procedures contained in Subparagraph b of this definition, and for a new emissions unit in accordance with the procedures contained in Subparagraph c of this definition.

Baseline Area—

a. Any intrastate area (and every part thereof) designated as attainment or unclassifiable under Section 107(d)(1) (D) or (E) of the Clean Air Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 $\mu\text{g}/\text{m}^3$ (annual average) of the pollutant for which the minor source baseline date is established.

b. Area redesignations under Section 107(d)(1) (D) or (E) of the Clean Air Act cannot intersect or be smaller

than the area of impact of any major stationary source or major modification that:

i. establishes a minor source baseline date; or

ii. is subject to 40 CFR 52.21 or under regulations approved in accordance with 40 CFR 51.166 and would be constructed in the same state as the state proposing the redesignation.

c. Any *baseline area* established originally for the total suspended particulates (TSP) increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that such *baseline area* shall not remain in effect if the administrative authority rescinds the corresponding minor source baseline date in accordance with Subparagraph B.*Baseline Date*.d of this Section.

Baseline Concentration—

a. That ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date. A *baseline concentration* is determined for each pollutant for which a minor source baseline date is established and shall include:

i. the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in Subparagraph b of this definition;

ii. the allowable emissions of major stationary sources that commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date.

b. The following will not be included in the *baseline concentration* and will affect the applicable maximum allowable increase:

i. actual emissions from any major stationary source on which construction commenced after the major source baseline date; and

ii. actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

Baseline Date—

a. *Major Source Baseline Date—*

i. in the case of particulate matter (PM_{10}) and sulfur dioxide, January 6, 1975; and

ii. in the case of nitrogen dioxide, February 8, 1988.

b. *Minor Source Baseline Date—*the earliest date after the trigger date on which a major stationary source or a major modification subject to this Section submits a complete application under the relevant regulations. The trigger date is:

i. in the case of particulate matter (PM_{10}) and sulfur dioxide, August 7, 1977; and

ii. in the case of nitrogen dioxide, February 8, 1988.

c. The *baseline date* is established for each pollutant for which increments or other equivalent measures have been established if:

i. the area in which the proposed source or modification would construct is designated as attainment or unclassifiable under Section 107(d)(i)(D) or (E) of the Clean Air Act for the pollutant on the date of its complete application under 40 CFR 52.21 or under regulations approved in accordance with 40 CFR 51.166; and

ii. in the case of a major stationary source, the pollutant would be emitted in significant amounts or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

d. Any *minor source baseline date* established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM₁₀ increments, except that the administrative authority shall rescind a *minor source baseline date* where it can be shown, to the satisfaction of the administrative authority, that the emissions increase from the major stationary source, or net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM₁₀ emissions.

Begin Actual Construction—in general, initiation of physical on-site construction activities on an emissions unit that are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities, other than preparatory activities, that mark the initiation of the change.

Best Available Control Technology (BACT)—

a. An emissions limitation, including a visible emission standard, based on the maximum degree of reduction for each pollutant subject to regulation under this Section that would be emitted from any proposed major stationary source or major modification that the administrative authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant.

b. In no event shall application of *best available control technology* result in emissions of any pollutant that would exceed the emissions allowed by an applicable standard under 40 CFR Parts 60 and 61. If the administrative authority determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of *best available control technology*. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation, and shall provide for compliance by means that achieve equivalent results.

Building, Structure, Facility, or Installation—all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control), except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same *Major Group* (i.e., which have the same first two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977

Supplement (U. S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

Clean Air Act—the federal Clean Air Act, as amended (42 U.S.C. Chapter 85).

Clean Coal Technology—any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam, which was not in widespread use as of November 15, 1990.

Clean Coal Technology Demonstration Project—a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

Clean Unit—any emissions unit that has been issued a major NSR permit that requires compliance with BACT or LAER, is complying with such BACT/LAER requirements, and qualifies as a Clean Unit in accordance with regulations approved by the administrative authority in accordance with Subsection X of this Section; or any emissions unit that has been designated by an administrative authority as a Clean Unit, based on the criteria in Subparagraphs Y.3.a-d of this Section, using a plan-approved permitting process; or any emissions unit that has been designated as a Clean Unit by the administrative authority in accordance with Subparagraphs Y.3.a-d of this Section.

Commence—as applied to construction of a major stationary source or major modification, means that the owner or operator has all necessary preconstruction approvals or permits and either has:

a. begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

b. entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

Complete—in reference to an application for a permit, that the application contains all of the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the administrative authority from requesting or accepting any additional information.

Construction—any physical change or change in the method of operation, including fabrication, erection, installation, demolition, or modification of an emissions unit, that would result in a change in actual emissions.

Continuous Emissions Monitoring System (CEMS)—all of the equipment that may be required to meet the data acquisition and availability requirements of this Section, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

Continuous Emissions Rate Monitoring System (CERMS)—the total equipment required for the

determination and recording of the pollutant mass emissions rate, in terms of mass per unit of time.

Continuous Parameter Monitoring System (CPMS)—all of the equipment necessary to meet the data acquisition and availability requirements of this Section, to monitor process and control device operational parameters (e.g., control device secondary voltages and electric currents) and other information (e.g., gas flow rate, O₂ or CO₂ concentrations), and to record average operational parameter values on a continuous basis.

Electric Utility Steam Generating Unit—any steam-electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

Emissions Unit—any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant, and includes an *electric utility steam generating unit*, as defined in this Subsection. For purposes of this Section, there are two types of *emissions units*:

a. A *new emissions unit* is any emissions unit that is, or will be, newly constructed and that has existed for less than two years from the date such emissions unit first operated.

b. An *existing emissions unit* is any emissions unit that is not a new emissions unit. A *replacement unit*, as defined in this Subsection, is an *existing emissions unit*.

Federal Land Manager—with respect to any lands in the United States, the secretary of the department with authority over such lands.

Federally Enforceable—all limitations and conditions that are enforceable by the administrative authority, including those requirements developed in accordance with 40 CFR Parts 60, 61, and 63, requirements within any applicable State Implementation Plan, any permit requirements established in accordance with 40 CFR 52.21 or under regulations approved in accordance with 40 CFR Part 51, Subpart I, including operating permits issued under an EPA-approved program that is incorporated into the State Implementation Plan and expressly requires adherence to any permit issued under such program.

Fugitive Emissions—those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

High Terrain—any area having an elevation 900 feet or more above the base of the stack of a source.

Indian Governing Body—the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

Indian Reservation—any federally-recognized reservation established by treaty, agreement, executive order, or act of Congress.

Innovative Control Technology—any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of

achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

Low Terrain—any area other than *high terrain*, as defined in this Subsection.

Lowest Achievable Emission Rate (LAER)—as defined in LAC 33:III.504.

Major Modification—

a. Any physical change in or change in the method of operation of a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant, and a significant net emissions increase of that pollutant from the major stationary source.

b. Any significant emissions increase from any emissions unit or net emissions increase at a major stationary source that is significant for volatile organic compounds shall be considered significant for ozone.

c. A physical change or change in the method of operation shall not include:

i. routine maintenance, repair, and replacement;

ii. use of an alternative fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in accordance with the Federal Power Act;

iii. use of an alternative fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act;

iv. use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

v. use by a source of an alternate fuel or raw material that:

(a) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition that was established after January 6, 1975, in accordance with 40 CFR 52.21 or under regulations approved in accordance with 40 CFR Part 51, Subpart I or 40 CFR 51.166; or

(b) the source is approved to use under any permit issued under 40 CFR 52.21 or under regulations approved in accordance with 40 CFR 51.166;

vi. an increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition that was established after January 6, 1975, in accordance with 40 CFR 52.21 or under regulations approved in accordance with 40 CFR Part 51, Subpart I or 40 CFR 51.166;

vii. any change in source ownership;

viii. the addition, replacement, or use of a *pollution control project*, as defined in this Subsection, at an existing emissions unit meeting the requirements of Subsection Z of this Section. A replacement control technology must provide more effective emission control than that of the replaced control technology to qualify for this exclusion;

ix. the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(a) the State Implementation Plan for the state in which the project is located; and

(b). other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated;

x. the installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis;

xi. the reactivation of a very clean coal-fired electric utility steam generating unit.

d. This definition shall not apply with respect to a particular pollutant subject to regulation under this Section when the major stationary source is complying with the requirements under Subsection AA of this Section for a PAL for that pollutant. Instead, the definition at Subparagraph AA.2.g of this Section shall apply.

Major Stationary Source—

a. any of the stationary sources of air pollutants listed in Table A of this definition that emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under this Section;

b. for stationary source categories other than those listed in Table A of this definition, any stationary source that emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under this Section; or

c. any physical change that would occur at a source not otherwise qualifying as a major stationary source under Subparagraphs a and b of this definition if the change would constitute a major source by itself;

d. a major source that is major for volatile organic compounds shall be considered major for ozone;

e. the fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Section whether it is a *major stationary source*, unless the source is listed in Table A of this definition or, as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act.

22	Fossil fuel boilers (or combinations thereof) totaling more than 250 million Btu per hour heat input.
23	Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels
24	Taconite ore processing plants
25	Glass fiber processing plants
26	Charcoal production plants

*Necessary Preconstruction Approvals or Permits—*those permits or approvals required under all applicable air quality control laws and regulations.

Net Emissions Increase—

a. With respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

i. the increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated in accordance with Paragraph A.4 of this Section; and

ii. any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this Clause shall be determined as provided in Subsection B.*Baseline Actual Emissions* of this Section, except that Clauses B.*Baseline Actual Emissions*.a.iii and b.iv of this Section shall not apply.

b. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

i. the date five years before construction on the particular change commences; and

ii. the date that the increase from the particular change occurs.

c. An increase or decrease in actual emissions is creditable only if:

i. the administrative authority or other administrative authority has not relied on it in issuing a permit for the source under this Section, which permit is in effect when the increase in actual emissions from the particular change occurs; and

ii. the increase or decrease in emissions did not occur at a Clean Unit except as provided in Paragraphs X.8 and Y.10 of this Section.

d. An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides that occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

e. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

f. A decrease in actual emissions is creditable only to the extent that:

i. the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

ii. it is enforceable as a practical matter at and after the time that actual construction on the particular change begins;

1	Fossil fuel-fired steam electric plants of more than 250 million British thermal units (Btu) per hour heat input
2	Coal cleaning plants (with thermal dryers)
3	Kraft pulp mills
4	Portland cement plants
5	Primary zinc smelters
6	Iron and steel mill plants
7	Primary aluminum ore reduction plants
8	Primary copper smelters
9	Municipal incinerators capable of charging more than 250 tons of refuse per day
10	Hydrofluoric, sulfuric, and nitric acid plants
11	Petroleum refineries
12	Lime plants
13	Phosphate rock processing plants
14	Coke oven batteries
15	Sulfur recovery plants
16	Carbon black plants (furnace process)
17	Primary lead smelters
18	Fuel conversion plants
19	Sintering plants
20	Secondary metal production plants
21	Chemical process plants

iii. it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

iv. the decrease in actual emissions did not result from the installation of add-on control technology or application of pollution prevention practices that were relied on in designating an emissions unit as a Clean Unit under Subsection Y of this Section or under regulations approved in accordance with 40 CFR 51.165(d) or to 40 CFR 51.166(u). That is, once an emissions unit has been designated as a Clean Unit, the owner or operator cannot later use the emissions reduction from the air pollution control measures that the designation is based on in calculating the net emissions increase for another emissions unit (i.e., must not use that reduction in a "netting analysis" for another emissions unit). However, any new emission reductions that were not relied upon in a PCP excluded in accordance with Subsection Z of this Section or for a Clean Unit designation are creditable to the extent they meet the requirements in Subparagraph Z.6.d of this Section for the PCP and Paragraphs X.8 and Y.10 of this Section for a Clean Unit.

g. Reserved.

h. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

i. Subparagraph B.*Actual Emissions*.a of this Section shall not apply for determining creditable increases and decreases.

Pollution Control Project (PCP)—at an existing emissions unit, any activity, set of work practices, or project, including *pollution prevention* as defined in this Subsection, undertaken at an existing emissions unit that reduces emissions of air pollutants from such unit. Such qualifying activities or projects can include the replacement or upgrade of an existing emissions control technology with a more effective unit. Other changes that may occur at the source are not considered part of the PCP if they are not necessary to reduce emissions through the PCP. Projects listed in Subparagraphs a-d of this definition are presumed to be environmentally beneficial in accordance with Subparagraph Z.2.a of this Section. Projects not listed in this definition may qualify for a case-specific PCP exclusion in accordance with the requirements of Paragraphs Z.2 and 5 of this Section. Projects presumed to be environmentally beneficial include:

a. conventional or advanced flue gas desulfurization or sorbent injection for control of SO₂;

b. electrostatic precipitators, baghouses, high efficiency multiclones, or scrubbers for control of particulate matter or other pollutants;

c. flue gas recirculation, low-NO_x burners or combustors, selective non-catalytic reduction, selective catalytic reduction, low emission combustion (for IC engines), and oxidation/absorption catalyst for control of NO_x;

d. regenerative thermal oxidizers, catalytic oxidizers, condensers, thermal incinerators, hydrocarbon combustion flares, biofiltration, absorbers and adsorbers, and

floating roofs for storage vessels for control of volatile organic compounds or hazardous air pollutants. For the purpose of this Section, *hydrocarbon combustion flare* means either a flare used to comply with an applicable NSPS or MACT standard (including uses of flares during startup, shutdown, or malfunction permitted under such a standard), or a flare that serves to control emissions of waste streams comprised predominately of hydrocarbons and containing no more than 230 mg/dscm hydrogen sulfide;

e. activities or projects undertaken to accommodate switching, or partially switching, to an inherently less polluting fuel, to be limited to the following fuel switches:

i. switching from a heavier grade of fuel oil to a lighter fuel oil, or any grade of oil to 0.05 percent sulfur diesel (i.e., from a higher sulfur content #2 fuel or from #6 fuel to CA 0.05 percent sulfur #2 diesel);

ii. switching from coal, oil, or any solid fuel to natural gas, propane, or gasified coal;

iii. switching from coal to wood, excluding construction or demolition waste, chemical- or pesticide-treated wood, and other forms of "unclean" wood;

iv. switching from coal to #2 fuel oil (0.5 percent maximum sulfur content); and

v. switching from high sulfur coal to low sulfur coal (maximum 1.2 percent sulfur content);

f. activities or projects undertaken to accommodate switching from the use of one ozone depleting substance (ODS) to the use of a substance with a lower or zero ozone depletion potential (ODP), including changes to equipment needed to accommodate the activity or project, that meet the following requirements:

i. the productive capacity of the equipment is not increased as a result of the activity or project;

ii. the projected usage of the new substance is lower, on an ODP-weighted basis, than the baseline usage of the replaced ODS. To make this determination, the following procedures apply:

(a). determine the ODP of the substances by consulting 40 CFR Part 82, Subpart A, Appendices A and B;

(b). calculate the replaced ODP-weighted amount by multiplying the baseline actual usage (using the annualized average of any 24 consecutive months of usage within the past 10 years) by the ODP of the replaced ODS;

(c). calculate the projected ODP-weighted amount by multiplying the projected actual usage of the new substance by its ODP;

(d). if the value calculated in Subclause f.ii.(b) of this definition is more than the value calculated in Subclause f.ii.(c) of this definition, then the projected use of the new substance is lower, on an ODP-weighted basis, than the baseline usage of the replaced ODS.

Pollution Prevention—any activity that, through process changes, product reformulation or redesign, or substitution of less polluting raw materials, eliminates or reduces the release of air pollutants, including fugitive emissions, and other pollutants to the environment prior to recycling, treatment, or disposal; it does not mean recycling (other than certain "in-process recycling" practices), energy recovery, treatment, or disposal.

Potential to Emit—the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on

the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

Predictive Emissions Monitoring System (PEMS)—all of the equipment necessary to monitor process and control device operational parameters (e.g., control device secondary voltages and electric currents) and other information (e.g., gas flow rate, O₂ or CO₂ concentrations), and calculate and record the mass emissions rate (e.g., lb/hr) on a continuous basis.

Prevention of Significant Deterioration (PSD) Program—a major source preconstruction permit program that has been approved by the administrator and incorporated into the State Implementation Plan to implement the requirements of this Section or the program in 40 CFR 52.21. Any permit issued under such a program is a major NSR permit.

Project—a physical change in, or change in the method of operation of, an existing major stationary source.

Projected Actual Emissions—the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source. In determining the *projected actual emissions* before beginning actual construction, the owner or operator of the major stationary source:

a. shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the state or federal regulatory authorities, and compliance plans under the approved State Implementation Plan; and

b. shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and

c. shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the *baseline actual emissions* as defined in this Subsection and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or

d. in lieu of using the method set out in Subparagraphs a-c of this definition, may elect to use the emissions unit's *potential to emit*, in tons per year, as defined in this Subsection.

Reactivation of a Very Clean Coal-Fired Electric Utility Steam Generating Unit—any physical change or change in the method of operation associated with the commencement

of commercial operations by a coal-fired utility unit after a period of discontinued operation, where the unit:

a. has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the administrative authority's emissions inventory at the time of enactment;

b. was equipped prior to shut-down with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent;

c. is equipped with low-NO_x burners prior to the time of commencement of operations following reactivation; and

d. is otherwise in compliance with the requirements of the Clean Air Act.

Reasonably Available Control Technology (RACT)—devices, systems, process modifications, or other apparatus or techniques that are reasonably available taking into account:

a. the necessity of imposing such controls in order to attain and maintain a national ambient air quality standard;

b. the social, environmental, and economic impact of such controls; and

c. alternative means of providing for attainment and maintenance of such standard.

Regulated NSR Pollutant—

a. any pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the administrative authority (e.g., volatile organic compounds are precursors for ozone);

b. any pollutant that is subject to any standard promulgated under Section 111 of the Clean Air Act;

c. any Class I or II substance subject to a standard promulgated under or established by Title VI of the Clean Air Act; or

d. any pollutant that otherwise is subject to regulation under the Clean Air Act; except that any or all hazardous air pollutants either listed in Section 112 of the Clean Air Act or added to the list in accordance with Section 112(b)(2) of the Clean Air Act, which have not been delisted in accordance with Section 112(b)(3) of the Clean Air Act, are not *regulated NSR pollutants* unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under Section 108 of the Clean Air Act.

Replacement Unit—an emissions unit for which all the criteria listed in Subparagraphs a-d of this definition are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

a. The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.

b. The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

c. The replacement does not alter the basic design parameters of the process unit.

d. The replaced emissions unit is permanently removed from the major stationary source, otherwise

permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

Repowering—replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the administrative authority, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

a. **Repowering** shall also include any oil and/or gas-fired unit that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

b. The administrative authority shall give expedited consideration to permit applications for any source that satisfies the requirements of this definition and is granted an extension under Section 409 of the Clean Air Act.

Reviewing Authority—the state air pollution control agency, local agency, other state agency, Indian tribe, or other agency authorized by the administrative authority to carry out a permit program under 40 CFR 51.165 and 40 CFR 51.166, or the administrator in the case of EPA-implemented permit programs under 40 CFR 52.21.

Secondary Emissions—emissions that would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purposes of this definition, *secondary emissions* must be specific, well defined, and quantifiable, and impact the same general areas as the stationary source modification that causes the secondary emissions. *Secondary emissions* include emissions from any offsite support facility that would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. *Secondary emissions* do not include any emissions that come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Significant—

a. in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant	Emission Rate
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Particulate matter	25 tpy of particulate emissions
	15 tpy of PM ₁₀ emissions
	40 tpy of volatile organic compounds
Ozone	
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy

Pollutant	Emission Rate
Hydrogen sulfide (H ₂ S)	10 tpy
Total reduced sulfur (including H ₂ S)	10 tpy
Reduced sulfur compounds (including H ₂ S)	10 tpy
Municipal waste combustor organics ¹	0.0000035 tpy
Municipal waste combustor metals ²	15 tpy
Municipal waste combustor acid gases ³	40 tpy
Municipal solid waste landfills emissions ⁴	50 tpy

¹Measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.

²Measured as particulate matter.

³Measured as sulfur dioxide and hydrogen chloride.

⁴Measured as nonmethane organic compounds.

b. in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that Subparagraph a of this definition does not list, any emissions rate;

c. notwithstanding Subparagraph a of this definition, any emissions rate or any net emissions increase associated with a major stationary source or major modification that would construct within 10 kilometers of a Class I area and have an impact on such area equal to or greater than 1µg/m³ (24-hour average).

Significant Emissions Increase—for a regulated NSR pollutant, an increase in emissions that is *significant*, as defined in this Subsection, for that pollutant.

Stationary Source—any building, structure, facility, or installation that emits or may emit any pollutant subject to regulation under this Section.

Temporary Clean Coal Technology Demonstration Project—a clean coal technology demonstration project that is operated for a period of five years or less, and that complies with the State Implementation Plans for the state in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

C. **Ambient Air Increments.** In areas designated as Class I, II, or III, increases in pollutant concentration over the baseline concentration shall be limited to the following.

Pollutant	Maximum Allowable Increase (Micrograms per Cubic Meter) ¹
Class I	
Particulate matter:	
PM10, annual arithmetic mean	4
PM10, 24-hr maximum	8
Sulfur dioxide:	
Annual arithmetic mean	2
24-hr maximum	5
3-hr maximum	25
Nitrogen dioxide:	
Annual arithmetic mean	2.5
Class II	
Particulate matter:	
PM10, annual arithmetic mean	17
PM10, 24-hr maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	512
Nitrogen dioxide:	
Annual arithmetic mean	25

Pollutant	Maximum Allowable Increase (Micrograms per Cubic Meter) ¹
Class III	
Particulate matter:	
PM10, annual arithmetic mean	34
PM10, 24-hr maximum	60
Sulfur dioxide:	
Annual arithmetic mean	40
24-hr maximum	182
3-hr maximum	700
Nitrogen dioxide:	
Annual arithmetic mean	50

¹For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

D. Ambient Air Ceilings. No concentration of a pollutant shall exceed:

1. the concentration permitted under the national secondary ambient air quality standard; or
2. the concentration permitted under the national primary ambient air quality standard; whichever concentration is lowest for the pollutant for a period of exposure.

E. Restrictions on Area Classifications

1. All of the following areas that were in existence on August 7, 1977, shall be Class I areas and may not be redesignated:

- a. international parks;
- b. national wilderness areas that exceed 5,000 acres in size;
- c. national memorial parks that exceed 5,000 acres in size; and
- d. national parks that exceed 6,000 acres in size.

2. Areas that were redesignated as Class I under regulations promulgated before August 7, 1977, shall remain Class I, but may be redesignated as provided in this Section.

3. Any other area, unless otherwise specified in the legislation creating such an area, is initially designated Class II, but may be redesignated as provided in this Section.

4. The following areas may be redesignated only as Class I or II:

- a. an area that as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, or a national lakeshore or seashore; and
- b. a national park or national wilderness area established after August 7, 1977, that exceeds 10,000 acres in size.

F. Reserved.

G. Redesignation

1. All areas, except as otherwise provided under Subsection E of this Section, are designated Class II as of December 5, 1974. Redesignation, except as otherwise precluded by Subsection E of this Section, may be proposed by the respective states or Indian governing bodies, as provided below, subject to approval by the administrative authority as a revision to the applicable State Implementation Plan.

2. The state may submit to the administrator a proposal to redesignate areas of the state Class I or Class II, provided that:

a. at least one public hearing has been held in accordance with procedures established in 40 CFR 51.102;

b. other states, Indian governing bodies, and federal land managers whose lands may be affected by the proposed redesignation were notified at least 30 days prior to the public hearing;

c. a discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation, was prepared and made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion;

d. prior to the issuance of notice respecting the redesignation of an area that includes any federal lands, the state has provided written notice to the appropriate federal land manager and afforded adequate opportunity (not in excess of 60 days) to confer with the state respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any federal land manager had submitted written comments and recommendations, the state shall have published a list of any inconsistency between such redesignation and such comments and recommendations, together with the reasons for making such redesignation against the recommendation of the federal land manager; and

e. the state has proposed the redesignation after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

3. Any area other than an area to which Subsection E of this Section refers may be redesignated as Class III if:

a. the redesignation would meet the requirements of Paragraph G.2 of this Section;

b. the redesignation, except any established by an Indian governing body, has been specifically approved by the governor of the state, after consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session (unless state law provides that the redesignation must be specifically approved by state legislation) and if general purpose units of local government representing a majority of the residents of the area to be redesignated enact legislation or pass resolutions concurring in the redesignation;

c. the redesignation would not cause, or contribute to, a concentration of any air pollutant which would exceed any maximum allowable increase permitted under the classification of any other area or any national ambient air quality standard; and

d. any permit application for any major stationary source or major modification, subject to review under Subsection L of this Section, which could receive a permit under this Section only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available insofar as was practicable

for public inspection prior to any public hearing on redesignation of the area as Class III.

4. Lands within the exterior boundaries of Indian reservations may be redesignated only by the appropriate Indian governing body. The appropriate Indian governing body may submit to the administrative authority a proposal to redesignate areas Class I, Class II, or Class III, provided that:

a. the Indian governing body has followed procedures equivalent to those required of a state under Paragraph G.2 and Subparagraphs G.3.c and d of this Section; and

b. such redesignation is proposed after consultation with the states in which the Indian reservation is located and which border the Indian reservation.

H. Stack Heights

1. The degree of emission limitation required for control of any air pollutant under this Section shall not be affected in any manner by:

a. so much of the stack height of any source as exceeds good engineering practice; or

b. any other dispersion technique.

2. Paragraph H.1 of this Section shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then.

I. Exemptions

1. The requirements of Subsections J-R of this Section shall not apply to a particular major stationary source or major modification if:

a. the major stationary source would be a nonprofit health or nonprofit educational institution or a major modification that would occur at such an institution; or

b. the source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, were considered in calculating the potential to emit of the stationary source or modification and such source does not belong to any following categories:

- i. coal cleaning plants (with thermal dryers);
- ii. kraft pulp mills;
- iii. portland cement plants;
- iv. primary zinc smelters;
- v. iron and steel mills;
- vi. primary aluminum ore reduction plants;
- vii. primary copper smelters;
- viii. municipal incinerators capable of charging more than 250 tons of refuse per day;
- ix. hydrofluoric, sulfuric, or nitric acid plants;
- x. petroleum refineries;
- xi. lime plants;
- xii. phosphate rock processing plants;
- xiii. coke oven batteries;
- xiv. sulfur recovery plants;
- xv. carbon black plants (furnace process);
- xvi. primary lead smelters;
- xvii. fuel conversion plants;
- xviii. sintering plants;
- xix. secondary metal production plants;
- xx. chemical process plants;
- xxi. fossil fuel boilers (or combination thereof) totaling more than 250 million british thermal units per hour heat input;

xxii. petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

xxiii. taconite ore processing plants;

xxiv. glass fiber processing plants;

xxv. charcoal production plants;

xxvi. fossil fuel-fired steam electric plants of more than 250 million british thermal units per hour heat input;

xxvii. any other stationary source category that, as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act; or

c. the source or modification is a portable stationary source that has previously received a permit under requirements equivalent to those contained in Subsections J-R of this Section, if:

i. the source proposes to relocate and emissions of the source at the new location would be temporary; and

ii. the emissions from the source would not exceed its allowable emissions; and

iii. the emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

iv. reasonable notice is given to the administrative authority prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the administrative authority not less than 10 days in advance of the proposed relocation unless a different time duration is previously approved by the administrative authority.

2. The requirements of Subsections J-R of this Section shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment under Section 107 of the Clean Air Act.

3. The requirements of Subsections K, M, and O of this Section shall not apply to a proposed major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from a new source, or the net emissions increase of that pollutant from a modification, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

4. The requirements of Subsections K, M, and O of this Section as they relate to any maximum allowable increase for a Class II area shall not apply to a modification of a major stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each a regulated NSR pollutant from the modification after the application of best available control technology would be less than 50 tons per year.

5. The administrative authority may exempt a stationary source or modification from the requirements of Subsection M of this Section, with respect to monitoring for a particular pollutant, if:

a. the emissions increase of the pollutant from a new stationary source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following amounts:

Carbon monoxide	575 $\mu\text{g}/\text{m}^3$	8-hour average
Nitrogen dioxide	14 $\mu\text{g}/\text{m}^3$	annual average
Particulate matter	10 $\mu\text{g}/\text{m}^3$ of PM_{10}	24-hour average
Sulfur dioxide	13 $\mu\text{g}/\text{m}^3$	24-hour average

Ozone	No <i>de minimis</i> air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required to perform an ambient impact analysis including the gathering of ambient air quality data.	
Lead	0.1 µg/m ³	3-month average
Fluorides	0.25 µg/m ³	24-hour average
Total reduced sulfur	10 µg/m ³	1-hour average
Hydrogen sulfide	0.2 µg/m ³	1-hour average
Reduced sulfur compounds	10 µg/m ³	1-hour average

b. the concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in Subparagraph I.5.a of this Section; or

c. the pollutant is not listed in Subparagraph I.5.a of this Section.

6. Reserved.

7. Reserved.

8. The permitting requirements of Paragraph K.2 of this Section shall not apply to a stationary source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted an application for a permit under this Section before the provisions embodying the maximum allowable increase took effect as part of the applicable State Implementation Plan and the permitting authority subsequently determined that the application as submitted before that date was complete.

9. The permitting requirements of Paragraph K.2 of this Section shall not apply to a stationary source or modification with respect to any maximum allowable increase for PM₁₀ if:

a. the owner or operator of the source or modification submitted an application for a permit under this Section before the provisions embodying the maximum allowable increases for PM₁₀ took effect in a State Implementation Plan to which this Section applies; and

b. the permitting authority subsequently determined that the application as submitted before that date was complete. Instead, the applicable requirements equivalent to Paragraph K.2 of this Section shall apply with respect to the maximum allowable increases for TSP as in effect on the date the application was submitted.

J. Control Technology Review

1. A major stationary source or major modification shall meet each applicable emissions limitation under the State Implementation Plan and each applicable emission standard and standard of performance under 40 CFR Parts 60 and 61.

2. A new major stationary source shall apply best available control technology for each regulated NSR pollutant that it would have the potential to emit in significant amounts.

3. A major modification shall apply best available control technology for each regulated NSR pollutant for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

4. For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time that occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

K. Source Impact Analysis. The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions, including secondary emissions, would not cause or contribute to air pollution in violation of:

1. any national ambient air quality standard in any air quality control region; or

2. any applicable maximum allowable increase over the baseline concentration in any area.

L. Air Quality Models

1. All estimates of ambient concentrations required under this Subsection shall be based on applicable air quality models, databases, and other requirements specified in Appendix W of 40 CFR Part 51 (Guideline on Air Quality Models).

2. Where an air quality model specified in Appendix W of 40 CFR Part 51 (Guideline on Air Quality Models) is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis for a specific state program. Written approval of the administrative authority must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures developed in accordance with Subsection Q of this Section.

M. Air Quality Analysis

1. Preapplication Analysis

a. Any application for a permit under this Section shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

i. for the source, each pollutant that it would have the potential to emit in a significant amount;

ii. for the modification, each pollutant for which it would result in a significant net emissions increase.

b. With respect to any such pollutant for which no national ambient air quality standard exists, the analysis shall contain such air quality monitoring data as the administrative authority determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

c. With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

d. In general, the continuous air quality monitoring data that is required shall have been gathered over a period

of at least one year and shall represent at least the year preceding receipt of the application, except that, if the administrative authority determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not to be less than four months), the data that is required shall have been gathered over at least that shorter period.

e. For any application that became complete, except as to the requirements of Subparagraphs M.1.c and d of this Section, between June 8, 1981 and February 9, 1982, the data that Subparagraph M.1.c of this Section requires shall have been gathered over at least the period from February 9, 1981, to the date the application became otherwise complete, except:

i. if the source or modification would have been major for that pollutant under 40 CFR 52.21 as in effect on June 19, 1978, any monitoring data shall have been gathered over at least the period required by those regulations;

ii. if the administrative authority determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than four months), the data that Subparagraph M.1.c of this Section requires shall have been gathered over at least that shorter period;

iii. if the monitoring data would relate exclusively to ozone and would not have been required under 40 CFR 52.21 as in effect on June 19, 1978, the administrative authority may waive the otherwise-applicable requirements of this Subsection to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year.

f. The owner or operator of a proposed stationary source or modification of volatile organic compounds who satisfies all conditions of 40 CFR Part 51, Appendix S, Section IV may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under Paragraph M.1 of this Section.

g. For any application that became complete, except as to the requirements of Subparagraphs M.1.c and d of this Section pertaining to PM₁₀, after December 1, 1988 and no later than August 1, 1989, the data that Subparagraph M.1.c of this Section requires shall have been gathered over at least the period from August 1, 1988, to the date the application becomes otherwise complete, except that if the administrative authority determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data that Subparagraph M.1.c of this Section requires shall have been gathered over that shorter period.

h. With respect to any requirements for air quality monitoring of PM₁₀ under Subparagraphs I.9.a and b of this Section, the owner or operator of the source or modification shall use a monitoring method approved by the administrative authority and shall estimate the ambient concentrations of PM₁₀ using the data collected by such approved monitoring method in accordance with estimating procedures approved by the administrative authority.

2. Post-Construction Monitoring. The owner or operator of a major stationary source or major modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the administrative authority determines is necessary to

determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area.

3. Operations of Monitoring Stations. The owner or operator of a major stationary source or major modification shall meet the requirements of 40 CFR Part 58, Appendix B during the operation of monitoring stations for purposes of satisfying the requirements of this Subsection.

N. Source Information. The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or make any determination required under this Section.

1. With respect to a source or modification to which Subsections J, L, N, and P of this Section apply, such information shall include:

a. a description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

b. a detailed schedule for construction of the source or modification;

c. a detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates, and any other information necessary to determine that best available control technology would be applied.

2. Upon request of the administrative authority, the owner or operator shall also provide information on:

a. the air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

b. the air quality impacts, and the nature and extent of, any or all general commercial, residential, industrial, and other growth that has occurred since August 7, 1977, in the area the source or modification would affect.

O. Additional Impact Analyses

1. The owner or operator shall provide an analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

2. The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the source or modification.

3. Visibility Monitoring. The administrative authority may require monitoring of visibility in any federal Class I area near the proposed new stationary source for major modification for such purposes and by such means as the administrative authority deems necessary and appropriate.

P. Sources Impacting Federal Class I Areas—Additional Requirements

1. Notice to Federal Land Managers. The administrative authority shall provide written notice of any permit application for a proposed major stationary source or major modification, the emissions from which may affect a Class I area, to the federal land manager and the federal official charged with direct responsibility for management of any lands within any such area. Such notification shall

include a copy of all information relevant to the permit application and shall be given within 30 days of receipt and at least 60 days prior to any public hearing on the application for a permit to construct. Such notification shall include an analysis of the proposed source's anticipated impacts on visibility in the federal Class I area. The administrative authority shall also provide the federal land manager and such federal officials with a copy of the preliminary determination required under Subsection Q of this Section, and shall make available to them any materials used in making that determination, promptly after the administrative authority makes such determination. Finally, the administrative authority shall also notify all affected federal land managers within 30 days of receipt of any advance notification of any such permit application.

2. Federal Land Manager. The federal land manager and the federal official charged with direct responsibility for management of such lands have an affirmative responsibility to protect the air quality-related values, including visibility, of such lands and to consider, in consultation with the administrative authority, whether a proposed source or modification will have an adverse impact on such values.

3. Visibility Analysis. The administrative authority shall consider any analysis performed by the federal land manager, provided within 30 days of the notification required by Paragraph P.1 of this Section, that shows that a proposed new major stationary source or major modification may have an adverse impact on visibility in any federal Class I area. Where the administrative authority finds that such an analysis does not demonstrate to the satisfaction of the administrative authority that an adverse impact on visibility will result in the federal Class I area, the administrative authority must, in the notice of public hearing on the permit application, either explain his decision or give notice as to where the explanation can be obtained.

4. Denial—Impact on Air Quality-Related Values. The federal land manager of any such lands may demonstrate to the administrative authority that the emissions from a proposed source or modification would have an adverse impact on the air quality-related values, including visibility, of those lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations that would exceed the maximum allowable increases for a Class I area. If the administrative authority concurs with such demonstration, then he shall not issue the permit.

5. Class I Variances. The owner or operator of a proposed source or modification may demonstrate to the federal land manager that the emissions from such source or modification would have no adverse impact on the air quality-related values of any such lands, including visibility, notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations that would exceed the maximum allowable increases for a Class I area. If the federal land manager concurs with such demonstration and he so certifies, the administrative authority, provided that the applicable requirements of this Section are otherwise met, may issue the permit with such emission limitations as may be necessary to ensure that emissions of sulfur dioxide, particulate matter, and nitrogen oxides would not exceed the

following maximum allowable increases over minor source baseline concentration for such pollutants.

Pollutant	Maximum Allowable Increase (Micrograms per Cubic Meter)
Particulate matter:	
PM ₁₀ , annual arithmetic mean	17
PM ₁₀ , 24-hr maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	325
Nitrogen dioxide:	
Annual arithmetic mean	25

6. Sulfur Dioxide Variance by Governor With Federal Land Manager's Concurrence. The owner or operator of a proposed source or modification that cannot be approved under Paragraph P.4 of this Section may demonstrate to the governor that the source cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of 24 hours or less applicable to any Class I area and, in the case of federal mandatory Class I areas, that a variance under this Paragraph would not adversely affect the air quality-related values of the area, including visibility. The governor, after consideration of the federal land manager's recommendation (if any) and subject to his concurrence, may, after notice and public hearing, grant a variance from such maximum allowable increase. If such variance is granted, the administrative authority may issue a permit to such source or modification in accordance with the requirements of Paragraph P.7 of this Section, provided that the applicable requirements of this Section are otherwise met.

7. Variance by the Governor With the President's Concurrence. In any case where the governor recommends a variance in which the federal land manager does not concur, the recommendations of the governor and the federal land manager shall be transmitted to the President. The President may approve the governor's recommendation if he finds that the variance is in the national interest. If the variance is approved, the administrative authority may issue a permit in accordance with the requirements of this Paragraph, provided that the applicable requirements of this Section are otherwise met.

8. Emission Limitations for Presidential or Gubernatorial Variance. In the case of a permit issued in accordance with Paragraph P.5 or 6 of this Section, the source or modification shall comply with such emission limitations as may be necessary to ensure that emissions of sulfur dioxide from the source or modification would not, during any day on which the otherwise applicable maximum allowable increases are exceeded, cause or contribute to concentrations that would exceed the following maximum allowable increases over the baseline concentration and to ensure that such emissions would not cause or contribute to concentrations that exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period.

Maximum Allowable Increase [Micrograms per Cubic Meter]		
Period of Exposure	Terrain Areas	
	Low	High
24-hr maximum	36	62
3-hr maximum	130	221

Q. Public Participation

1. The administrative authority shall notify all applicants within 60 days after receipt of the application as to the completeness of the application or any deficiency in the application or information submitted. In the event of such a deficiency, the date of receipt of the application shall be the date on which the administrative authority received all required information.

2. Within one year after receipt of a complete application, the administrative authority shall:

a. make a preliminary determination whether construction should be approved, approved with conditions, or disapproved;

b. make available in at least one location in each region in which the proposed source would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination;

c. notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and of the opportunity for comment at a public hearing as well as written public comment;

d. send a copy of the notice of public comment to the applicant, the administrator, and officials and agencies having cognizance over the location where the proposed construction would occur, as follows:

i. any other state or local air pollution control agencies;

ii. the chief executives of the city and parish where the source would be located;

iii. any comprehensive regional land use planning agency; and

iv. any state, federal land manager, or Indian governing body whose lands may be affected by emissions from the source or modification;

e. provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations;

f. consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing in making a final decision on the approvability of the application. The administrative authority shall make all comments available for public inspection in the same locations where the administrative authority made available preconstruction information relating to the proposed source or modification;

g. make a final determination whether construction should be approved, approved with conditions, or disapproved;

h. notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the administrative authority made available preconstruction information and public comments relating to the source.

R. Source Obligation

1. Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted in accordance with this Section or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this Section who commences construction after the effective date of these regulations without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.

2. Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The administrative authority may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

3. Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan and any other requirements under local, state, or federal law.

4. At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation that was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of Subsections J-S of this Section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

5. Reserved.

6. The provisions of this Paragraph apply to projects at an existing emissions unit at a major stationary source, other than projects at a Clean Unit or at a source with a PAL, in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in Subparagraphs B. *Projected Actual Emissions*.a-c of this Section for calculating projected actual emissions.

a. Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

i. a description of the project;

ii. identification of the emission units whose emissions of a regulated NSR pollutant could be affected by the project; and

iii. a description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of

emissions excluded under Subparagraph B. *Projected Actual Emissions*.c of this Section and an explanation for why such amount was excluded, and any netting calculations, if applicable.

b. If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in Subparagraph R.6.a of this Section to the administrative authority. Nothing in this Subparagraph shall be construed to require the owner or operator of such a unit to obtain any determination from the administrative authority before beginning actual construction.

c. The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in Clause R.6.a.ii of this Section, and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity of or potential to emit that regulated NSR pollutant at such emissions unit.

d. If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the administrative authority within 60 days after the end of each year during which records must be generated under Subparagraph R.6.c of this Section setting out the unit's annual emissions during the calendar year that preceded submission of the report.

e. If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the administrative authority if the annual emissions, in tons per year, from the project identified in Subparagraph R.6.a of this Section, exceed the baseline actual emissions, as documented and maintained in accordance with Clause R.6.a.iii of this Section, by a significant amount, as defined in Subsection B. *Significant* of this Section, for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained in accordance with Clause R.6.a.iii of this Section. Such report shall be submitted to the administrative authority within 60 days after the end of such year. The report shall contain the following:

- i. the name, address, and telephone number of the major stationary source;
- ii. the annual emissions as calculated in accordance with Subparagraph R.6.c of this Section; and
- iii. any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

7. The owner or operator of the source shall make the information required to be documented and maintained in accordance with Paragraph R.6 of this Section available for review upon a request for inspection by the administrative authority or the general public in accordance with the requirements contained in 40 CFR 70.4(b)(3)(viii).

S. Reserved.

T. Reserved.

U. Reserved.

V. Innovative Control Technology

1. An owner or operator of a proposed major stationary source or major modification may request the administrative authority in writing, no later than the close of the comment period under Subsection Q.2.e of this Section, to approve a system of innovative control technology.

2. The administrative authority may, with the consent of the governor of affected states, determine that the source or modification may employ a system of innovative control technology, if:

a. the proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

b. the owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under Paragraph J.2 of this Section by a date specified by the administrative authority. Such date shall not be later than four years from the time of startup or seven years from permit issuance;

c. the source or modification would meet the requirements of Subsections J and K of this Section, based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the administrative authority;

d. the source or modification would not, before the date specified by the administrative authority:

i. cause or contribute to a violation of an applicable national ambient air quality standard; or

ii. impact any area where an applicable increment is known to be violated;

e. the provisions of Subsection P of this Section, relating to Class I areas, have been satisfied with respect to all periods during the life of the source or modification;

f. all other applicable requirements including those for public participation have been met.

3. The administrative authority shall withdraw any approval to employ a system of innovative control technology made under this Subsection, if:

a. the proposed system fails by the specified date to achieve the required continuous emissions reduction rate;

b. the proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

c. the administrative authority decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

4. If a source or modification fails to meet the required level of continuous emission reduction within the specified time period or the approval is withdrawn in accordance with Paragraph V.3 of this Section, the administrative authority may allow the source or modification up to an additional three years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

W. Permit Rescission

1. Any permit issued under this Section or a prior version of this Section shall remain in effect, unless and until it expires under Subsection R of this Section or is rescinded.

2. Any owner or operator of a stationary source or modification who holds a permit for the source or modification that was issued under any earlier version of this

Section, may request that the administrative authority rescind the permit or a particular portion of the permit.

3. The administrative authority shall grant an application for rescission if the application shows that this Section, as it existed at the time the permit was issued, would not apply to the source or modification.

4. If the administrative authority rescinds a permit under this Subsection, the public shall be given adequate notice of the rescission. Publication of an announcement of rescission in a newspaper of general circulation in the affected region within 60 days of the rescission shall be considered adequate notice.

X. Clean Unit Test for Emissions Units That are Subject to BACT or LAER. An owner or operator of a major stationary source has the option of using the Clean Unit test to determine whether emissions increases at a Clean Unit are part of a project that is a major modification according to the following provisions.

1. Applicability. The provisions of this Subsection apply to any emissions unit for which an administrative authority has issued a major NSR permit within the last 10 years.

2. General Provisions for Clean Units. The following provisions apply to a Clean Unit.

a. Any project for which the owner or operator begins actual construction after the effective date of the Clean Unit designation, as determined in accordance with Paragraph X.4 of this Section, and before the expiration date, as determined in accordance with Paragraph X.5 of this Section, will be considered to have occurred while the emissions unit was a Clean Unit.

b. If a project at a Clean Unit does not cause the need for a change in the emission limitations or work practice requirements in the permit for the unit that were adopted in conjunction with BACT and the project would not alter any physical or operational characteristics that formed the basis for the BACT determination as specified in Subparagraph X.6.d of this Section, the emissions unit remains a Clean Unit.

c. If a project causes the need for a change in the emission limitations or work practice requirements in the permit for the unit that were adopted in conjunction with BACT or the project would alter any physical or operational characteristics that formed the basis for the BACT determination as specified in Subparagraph X.6.d of this Section, then the emissions unit loses its designation as a Clean Unit upon issuance of the necessary permit revisions, unless the unit requalifies as a Clean Unit in accordance with Subparagraph X.3.c of this Section. If the owner or operator begins actual construction on the project without first applying to revise the emissions unit's permit, the Clean Unit designation ends immediately prior to the time when actual construction begins.

d. A project that causes an emissions unit to lose its designation as a Clean Unit is subject to the applicability requirements of Subparagraphs A.4.a-d and f of this Section as if the emissions unit is not a Clean Unit.

3. Qualifying or Requalifying to Use the Clean Unit Applicability Test. An emissions unit automatically qualifies as a Clean Unit when the unit meets the criteria in Subparagraphs X.3.a and b of this Section. After the original Clean Unit expires in accordance with Paragraph X.5 of this

Section or is lost in accordance with Subparagraph X.2.c of this Section, such emissions unit may requalify as a Clean Unit under either Subparagraph X.3.c of this Section, or under the Clean Unit provisions in Subsection Y of this Section. To requalify as a Clean Unit under Subparagraph X.3.c of this Section, the emissions unit must obtain a new major NSR permit issued through the applicable PSD program and meet all the criteria in Subparagraph X.3.c of this Section. The Clean Unit designation applies individually for each pollutant emitted by the emissions unit.

a. Permitting Requirement. The emissions unit must have received a major NSR permit within the last 10 years. The owner or operator must maintain and be able to provide information that would demonstrate that this permitting requirement is met.

b. Qualifying Air Pollution Control Technologies. Air pollutant emissions from the emissions unit must be reduced through the use of air pollution control technology, which includes *pollution prevention* as defined in Subsection B of this Section or work practices, that meets both the following requirements.

i. The control technology achieves the BACT or LAER level of emissions reductions as determined through issuance of a major NSR permit within the past 10 years. However, the emissions unit is not eligible for the Clean Unit designation if the BACT determination resulted in no requirement to reduce emissions below the level of a standard, uncontrolled, new emissions unit of the same type.

ii. The owner or operator made an investment to install the control technology. For the purpose of this determination, an *investment* includes expenses to research the application of a pollution prevention technique to the emissions unit or expenses to apply a pollution prevention technique to an emissions unit.

c. Requalifying for the Clean Unit Designation. The emissions unit must obtain a new major NSR permit that requires compliance with the current-day BACT or LAER, and the emissions unit must meet the requirements in Subparagraphs X.3.a and b of this Section.

4. Effective Date of the Clean Unit Designation. The effective date of an emissions unit's Clean Unit designation (i.e., the date on which the owner or operator may begin to use the Clean Unit test to determine whether a project at the emissions unit is a major modification) is determined according to one of the following provisions, as applicable.

a. For original Clean Unit designation, and emissions units that requalify as Clean Units by implementing new control technology to meet current-day BACT, the effective date is the date the emissions unit's air pollution control technology is placed into service, or three years after the issuance date of the major NSR permit, whichever is earlier, but no sooner than the date the administrator approves these regulations as part of the State Implementation Plan.

b. For emissions units that requalify for the Clean Unit designation using an existing control technology, the effective date is the date the new, major NSR permit is issued.

5. Clean Unit Designation Expiration. An emissions unit's Clean Unit designation expires (i.e., the date on which the owner or operator may no longer use the Clean Unit test to determine whether a project affecting the emissions unit

is, or is part of, a major modification) according to one of the following provisions, as applicable.

a. For original Clean Unit designation, and emissions units that requalify as Clean Units by implementing new control technology to meet current-day BACT, any emissions unit that automatically qualifies as a Clean Unit under Subparagraphs X.3.a and b of this Section or requalifies by implementing new control technology to meet current-day BACT under Subparagraph X.3.c of this Section, the Clean Unit designation expires 10 years after the effective date, or the date the equipment went into service, whichever is earlier; or it expires at any time the owner or operator fails to comply with the provisions for maintaining Clean Unit designation in Paragraph X.7 of this Section.

b. For emissions units that requalify for the Clean Unit designation using an existing control technology, any emissions unit that requalifies as a Clean Unit under Subparagraph X.3.c of this Section using an existing control technology, the Clean Unit designation expires 10 years after the effective date; or it expires any time the owner or operator fails to comply with the provisions for maintaining Clean Unit designation in Paragraph X.7 of this Section.

6. Required Title V Permit Content for a Clean Unit. After the effective date of the Clean Unit designation, and in accordance with the provisions of the applicable Title V permit program under 40 CFR Part 70, but no later than when the Title V permit is renewed, the Title V permit for the major stationary source must include the following terms and conditions related to the Clean Unit:

a. a statement indicating that the emissions unit qualifies as a Clean Unit and identifying the pollutants for which this designation applies;

b. the effective date of the Clean Unit designation. If this date is not known when the Clean Unit designation is initially recorded in the Title V permit (e.g., because the air pollution control technology is not yet in service), the permit must describe the event that will determine the effective date (e.g., the date the control technology is placed into service). Once the effective date is determined, the owner or operator must notify the administrative authority of the exact date. This specific effective date must be added to the source's Title V permit at the first opportunity, such as a modification, revision, reopening, or renewal of the Title V permit for any reason, whichever comes first, but in no case later than the next renewal;

c. the expiration date of the Clean Unit designation. If this date is not known when the Clean Unit designation is initially recorded into the Title V permit (e.g., because the air pollution control technology is not yet in service), then the permit must describe the event that will determine the expiration date (e.g., the date the control technology is placed into service). Once the expiration date is determined, the owner or operator must notify the administrative authority of the exact date. The expiration date must be added to the source's Title V permit at the first opportunity, such as a modification, revision, reopening, or renewal of the Title V permit for any reason, whichever comes first, but in no case later than the next renewal;

d. all emission limitations and work practice requirements adopted in conjunction with BACT, and any physical or operational characteristics that formed the basis

for the BACT determination (e.g., possibly the emissions unit's capacity or throughput);

e. monitoring, recordkeeping, and reporting requirements as necessary to demonstrate that the emissions unit continues to meet the criteria for maintaining the Clean Unit designation;

f. terms reflecting the owner's or operator's duties to maintain the Clean Unit designation and the consequences of failing to do so, as presented in Paragraph X.7 of this Section.

7. Maintaining the Clean Unit Designation. To maintain the Clean Unit designation, the owner or operator must conform to all of the following restrictions. This Paragraph applies independently to each pollutant for which the emissions unit has the Clean Unit designation. That is, failing to conform to the restrictions for one pollutant affects the Clean Unit designation only for that pollutant.

a. The Clean Unit must comply with the emission limitations and/or work practice requirements adopted in conjunction with the BACT that is recorded in the major NSR permit, and subsequently reflected in the NSR and associated Title V permit. The owner or operator may not make a physical change in or change in the method of operation of the Clean Unit that causes the emissions unit to function in a manner that is inconsistent with the physical or operational characteristics that formed the basis for the BACT determination (e.g., possibly the emissions unit's capacity or throughput).

b. The Clean Unit must comply with any terms and conditions in the NSR permit and associated Title V permit related to the unit's Clean Unit designation.

c. The Clean Unit must continue to control emissions using the specific air pollution control technology that was the basis for its Clean Unit designation. If the emissions unit or control technology is replaced, then the Clean Unit designation ends.

8. Netting at Clean Units. Emissions changes that occur at a Clean Unit must not be included in calculating a significant net emissions increase (i.e., must not be used in a "netting analysis"), unless such use occurs before the effective date of the Clean Unit designation, or after the Clean Unit designation expires, or unless the emissions unit reduces emissions below the level that qualified the unit as a Clean Unit. However, if the Clean Unit reduces emissions below the level that qualified the unit as a Clean Unit, then the owner or operator may generate a credit for the difference between the level that qualified the unit as a Clean Unit and the new emissions limit if such reductions are surplus, quantifiable, and permanent. For purposes of generating offsets, the reductions must also be federally enforceable. For purposes of determining creditable net emissions increases and decreases, the reductions must also be enforceable as a practical matter.

9. Effect of Redesignation on the Clean Unit Designation. The Clean Unit designation of an emissions unit is not affected by redesignation of the attainment status of the area in which it is located. That is, if a Clean Unit is located in an attainment area and the area is redesignated to nonattainment, its Clean Unit designation is not affected. Similarly, redesignation from nonattainment to attainment does not affect the Clean Unit designation. However, if an existing Clean Unit designation expires, it must requalify

under the requirements that are currently applicable in the area.

Y. Clean Unit Provisions for Emissions Units That Achieve an Emission Limitation Comparable to BACT. An owner or operator of a major stationary source has the option of using the Clean Unit test to determine whether emissions increases at a Clean Unit are part of a project that is a major modification according to the following provisions.

1. Applicability. The provisions of this Subsection apply to emissions units that do not qualify as Clean Units under Subsection X of this Section, but which are achieving a level of emissions control comparable to BACT, as determined by the administrative authority in accordance with this Subsection.

2. General Provisions for Clean Units. The following provisions apply to a Clean Unit designated under this Subsection.

a. Any project for which the owner or operator begins actual construction after the effective date of the Clean Unit designation, as determined in accordance with Paragraph Y.5 of this Section, and before the expiration date, as determined in accordance with Paragraph Y.6 of this Section, will be considered to have occurred while the emissions unit was a Clean Unit.

b. If a project at a Clean Unit does not cause the need for a change in the emission limitations or work practice requirements in the permit for the unit that have been determined, in accordance with Paragraph Y.4 of this Section, to be comparable to BACT, and the project would not alter any physical or operational characteristics that formed the basis for determining that the emissions unit's control technology achieves a level of emissions control comparable to BACT as specified in Subparagraph Y.8.d of this Section, the emissions unit remains a Clean Unit.

c. If a project causes the need for a change in the emission limitations or work practice requirements in the permit for the unit that have been determined, in accordance with Paragraph Y.4 of this Section, to be comparable to BACT, or the project would alter any physical or operational characteristics that formed the basis for determining that the emissions unit's control technology achieves a level of emissions control comparable to BACT as specified in Subparagraph Y.8.d of this Section, then the emissions unit loses its designation as a Clean Unit upon issuance of the necessary permit revisions, unless the unit requalifies as a Clean Unit in accordance with Subparagraph X.3.c of this Section. If the owner or operator begins actual construction on the project without first applying to revise the emissions unit's permit, the Clean Unit designation ends immediately prior to the time when actual construction begins.

d. A project that causes an emissions unit to lose its designation as a Clean Unit is subject to the applicability requirements of Subparagraphs A.4.a-d and f of this Section as if the emissions unit were not a Clean Unit.

3. Qualifying or Requalifying to Use the Clean Unit Applicability Test. An emissions unit qualifies as a Clean Unit when the unit meets the criteria in Subparagraphs Y.3.a-c of this Section. After the original Clean Unit designation expires in accordance with Paragraph Y.6 of this Section or is lost in accordance with Subparagraph Y.2.c of this Section, such emissions unit may requalify as a Clean Unit

under either Subparagraph Y.3.d of this Section or under the Clean Unit provisions in Subsection X of this Section. To requalify as a Clean Unit under Subparagraph Y.3.d of this Section, the emissions unit must obtain a new permit issued in accordance with the requirements in Paragraphs Y.7 and 8 of this Section and meet all the criteria in Subparagraph Y.3.d of this Section. The administrative authority will make a separate Clean Unit designation for each pollutant emitted by the emissions unit for which the emissions unit qualifies as a Clean Unit.

a. Qualifying Air Pollution Control Technologies. Air pollutant emissions from the emissions unit must be reduced through the use of air pollution control technology, which includes *pollution prevention* as defined in Subsection B of this Section or work practices, that meets both the following requirements.

i. The owner or operator has demonstrated that the emissions unit's control technology is comparable to BACT according to the requirements of Paragraph Y.4 of this Section. However, the emissions unit is not eligible for a Clean Unit designation if its emissions are not reduced below the level of a standard, uncontrolled emissions unit of the same type (e.g., if the BACT determinations to which it is compared have resulted in a determination that no control measures are required).

ii. The owner or operator made an investment to install the control technology. For the purpose of this determination, an *investment* includes expenses to research the application of a pollution prevention technique to the emissions unit or to retool the unit to apply a pollution prevention technique.

b. Impact of Emissions From the Unit. The administrative authority must determine that the allowable emissions from the emissions unit will not cause or contribute to a violation of any national ambient air quality standard or PSD increment, or adversely impact an air quality-related value, such as visibility, that has been identified for a federal Class I area by a federal land manager and for which information is available to the general public.

c. Date of Installation. An emissions unit may qualify as a Clean Unit even if the control technology, on which the Clean Unit designation is based, was installed prior to the effective date of this Subsection. However, for such emissions units, the owner or operator must have applied for the Clean Unit designation within two years after the plan requirements become effective. For technologies installed after the plan requirements become effective, the owner or operator must apply for the Clean Unit designation at the time the control technology is installed.

d. Requalifying as a Clean Unit. The emissions unit must obtain a new permit, in accordance with requirements in Paragraphs Y.7 and 8 of this Section, that demonstrates that the emissions unit's control technology is achieving a level of emission control comparable to current-day BACT, and the emissions unit must meet the requirements in Clause Y.3.a.i and Subparagraph Y.3.b of this Section.

4. Demonstrating Control Effectiveness Comparable to BACT. The owner or operator may demonstrate that the emissions unit's control technology is comparable to BACT for purposes of Subparagraph Y.3.a of this Section according

to either Subparagraph Y.4.a or b of this Section. Subparagraph Y.4.c of this Section specifies the time for making this comparison.

a. Comparison to Previous BACT and LAER Determinations. The administrative authority maintains an on-line database of previous determinations of RACT, BACT, and LAER in the RACT/BACT/LAER Clearinghouse (RBLC). The emissions unit's control technology is presumed to be comparable to BACT if it achieves an emission limitation that is equal to or better than the average of the emission limitations achieved by all the sources for which a BACT or LAER determination has been made within the preceding five years and entered into the RBLC, and for which it is technically feasible to apply the BACT or LAER control technology to the emissions unit. The administrative authority shall also compare this presumption to any additional BACT or LAER determinations of which he or she is aware, and shall consider any information on achieved-in-practice pollution control technologies provided during the public comment period, to determine whether any presumptive determination that the control technology is comparable to BACT is correct.

b. The Substantially-as-Effective Test. The owner or operator may demonstrate that the emissions unit's control technology is substantially as effective as BACT. In addition, any other person may present evidence related to whether the control technology is substantially as effective as BACT during the public participation process required under Paragraph Y.7 of this Section. The administrative authority shall consider such evidence on a case-by-case basis and determine whether the emissions unit's air pollution control technology is substantially as effective as BACT.

c. Time of Comparison

i. Emissions Units with Control Technologies that Were Installed Before the Effective Date of State Implementation Plan Requirements Implementing This Subsection. The owner or operator of an emissions unit whose control technology was installed before the effective date of plan requirements implementing this Paragraph may, at its option, either demonstrate that the emission limitation achieved by the emissions unit's control technology is comparable to the BACT requirements that applied at the time the control technology was installed, or demonstrate that the emission limitation achieved by the emissions unit's control technology is comparable to current-day BACT requirements. The expiration date of the Clean Unit designation will depend on which option the owner or operator uses, as specified in Paragraph Y.6 of this Section.

ii. Emissions Units with Control Technologies that Are Installed After the Effective Date of State Implementation Plan Requirements Implementing This Subsection. The owner or operator must demonstrate that the emission limitation achieved by the emissions unit's control technology is comparable to current-day BACT requirements.

5. Effective Date of the Clean Unit Designation. The effective date of an emissions unit's Clean Unit designation (i.e., the date on which the owner or operator may begin to use the Clean Unit test to determine whether a project involving the emissions unit is a major modification) is the

date that the permit required by Paragraph Y.7 of this Section is issued or the date that the emissions unit's air pollution control technology is placed into service, whichever is later.

6. Clean Unit Designation Expiration. If the owner or operator demonstrates that the emission limitation achieved by the emissions unit's control technology is comparable to the BACT requirements that applied at the time the control technology was installed, then the Clean Unit designation expires 10 years from the date that the control technology was installed. For all other emissions units, the Clean Unit designation expires 10 years from the effective date of the Clean Unit designation, as determined according to Paragraph Y.5 of this Section. In addition, for all emissions units, the Clean Unit designation expires any time the owner or operator fails to comply with the provisions for maintaining the Clean Unit designation in Paragraph Y.9 of this Section.

7. Procedures for Designating Emissions Units as Clean Units. The administrative authority shall designate an emissions unit a Clean Unit only by issuing a permit through a permitting program that has been approved by the administrator and that conforms with the requirements of 40 CFR 51.160-164, including requirements for public notice of the proposed Clean Unit designation and opportunity for public comment. Such permit must also meet the requirements in Paragraph Y.8 of this Section.

8. Required Permit Content. The permit required by Paragraph Y.7 of this Section shall include the following terms that shall be incorporated into the major stationary source's Title V permit in accordance with the provisions of the applicable Title V permit program under 40 CFR Part 70, but no later than when the Title V permit is renewed:

a. a statement indicating that the emissions unit qualifies as a Clean Unit and identifying the pollutants for which this designation applies;

b. the effective date of the Clean Unit designation. If this date is not known when the administrative authority issues the permit (e.g., because the air pollution control technology is not yet in service), then the permit must describe the event that will determine the effective date (e.g., the date the control technology is placed into service). Once the effective date is known, then the owner or operator must notify the administrative authority of the exact date. This specific effective date must be added to the source's Title V permit at the first opportunity, such as a modification, revision, reopening, or renewal of the Title V permit for any reason, whichever comes first, but in no case later than the next renewal;

c. the expiration date of the Clean Unit designation. If this date is not known when the administrative authority issues the permit (e.g., because the air pollution control technology is not yet in service), then the permit must describe the event that will determine the expiration date (e.g., the date the control technology is placed into service). Once the expiration date is known, then the owner or operator must notify the administrative authority of the exact date. The expiration date must be added to the source's Title V permit at the first opportunity, such as a modification, revision, reopening, or renewal of the Title V permit for any reason, whichever comes first, but in no case later than the next renewal;

d. all emission limitations and work practice requirements adopted in conjunction with emission limitations necessary to ensure that the control technology continues to achieve an emission limitation comparable to BACT, and any physical or operational characteristics that formed the basis for determining that the emissions unit's control technology achieves a level of emissions control comparable to BACT (e.g., possibly the emissions unit's capacity or throughput);

e. monitoring, recordkeeping, and reporting requirements as necessary to demonstrate that the emissions unit continues to meet the criteria for maintaining its Clean Unit designation (see Paragraph Y.9 of this Section);

f. terms reflecting the owner's or operator's duties to maintain the Clean Unit designation and the consequences of failing to do so, as presented in Paragraph Y.9 of this Section.

9. Maintaining a Clean Unit Designation. To maintain the Clean Unit designation, the owner or operator must conform to all of the following restrictions. This Paragraph applies independently to each pollutant for which the administrative authority has designated the emissions unit a Clean Unit. That is, failing to conform to the restrictions for one pollutant affects the Clean Unit designation only for that pollutant.

a. The Clean Unit must comply with the emission limitations and/or work practice requirements adopted to ensure that the control technology continues to achieve emissions control comparable to BACT.

b. The owner or operator may not make a physical change in or change in the method of operation of the Clean Unit that causes the emissions unit to function in a manner that is inconsistent with the physical or operational characteristics that formed the basis for the determination that the control technology is achieving a level of emissions control that is comparable to BACT (e.g., possibly the emissions unit's capacity or throughput).

c. Reserved.

d. The Clean Unit must comply with any terms and conditions in the Title V permit related to the unit's Clean Unit designation.

e. The Clean Unit must continue to control emissions using the specific air pollution control technology that was the basis for its Clean Unit designation. If the emissions unit or control technology is replaced, then the Clean Unit designation ends.

10. Netting at Clean Units. Emissions changes that occur at a Clean Unit must not be included in calculating a significant net emissions increase (i.e., must not be used in a "netting analysis") unless such use occurs before the date the administrator approves the revision to the State Implementation Plan to include this Section or after the Clean Unit designation expires, or unless the emissions unit reduces emissions below the level that qualified the unit as a Clean Unit. However, if the Clean Unit reduces emissions below the level that qualified the unit as a Clean Unit, then the owner or operator may generate a credit for the difference between the level that qualified the unit as a Clean Unit and the emissions unit's new emissions limit if such reductions are surplus, quantifiable, and permanent. For purposes of generating offsets, the reductions must also be federally enforceable. For purposes of determining

creditable net emissions increases and decreases, the reductions must also be enforceable as a practical matter.

11. Effect of Redesignation on a Clean Unit Designation. The Clean Unit designation of an emissions unit is not affected by redesignation of the attainment status of the area in which it is located. That is, if a Clean Unit is located in an attainment area and the area is redesignated to nonattainment, its Clean Unit designation is not affected. Similarly, redesignation from nonattainment to attainment does not affect the Clean Unit designation. However, if a Clean Unit's designation expires or is lost in accordance with Subparagraphs X.2.c and Y.2.c of this Section, it must requalify under the requirements that are currently applicable.

Z. Pollution Control Projects (PCPs). PCPs may be approved according to the following provisions.

1. Before an owner or operator begins actual construction of a PCP, the owner or operator must either submit a notice to the administrative authority if the project is listed in Subparagraphs B. *Pollution Control Project.a-f* of this Section, or if the project is not listed, then the owner or operator must submit a permit application and obtain approval to use the PCP exclusion from the administrative authority consistent with the requirements in Paragraph Z.5 of this Section. Regardless of whether the owner or operator submits a notice or a permit application, the project must meet the requirements in Paragraph Z.2 of this Section, and the notice or permit application must contain the information required in Paragraph Z.3 of this Section.

2. Any project that relies on the PCP exclusion must meet the following requirements.

a. Environmentally Beneficial Analysis. The environmental benefit from the emissions reductions of pollutants regulated under the Clean Air Act must outweigh the environmental detriment of emissions increases in pollutants regulated under the Clean Air Act. A statement that a technology from Subparagraphs B. *Pollution Control Project.a-f* of this Section, is being used shall be presumed to satisfy this requirement.

b. Air Quality Analysis. The emissions increases from the project will not cause or contribute to a violation of any national ambient air quality standard or PSD increment, or adversely impact an air quality-related value, such as visibility, that has been identified for a federal Class I area by a federal land manager and for which information is available to the general public.

3. Content of Notice or Permit Application. In the notice or permit application sent to the administrative authority, the owner or operator must include, at a minimum, the following information:

a. a description of the project;

b. the potential emissions increases and decreases of any pollutant regulated under the Clean Air Act and the projected emissions increases and decreases using the method in Paragraph A.4 of this Section that will result from the project, and a copy of the environmentally beneficial analysis required by Subparagraph Z.2.a of this Section;

c. a description of monitoring and recordkeeping, and all other methods, to be used on an ongoing basis to demonstrate that the project is environmentally beneficial. Methods should be sufficient to meet the requirements in LAC 33:III.507.H.1;

d. a certification that the project will be designed and operated in a manner that is consistent with proper industry and engineering practices, in a manner that is consistent with the environmentally beneficial analysis and air quality analysis required by Subparagraphs Z.2.a and b of this Section, in a manner that is consistent with information submitted in the notice or permit application, and in such a way as to minimize, within the physical configuration and operational standards usually associated with the emissions control device or strategy, emissions of collateral pollutants;

e. demonstration that the PCP will not have an adverse air quality impact (e.g., modeling, screening level modeling results, or a statement that the collateral emissions increase is included within the parameters used in the most recent modeling exercise) as required by Subparagraph Z.2.b of this Section. An air quality impact analysis is not required for any pollutant that will not experience a significant emissions increase as a result of the project.

4. Notice Process for Listed Projects. For projects listed in Subparagraphs B. *Pollution Control Project*.a–f of this Section, the owner or operator may begin actual construction of the project immediately after notice is sent to the administrative authority, unless otherwise prohibited under requirements of the applicable State Implementation Plan. The owner or operator shall respond to any requests by the administrative authority for additional information that the administrative authority determines is necessary to evaluate the suitability of the project for the PCP exclusion.

5. Permit Process for Unlisted Projects. Before an owner or operator may begin actual construction of a PCP project that is not listed in Subparagraphs B. *Pollution Control Project*.a–f of this Section, the project must be approved by the administrative authority and recorded in a State Implementation Plan-approved permit using procedures that are consistent with 40 CFR 51.160 and 51.161. This includes the requirement that the administrative authority provide the public with notice of the proposed approval and with access to the environmentally beneficial analysis and the air quality analysis, and provide at least a 30-day period for the public to submit comments. The administrative authority must address all material comments received by the end of the comment period before taking final action on the permit.

6. Operational Requirements. Upon installation of the PCP, the owner or operator must comply with the following requirements.

a. General Duty. The owner or operator must operate the PCP in a manner consistent with proper industry and engineering practices, in a manner that is consistent with the environmentally beneficial analysis and air quality analysis required by Subparagraphs Z.2.a and b of this Section, in a manner that is consistent with information submitted in the notice or permit application required by Paragraph Z.3 of this Section, and in such a way as to minimize, within the physical configuration and operational standards usually associated with the emissions control device or strategy, emissions of collateral pollutants.

b. Recordkeeping. The owner or operator must maintain copies on site of the environmentally beneficial analysis, the air quality impacts analysis, and monitoring and other emission records to prove that the PCP operated

consistent with the general duty requirements in Subparagraph Z.6.a of this Section.

c. Permit Requirements. The owner or operator must comply with any provisions in the State Implementation Plan-approved permit related to use and approval of the PCP exclusion.

d. Generation of Emission Reduction Credits. Emission reductions created by a PCP shall not be included in calculating a significant net emissions increase unless the emissions unit further reduces emissions after qualifying for the PCP exclusion (e.g., taking an operational restriction on the hours of operation). The owner or operator may generate a credit for the difference between the level of reduction that was used to qualify for the PCP exclusion and the new emissions limitation if such reductions are surplus, quantifiable, and permanent. For purposes of generating offsets, the reductions must also be federally enforceable. For purposes of determining creditable net emissions increases and decreases, the reductions must also be enforceable as a practical matter.

AA. Actuals PALs. The following provisions govern actuals PALs.

1. Applicability

a. The administrative authority may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements of this Subsection. The term "PAL" shall mean "actuals PAL" throughout this Subsection.

b. Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements of this Subsection, and complies with the PAL permit:

i. is not a major modification for the PAL pollutant;

ii. does not have to be approved through the PSD program; and

iii. is not subject to the provisions in Paragraph R.4 of this Section (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the major NSR program).

c. Except as provided under Clause AA.1.b.iii of this Section, a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

2. Definitions. For the purposes of this Subsection, the following definitions apply. When a term is not defined in this Paragraph, it shall have the meaning given in Subsection B of this Section or in the Clean Air Act.

a. *Actuals PAL*—a PAL for a major stationary source based on the *baseline actual emissions*, as defined in Subsection B of this Section, of all *emissions units*, as defined in Subsection B of this Section, at the source that emit or have the potential to emit the PAL pollutant.

b. *Allowable Emissions*—as defined in Subsection B of this Section, except for the following modifications.

i. The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

ii. An emissions unit's potential to emit shall be determined using the definition in Subsection B of this

Section, except that the words "or enforceable as a practical matter" should be added after "federally enforceable."

c. *Major Emissions Unit*—

i. any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area; or

ii. any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the Clean Air Act for nonattainment areas. For example, in accordance with the definition of *major stationary source* in Section 182(c) of the Clean Air Act, an emissions unit would be a major emissions unit for VOC if the emissions unit is located in a serious ozone nonattainment area and it emits or has the potential to emit 50 or more tons of VOC per year.

d. *Plantwide Applicability Limitation (PAL)*—an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with this Subsection.

e. *PAL Effective Date*—generally, the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

f. *PAL Effective Period*—the period beginning with the PAL effective date and ending 10 years later.

g. *PAL Major Modification*—any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL, notwithstanding the definitions for *major modification* and *net emissions increase* in Subsection B of this Section.

h. *PAL Permit*—the major NSR permit, the minor NSR permit, or the state operating permit under a program that is approved into the State Implementation Plan or the Title V permit issued by the administrative authority that establishes a PAL for a major stationary source.

i. *PAL Pollutant*—the pollutant for which a PAL is established at a major stationary source.

j. *Significant Emissions Unit*—an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the *significant* level, as defined in Subsection B of this Section or in the Clean Air Act, whichever is lower, for that PAL pollutant, but less than the amount that would qualify the unit as a *major emissions unit* as defined in Subparagraph AA.2.c of this Section.

k. *Small Emissions Unit*—an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the *significant* level for that PAL pollutant, as defined in Subsection B of this Section or in the Clean Air Act, whichever is lower.

3. Permit Application Requirements. As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the administrative authority for approval:

a. a list of all emissions units at the source designated as small, significant, or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, federal or state applicable

requirements, emission limitations, or work practices apply to each unit;

b. calculations of the baseline actual emissions with supporting documentation. Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction;

c. the calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by Subparagraph AA.13.a of this Section.

4. General Requirements for Establishing PALs

a. The administrative authority is allowed to establish a PAL at a major stationary source, provided that at a minimum, the following requirements are met.

i. The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

ii. The PAL shall be established in a PAL permit that meets the public participation requirements in Paragraph AA.5 of this Section.

iii. The PAL permit shall contain all the requirements of Paragraph AA.7 of this Section.

iv. The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

v. Each PAL shall regulate emissions of only one pollutant.

vi. Each PAL shall have a PAL effective period of 10 years.

vii. The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in Paragraphs AA.12-14 of this Section for each emissions unit under the PAL through the PAL effective period.

b. At no time during or after the PAL effective period are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets under 40 CFR 51.165(a)(3)(ii) unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

5. Public Participation Requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or increased through a procedure that is consistent with 40 CFR 51.160 and 51.161. This includes the requirement that the administrative authority provide the

public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comment. The administrative authority must address all material comments before taking final action on the permit.

6. Setting the 10-year Actuals PAL Level

a. Except as provided in Subparagraph AA.6.b of this Section, the actuals PAL level for a major stationary source shall be established as the sum of the *baseline actual emissions*, as defined in Subsection B of this Section, of the PAL pollutant for each emissions unit at the source, plus an amount equal to the applicable *significant* level for the PAL pollutant, as defined in Subsection B of this Section, or in the Clean Air Act, whichever is lower. When establishing the actuals PAL level for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The administrative authority shall specify a reduced PAL level (in tons/yr) in the PAL permit to become effective on the future compliance date of any applicable federal or state regulatory requirement that the administrative authority is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO_x to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit.

b. For newly-constructed units, which do not include modifications to existing units, on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in Subparagraph AA.6.a of this Section, the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

7. Contents of the PAL Permit. The PAL permit shall contain, at a minimum, the following information:

a. the PAL pollutant and the applicable source-wide emission limitation in tons per year;

b. the PAL permit effective date and the expiration date of the PAL (PAL effective period);

c. specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with Paragraph AA.10 of this Section before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period, but shall remain in effect until a revised PAL permit is issued by an administrative authority;

d. a requirement that emission calculations for compliance purposes must include emissions from startups, shutdowns, and malfunctions;

e. a requirement that, once the PAL expires, the major stationary source is subject to the requirements of Paragraph AA.9 of this Section;

f. the calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total as required by Subparagraph AA.13.a of this Section;

g. a requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under Paragraph AA.12 of this Section;

h. a requirement to retain the records required under Paragraph AA.13 of this Section on site. Such records may be retained in an electronic format;

i. a requirement to submit the reports required under Paragraph AA.14 of this Section by the required deadlines;

j. any other requirements that the administrative authority deems necessary to implement and enforce the PAL.

8. PAL Effective Period and Reopening of the PAL Permit

a. PAL Effective Period. The administrative authority shall specify a PAL effective period of 10 years.

b. Reopening of the PAL Permit

i. During the PAL effective period, the administrative authority must reopen the PAL permit to:

(a) correct typographical/calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL;

(b) reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under 40 CFR 51.165(a)(3)(ii); and

(c) revise the PAL to reflect an increase in the PAL as provided under Paragraph AA.11 of this Section.

ii. The administrative authority shall have discretion to reopen the PAL permit in order to:

(a) reduce the PAL to reflect newly applicable federal requirements (e.g., NSPS) with compliance dates after the PAL effective date;

(b) reduce the PAL consistent with any other requirement that is enforceable as a practical matter, and that the state may impose on the major stationary source under the State Implementation Plan; and

(c) reduce the PAL if the administrative authority determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation, or to an adverse impact on an air quality-related value that has been identified for a federal Class I area by a federal land manager and for which information is available to the general public.

iii. Except for the permit reopening in Subclause AA.8.b.i.(a) of this Section for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of Paragraph AA.5 of this Section.

9. Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in Paragraph AA.10 of this Section shall expire at the end of the PAL effective period, and the following requirements shall apply.

a. Each emissions unit, or each group of emissions units, that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the following procedures.

i. Within the time frame specified for PAL renewals in Subparagraph AA.10.b of this Section, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit, or each group of

emissions units, if such a distribution is more appropriate as decided by the administrative authority, by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under Subparagraph AA.10.e of this Section, such distribution shall be made as if the PAL had been adjusted.

ii. The administrative authority shall decide whether and how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the administrative authority determines is appropriate.

b. Each emissions unit shall comply with the allowable emission limitation on a 12-month rolling basis. The administrative authority may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.

c. Until the administrative authority issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under Clause AA.9.a.ii of this Section, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

d. Any physical change or change in the method of operation at the major stationary source will be subject to major NSR requirements if such change meets the definition of *major modification* in Subsection B of this Section.

e. The major stationary source owner or operator shall continue to comply with any state or federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period, except for those emission limitations that had been established in accordance with Paragraph R.4 of this Section, but were eliminated by the PAL in accordance with the provisions in Clause AA.1.b.iii of this Section.

10. Renewal of a PAL

a. The administrative authority shall follow the procedures specified in Paragraph AA.5 of this Section in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the administrative authority.

b. **Application Deadline.** A major stationary source owner or operator shall submit a timely application to the administrative authority to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.

c. **Application Requirements.** The application to renew a PAL permit shall contain the following information:

i. the information required in Subparagraphs AA.3.a-c of this Section;

ii. a proposed PAL level;

iii. the sum of the potential to emit of all emissions units under the PAL, with supporting documentation;

iv. any other information the owner or operator wishes the administrative authority to consider in determining the appropriate level for renewing the PAL.

d. **PAL Adjustment.** In determining whether and how to adjust the PAL, the administrative authority shall consider the options outlined in Clauses AA.10.d.i and ii of this Section. However, in no case may any such adjustment fail to comply with Clause AA.10.d.iii of this Section.

i. If the emissions level calculated in accordance with Paragraph AA.6 of this Section is equal to or greater than 80 percent of the PAL level, the administrative authority may renew the PAL at the same level without considering the factors set forth in Clause AA.10.d.ii of this Section.

ii. The administrative authority may set the PAL at a level that he or she determines to be more representative of the source's baseline actual emissions, or that he or she determines to be more appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the administrative authority in his or her written rationale.

iii. Notwithstanding Clauses AA.10.d.i and ii of this Section:

(a) if the potential to emit of the major stationary source is less than the PAL, the administrative authority shall adjust the PAL to a level no greater than the potential to emit of the source; and

(b) the administrative authority shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of Paragraph AA.11 of this Section regarding increasing a PAL.

e. If the compliance date for a state or federal requirement that applies to the PAL source occurs during the PAL effective period, and if the administrative authority has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or Title V permit renewal, whichever occurs first.

11. Increasing a PAL During the PAL Effective Period

a. The administrative authority may increase a PAL emission limitation only if the major stationary source complies with the following provisions.

i. The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions units contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

ii. As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the

significant and major emissions units, assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions units, exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

iii. The owner or operator shall obtain a major NSR permit for all emissions units identified in Clause AA.11.a.i of this Section, regardless of the magnitude of the emissions increase resulting from them (i.e., no significant levels apply). These emissions units shall comply with any emissions requirements resulting from the major NSR process (e.g., BACT), even though they have also become subject to the PAL or continue to be subject to the PAL.

iv. The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

b. The administrative authority shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units, assuming application of BACT equivalent controls as determined in accordance with Clause AA.11.a.ii of this Section, plus the sum of the baseline actual emissions of the small emissions units.

c. The PAL permit shall be revised to reflect the increased PAL level in accordance with the public notice requirements of Paragraph AA.5 of this Section.

12. Monitoring Requirements for PALs

a. General Requirements

i. Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

ii. The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in Clauses AA.12.b.i-iv of this Section and must be approved by the administrative authority.

iii. Notwithstanding Clause AA.12.a.ii of this Section, the owner or operator may also employ an alternative monitoring approach that meets the requirements of Clause AA.12.a.i of this Section if approved by the administrative authority.

iv. Failure to use a monitoring system that meets the requirements of this Paragraph renders the PAL invalid.

b. Minimum Performance Requirements for Approved Monitoring Approaches. The following are

acceptable general monitoring approaches when conducted in accordance with the minimum requirements in Subparagraphs AA.12.c-i of this Section:

i. mass balance calculations for activities using coatings or solvents;

ii. CEMS;

iii. CPMS or PEMS; and

iv. emission factors.

c. Mass Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

i. provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

ii. assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

iii. where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator shall use the highest value of the range to calculate the PAL pollutant emissions unless the administrative authority determines there is site-specific data or a site-specific monitoring program to support another content within the range.

d. CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:

i. CEMS must comply with applicable performance specifications found in 40 CFR Part 60, Appendix B; and

ii. CEMS must sample, analyze and record data at least every 15 minutes while the emissions unit is operating.

e. CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

i. the CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameters and the PAL pollutant emissions across the range of operation of the emissions unit; and

ii. each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the administrative authority, while the emissions unit is operating.

f. Emission Factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

i. all emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;

ii. the emissions unit shall operate within the designated range of use for the emission factor, if applicable; and

iii. if technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six months of PAL permit issuance, unless the

administrative authority determines that testing is not required.

g. A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.

h. Notwithstanding the requirements in Subparagraphs AA.12.c-g of this Section, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameters and the PAL pollutant emissions rate at all operating points of the emissions unit, the administrative authority shall, at the time of permit issuance:

i. establish default values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating points; or

ii. determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameters and the PAL pollutant emissions is a violation of the PAL.

i. Revalidation. All data used to establish the PAL pollutant must be revalidated through performance testing or other scientifically valid means approved by the administrative authority. Such testing must occur at least once every five years after issuance of the PAL.

13. Recordkeeping Requirements

a. The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of Subsection AA of this Section and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five years from the date of such record.

b. The PAL permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus five years:

i. a copy of the PAL permit application and any applications for revisions to the PAL; and

ii. each annual certification of compliance in accordance with Title V of the Clean Air Act and the data relied on in certifying the compliance.

14. Reporting and Notification Requirements. The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the administrative authority in accordance with the applicable Title V operating permit program. The reports shall meet the following requirements.

a. Semiannual Report. The semiannual report shall be submitted to the administrative authority within 30 days of the end of each reporting period. This report shall contain the following information:

i. the identification of the owner or operator and the permit number;

ii. total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded in accordance with Subparagraph AA.13.a of this Section;

iii. all data relied upon, including but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions;

iv. a list of any emissions units modified or added to the major stationary source during the preceding 6-month period;

v. the number, duration, and cause of any deviations or monitoring malfunctions, other than the time associated with zero and span calibration checks, and any corrective action taken;

vi. a notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by Subparagraph AA.12.g of this Section;

vii. a signed statement by the responsible official, as defined by the applicable Title V operating permit program, certifying the truth, accuracy, and completeness of the information provided in the report.

b. Deviation Report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted in accordance with 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the applicable program implementing 40 CFR 70.6(a)(3)(iii)(B). The reports shall contain the following information:

i. the identification of the owner or operator and the permit number;

ii. the PAL requirement that experienced the deviation or that was exceeded;

iii. emissions resulting from the deviation or the exceedance; and

iv. a signed statement by the responsible official, as defined by the applicable Title V operating permit program, certifying the truth, accuracy, and completeness of the information provided in the report.

c. Revalidation Results. The owner or operator shall submit to the administrative authority the results of any revalidation test or method within three months after completion of such test or method.

15. Transition Requirements

a. No reviewing authority may issue a PAL that does not comply with the requirements of this Subsection after the administrator has approved regulations incorporating these requirements into the State Implementation Plan.

b. The administrative authority may supersede any PAL that was established prior to the date of approval of the State Implementation Plan by the administrator with a PAL that complies with the requirements of this Subsection.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2234 (December 2001), amended by the Office of Environmental Assessment, LR 31:

A public hearing will be held on July 26, 2005, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the State Implementation Plan (SIP) to incorporate this proposed rule. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ246F. Such comments must be received no later than August 2, 2005, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs and Regulation Development Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ246F. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Nonattainment New Source Review; Prevention of Significant Deterioration**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units to implement this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effects on revenue collections of state or local governmental units as a result of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule adopts the federal final New Source Review rule, published on December 31, 2002. There will be no additional costs or economic benefits to directly affected persons or

non-governmental groups from the state's adoption of this rule to maintain equivalency with the federal program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no known effects on competition and employment from this rule.

Wilbert F. Jordan, Jr.
Assistant Secretary
0506#016

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment

Nonattainment New Source Review;
Prevention of Significant Deterioration
(LAC 33:III.504 and 509)(AQ246L)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.504 and 509 (Log #AQ246L).

On December 31, 2002, the United States Environmental Protection Agency published a final New Source Review (NSR) rule revising the regulations that implement the Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) provisions of the Clean Air Act. To be approvable under the State Implementation Plan (SIP), states implementing Part C (PSD permit program in §51.166) or Part D (nonattainment NSR permit program in §51.165) must include EPA's December 31, 2002, changes as minimum program elements. States must adopt and submit revisions to their Part 51 permitting programs implementing these minimum program elements no later than January 2, 2006 (67 FR 80240). This rule is also being proposed as a revision to the Louisiana State Implementation Plan for air quality.

The department's proposed Rule AQ246F adopts the federal rule. This Rule, AQ246L, includes Louisiana revisions put forward by the department. These revisions supersede text in proposed rule AQ246F. According to the Administrative Procedure Act (R.S. 49:953(F)(1)), the department is required to propose a Rule that differs from a federal rule separately from a proposed Rule that is identical to a federal Rule.

Louisiana's Rule adds consequences for underestimation of projected actual emissions. For projects originally determined not to result in a significant net emissions increase, if an owner or operator subsequently reevaluates projected actual emissions and determines that a project has resulted or will now result in a significant net emissions increase, the owner or operator must either request that the administrative authority limit the potential to emit of the affected emissions units as appropriate via federally enforceable conditions such that a significant net emissions increase will no longer result, or submit a revised PSD application within 180 days. Louisiana's Rule eliminates "malfunctions" from the definitions of "baseline actual emissions" and "projected actual emissions." For purposes of

this regulation, emissions that are permitted or otherwise authorized (e.g., by a variance) are not to be considered malfunctions. Louisiana's Rule omits the exclusions for temporary and permanent clean coal technology demonstration projects and for the reactivation of a very clean coal-fired electric utility steam generating unit. Also, non-substantive wording and/or structural changes are made to update the regulations and improve readability (e.g., alphabetized definitions). The basis and rationale for this proposed rule are to adopt the Federal NSR Reform rule as mandated by the U.S. EPA and include revisions put forward by the department.

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

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

[Note: These changes supersede text in AQ246F.]

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

A. - D.10. ... [See AQ246F]

11. For projects originally determined not to result in a significant net emissions increase, if an owner or operator subsequently reevaluates projected actual emissions and determines that a project has resulted or will now result in a significant net emissions increase, the owner or operator must either:

a. request that the administrative authority limit the potential to emit of the affected emissions units as appropriate via federally enforceable conditions such that a significant net emissions increase will no longer result; or

b. submit a revised permit application within 180 days requesting that the original project be deemed a major modification.

E. - J.3.a. ... [See AQ246F]

b. calculations of the baseline actual emissions with supporting documentation. Baseline actual emissions are to include emissions associated not only with operation of the unit, but also authorized emissions associated with startup and shutdown;

3.c. - 7.c. ... [See AQ246F]

d. a requirement that emission calculations for compliance purposes include emissions associated with startup and shutdown;

7.e. - 15.b. ... [See AQ246F]

K. Definitions. The terms in this Section are used as defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

* * *

[See AQ246F]

Baseline Actual Emissions—the rate of emissions, in tons per year, of a regulated pollutant, determined as follows.

a. ... [See AQ246F]

i. The average rate shall include fugitive emissions to the extent quantifiable, and authorized emissions associated with startups and shutdowns.

a.ii. - b. ... [See AQ246F]

i. The average rate shall include fugitive emissions to the extent quantifiable, and authorized emissions associated with startups and shutdowns.

b.ii. - d. ... [See AQ246F]

* * *

[See AQ246F]

Clean Coal Technology—repealed from AQ246F.

Clean Coal Technology Demonstration Project—repealed from AQ246F.

* * *

[See AQ246F]

Major Modification—

a. - c.vii. ... [See AQ246F]

viii. the addition, replacement, or use of a *PCP*, as defined in this Subsection, at an existing emissions unit meeting the requirements of Subsection I of this Section. A replacement control technology must provide more effective emissions control than that of the replaced control technology to qualify for this exclusion.

d. ... [See AQ246F]

* * *

[See AQ246F]

Projected Actual Emissions—the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source. In determining the *projected actual emissions* before beginning actual construction, the owner or operator of the major stationary source:

a. ... [See AQ246F]

b. shall include fugitive emissions to the extent quantifiable, and authorized emissions associated with startups and shutdowns; and

c. - d. ... [See AQ246F]

* * *

[See AQ246F]

Temporary Clean Coal Technology Demonstration Project—repealed from AQ246F.

* * *

[See AQ246F]

L. ... [See AQ246F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), LR 31:

§509. Prevention of Significant Deterioration

A. - A.6 ... [See AQ246F]

B. Definitions. For the purpose of this Section, the terms below shall have the meaning specified herein as follows.

* * *

[See AQ246F]

Baseline Actual Emissions—the rate of emissions, in tons per year, of a regulated NSR pollutant, determined as follows.

a. ... [See AQ246F]

i. The average rate shall include fugitive emissions to the extent quantifiable, and authorized emissions associated with startups and shutdowns.

a.ii. - b. ... [See AQ246F]

i. The average rate shall include fugitive emissions to the extent quantifiable, and authorized emissions associated with startups and shutdowns.

b.ii. - d. ... [See AQ246F]

* * *

[See AQ246F]

Clean Coal Technology—repealed from AQ246F.

Clean Coal Technology Demonstration Project—repealed from AQ246F.

* * *

[See AQ246F]

Major Modification—

a. - c.vii. ... [See AQ246F]

viii. the addition, replacement, or use of a *pollution control project*, as defined in this Subsection, at an existing emissions unit meeting the requirements of Subsection Z of this Section. A replacement control technology must provide more effective emission control than that of the replaced control technology to qualify for this exclusion.

d. ... [See AQ246F]

* * *

[See AQ246F]

Projected Actual Emissions—the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source. In determining the *projected actual emissions* before beginning actual construction, the owner or operator of the major stationary source:

a. ... [See AQ246F]

b. shall include fugitive emissions to the extent quantifiable, and authorized emissions associated with startups and shutdowns; and

c. - d. ... [See AQ246F]

Reactivation of a Very Clean Coal-Fired Electric Utility Steam Generating Unit—repealed from AQ246F.

* * *

[See AQ246F]

Repowering—repealed from AQ246F.

* * *

[See AQ246F]

Temporary Clean Coal Technology Demonstration Project—repealed from AQ246F.

C. - R.7. ... [See AQ246F]

8. The requirements of Subsections J-R of this Section shall apply as if construction has not yet commenced at any

time that a project is determined to be a major modification based on any credible evidence, including but not limited to, emissions data produced after the project is completed. In any such case, the owner or operator may be subject to enforcement for failure to obtain a PSD permit prior to beginning actual construction.

9. If an owner or operator materially fails to comply with the provisions of Paragraph R.6 of this Section, then the calendar year emissions are presumed to equal the source's potential to emit.

10. Revisions to Projected Actual Emissions. For projects originally evaluated in accordance with Paragraph A.3 of this Section and determined not to result in a significant net emissions increase, if an owner or operator subsequently reevaluates projected actual emissions and determines that the project has resulted or will now result in a significant net emissions increase, the owner or operator shall:

a. request that the administrative authority limit the potential to emit of the affected emissions units as appropriate via federally enforceable conditions such that a significant net emissions increase will no longer result; or

b. submit a revised PSD application within 180 days.

S. - AA.3.a. ... [See AQ246F]

b. calculations of the baseline actual emissions, with supporting documentation. Baseline actual emissions are to include emissions associated not only with operation of the unit, but also authorized emissions associated with startup and shutdown;

3.c. - 15.b. ... [See AQ246F]

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

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

A public hearing will be held on July 26, 2005, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the State Implementation Plan (SIP) to incorporate this proposed rule. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ246L. Such comments must be received no later than August 2, 2005, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs and Regulation

Development Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ246L. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Nonattainment New Source Review;
Prevention of Significant Deterioration**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed changes have no known impact on state or local governmental units budgets.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no known effects on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Facilities regulated by the department may see minor impacts in cost as a result of this rule change. Implementation costs are expected to be very minimal or non-existent because of the speculative nature of just how many facilities would be impacted by this rule change.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no known effects on competition or employment from this rule.

Wilbert F. Jordan, Jr.
Assistant Secretary
0506#019

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Rules of Conduct (LAC 46:I.1901)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners ("board") gives notice that rule making procedures have been initiated for the amendment of LAC 46:1901.E.1 pertaining to a branch office of a firm offering architectural services. The existing Rule provides

that any office offering architectural services shall have an architect resident and regularly employed in that office. The proposed Rule deletes the requirement that an office of a firm offering architectural services have an architect resident and regularly employed in that office, provided certain safeguards are in place.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part I. Architects

Chapter 19. Rules of Conduct: Violations

§1901. Rules of Conduct

- A. - D.3. ...
- E Professional Conduct

1. Any branch office of a firm rendering or offering architectural services to the public shall be registered with the board as a branch office and shall either have an architect resident and regularly employed in that office, or have a designated registrant in charge of the architectural services provided by that office. The designated registrant shall make periodic visits to the branch office, have direct knowledge and supervisory control of the architectural services provided by that office, and shall be responsible for all of the work performed by that office. In the event a branch office does not have an architect resident and regularly employed therein, the branch office shall inform any person using its services of that fact and of the identity of the designated registrant.

COMMENTARY This Rule previously provided that any branch office offering architectural services to the public shall have an architect resident and regularly employed in that office. With advances in technology and changes in architectural practice, the board concluded that this requirement is no longer necessary to protect the public health, safety, and welfare, provided certain safeguards are in place. This rule sets forth those safeguards.

At the same time, the board believes that a potential client seeking architectural services might fairly and reasonably assume that an office offering such services has an architect resident and regularly employed therein. Accordingly, an office offering architectural services to a potential client which does not have an architect resident and regularly employed therein should disclose that fact to the potential client.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:572 (April 2003), amended LR 31:

Interested persons may submit written comments on this proposed Rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 9625 Fenway Avenue., Suite B, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Rules of Conduct**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no estimated implementation costs (savings) to state or local governmental units associated with this proposed Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units associated with this proposed Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

A few architectural firms may be affected by this proposed Rule. Specifically, an architectural firm that opens a branch office which does not have a resident architect who is employed regularly in that branch office may incur an economic benefit in the form of increased market share in the geographical area of that branch office. At the same time, such a firm will incur the increased costs of having a designated registrant visit and supervise that branch office, as well as the increased overhead and other costs associated with operating any office. In the opinion of the board, such economic benefit, additional cost, and increased market share will vary with each firm and location and are impossible to reasonably calculate.

Other architectural firms in that geographical area may be impacted by decreased market share, but the board anticipates that any such decreased share will have no significant impact upon those firms or on the costs of architectural services in that area.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule may lead to increased competition between architectural firms. Nonetheless, the board does not anticipate that the increased competition will have a significant effect on employment or on the costs of architectural services.

Mary "Teeny" Simmons
Executive Director
0506#033

H. Gordon Monk
Acting Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of State Lands**

Receipt of Donation of Immovable Property
(LAC 43:XXVII.3201-3204)

The commissioner of administration promulgates these rules and regulations for Receipt of Donation of Immovable Property (rules) pursuant to Act 262 of the 2003 Regular Session of the Legislature and in accordance with the Administrative Procedure Act, in order to implement the provisions of Act 262 of 2003, by providing rules and regulations necessary to permit the receipt by the state of Louisiana of donations of immovable property consistent with the provisions of R.S. 41:151. These rules shall be promulgated as LAC 43:XXVII.3201-3204 as a new Chapter 32 in that Title and Part.

Title 43

NATURAL RESOURCES

Part XXVII. State Lands

Subpart 2. Use of Management of State Lands

Chapter 32. Receipt of Donation of Immovable Property

§3201. Submission of Offers of Donation

A. Prior to acceptance by a state agency of any offer of donation of immovable property, that offer shall be submitted in writing to the commissioner of administration or his designee for evaluation in accordance with §3202 of

these rules and shall be reviewed and approved in full accordance with §3203 of these rules. For the purposes of these rules, *state agency* shall mean any agency that meets the definition set forth in R.S. 39:2(2). However, notwithstanding anything contained in these rules, these rules shall not apply to any offer of donation of immovable property made to a state agency that is exempt by law from the operation of R.S. 41:151.

B. The written submission of an offer of donation to the commissioner of administration or his designee shall set forth:

1. the identification of the state agency that is the proposed donee;
2. the identification of the proposed donor;
3. the legal description of the property that is the subject of the proposed donation, including a statement of the total acreage of the property and a survey map, if available;
4. any proposed terms, conditions and/or reservations to which the proposed donation would be subject;
5. a statement of the public interest that acceptance of the donation would serve;
6. a statement of any financial or other burdens that acceptance of the donation would impose on the state; and
7. a statement of the appraised fair market value of the property that is the subject of the proposed donation.

C. In addition to the information described in Subsection 3201.B of these rules, a state agency submitting a proposed donation shall provide the commissioner of administration or his designee with any supplementary information that he requests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:151.G.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Lands, LR 31:

§3202. Evaluation of Offers of Donation

A. The commissioner of administration or his designee shall evaluate proposed donations of immovable property submitted pursuant to these rules and shall determine whether such proposed donations are in the best interest of the state.

B. In conducting an evaluation pursuant to these rules, the commissioner of administration or his designee shall weigh the extent to which acceptance of a proposed donation would serve the public interest and the burden, if any, that acceptance of that donation would impose on the state.

C. Based upon his evaluation conducted pursuant to these rules, the commissioner of administration or his designee shall determine whether acceptance or refusal of a proposed donation is in the best interest of the state, and shall provide the proposed donee his determination in writing. Such written notification may set forth terms and conditions relating to his determination.

D. If the commissioner of administration or his designee determines that acceptance of a proposed donation is in the best interest of the state, he shall proceed to assist the donee in negotiating any appropriate terms and conditions of the proposed donation, in order to serve the public interests in such proposed donation. A proposed donation shall not be accepted unless the commissioner of administration or his designee has approved all such terms and conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:151.G.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Lands, LR 31:

§3203. Approval of Offers of Donation

A. When the commissioner of administration or his designee determines that a proposed donation, including any terms and conditions of such donation negotiated pursuant to Subsection 3202.D of these rules, is in the best interest of the state, he or she shall prepare a written report, which shall set forth:

1. the identification of the state agency that is the proposed donee;
2. the identification of the proposed donor;
3. the legal description of the property that is the subject of the proposed donation, including a statement of the total acreage of the property and a survey map, if available;
4. any proposed terms, conditions and/or reservations to which the proposed donation would be subject;
5. a description of the evaluation conducted pursuant to §3202 of these rules, showing how the proposed donation would be in the best interest of the state; and
6. a statement of the appraised fair market value of the property that is the subject of the proposed donation.

B. The commissioner of administration or his designee shall submit the report identified in Subsection 3203.A of these rules to the House Committee on Natural Resources and the Senate Committee on Natural Resources at each committee's office in the state capitol by means of certified mail, return receipt requested, or by means of a messenger, who shall obtain a signature for receipt as proof of receipt of the report by each committee.

C. The committees shall, within 30 days of their receipt of the report submitted to them pursuant to Subsection 3203.B of these rules, meet jointly or separately to conduct hearings regarding the proposed donation that is the subject of the report. If the committees meet jointly, then a quorum of each committee shall be required to take action and a motion shall receive the favorable vote of a majority of those present in order to be adopted.

D. At the hearing or hearings identified in Subsection 3203.C of these rules, the committees shall evaluate the terms and conditions of the proposed donation and determine whether they are acceptable and whether acceptance of the proposed donation is in the best interest of the state.

E. If either committee determines that acceptance of a proposed donation is not in the best interest of the state, that committee may disapprove the proposed donation and shall give written notification of the disapproval to the commissioner of administration or his designee, summarizing its determinations. In such a case, either committee may recommend changes to the terms and conditions of the proposed donation, which recommendations shall not be binding on the proposed donor or on the commissioner of administration or his designee.

F. If a proposed donation is disapproved pursuant to Subsection 3203.E of these rules, the commissioner of administration or his designee may assist the proposed donee in renegotiating the terms and conditions of the proposed donation in light of the determinations and recommendations, if any, made by the committees. If such a renegotiation occurs, the commissioner of administration or his designee may submit to the committees an additional report, consistent with the requirements of Subsection 3203.A, describing the renegotiated proposal.

G. If both committees approve a proposed donation or if neither committee disapproves such proposed donation within 60 days of receipt of the report identified in Subsection 3203.A of these rules, then the commissioner of administration may accept the proposed donation on behalf of the state or authorize acceptance of the donation by the proposed donee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:151.G.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Lands, LR 31:

§3204. Notifications to the Legislature

A. The commissioner of administration or his designee shall, on a quarterly basis, submit to the House Committee on Natural Resources and the Senate Committee on Natural Resources a report identifying any proposed donations that the commissioner of administration or his designee refused during the previous quarterly period. The quarterly report shall set forth the reasons for such refusal.

B. Notwithstanding the provisions of Subsection 3204.A of these rules, where a proposed donor has requested in writing that a proposed donation remain confidential if not accepted, the commissioner of administration or his designee shall not identify such proposed donation in his quarterly report.

C. The commissioner of administration or his designee shall, on annual basis, submit to the House Committee on Natural Resources and the Senate Committee on Natural Resources a report setting forth the amount of immovable property received by the state through donation, the estimated value of such property and the state agencies that received such property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:151.G.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Lands, LR 31:

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 earnings 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 Rule. 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 to J. Michael Lamers, Office of General Counsel, Division of Administration, P.O. Box 94095, Baton Rouge, LA 70804-9095. Written comments will be accepted through July 11, 2005.

Charles St. Romain
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Receipt of Donation
of Immovable Property**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The state will not incur any appreciable implementation costs in connection with the proposed rules. Adoption of the rules will likely create savings for the state and will otherwise serve the public interest, by minimizing the potential that immovable property that state agencies accept by means of donations will subject the state to undue obligations, such as maintenance expenses, costs of environmental remediation, title encumbrances and other such obligations. However, it is not possible to predict the amount of savings created, since that amount will depend on the number and value of donations of immovable property offered to state agencies.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of this Rule will not create new revenue collections to the state.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Adoption of this Rule will have no appreciable impact on persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption of this Rule will have no appreciable impact on competition and employment.

Charles St. Romain
Director
0506#052

H. Gordon Monk
Acting Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Pharmacy**

**Pharmacy Technicians—Scope of Practice
(LAC 46:LIII.907)**

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 hereby gives notice of intent to amend the referenced Rule.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 9. Pharmacy Technicians

§907. Scope of Practice

A. Pharmacy technician candidates and pharmacy technicians may assist the pharmacist by performing those duties and functions assigned by the pharmacist while under his direct and immediate supervision.

1. The ratio of candidates to pharmacists on duty shall not exceed one to one at any given time.

2. The ratio of technicians to pharmacists on duty shall not exceed two to one at any given time. However, the ratio of technicians to pharmacists on duty may be increased to three to one if no technician candidates are on duty at the same time.

B. Pharmacy technician candidates shall not:

1. receive verbal initial prescription orders;
2. give or receive verbal transfers of prescription orders;
3. interpret prescription orders (however, a technician candidate may translate prescription orders);
4. compound high-risk sterile preparations, as defined by the United States Pharmacopeia (USP), or its successor;
5. counsel patients.

C. Pharmacy technicians shall not:

1. release a verbal prescription order for processing until it is reduced to written form and initialed by the receiving technician and supervising pharmacist;
2. interpret prescription orders (however, a technician may translate prescription orders);
3. compound high-risk sterile preparations, as defined by the United States Pharmacopeia (USP), or its successor;
4. counsel patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:2486 (November 2004), amended LR 31:

Interested persons may submit written comments to Malcolm J. Broussard, Louisiana Board of Pharmacy, 5615 Corporate Blvd., Suite 8-E, Baton Rouge, LA 70808-2537. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, July 27, 2005 at 9 a.m. in the board office. 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 p.m. that day.

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. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Malcolm J. Broussard
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Pharmacy Technicians
Scope of Practice**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that implementation of the proposed rule will cost the agency \$3,800 (\$800 for printing notice of intent and final rule, plus \$3,000 for printing and postage costs for updates to the pharmacy law book) during FY 05-06. The agency has sufficient self-generated funds budgeted and available to implement the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed change relates to the scope of practice of pharmacy technicians and pharmacy technician candidates. No change in revenue collection is anticipated as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will allow pharmacists to supervise a greater number of pharmacy technicians in prescription departments. The proposed rule will permit pharmacists to supervise three technicians instead of two under certain circumstances. The proposed rule will also permit pharmacists to allow their technicians to receive new verbal prescription orders.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimable effect on competition or employment in the public or private sector.

Malcolm J. Broussard
Executive Director
0506#029

H. Gordon Monk
Acting Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**Home Health Program—Ambulatory Assistance
(LAC 50:XIII.13301-13305)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XIII.13301-13305 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 currently provides coverage and reimbursement for ambulatory assistance equipment under the Durable Medical Equipment Program. In compliance with guidelines established by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, the bureau proposed to repromulgate the provisions governing durable medical equipment, supplies and appliances under the Home Health Program (*Louisiana Register*, Volume 31, Number 4). The bureau now proposes to adopt criteria for the authorization of canes, crutches, walkers, and walker accessories.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIII. Home Health

Subpart 3. Equipment, Supplies, and Appliances

Chapter 133. Ambulatory Assistance

§13301. Canes and Crutches

A. Requests for canes (wooden or metal), quad canes (four-prong) and all types of crutches may be approved if the recipient's condition impairs ambulation and he/she has a potential for ambulation.

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 31:

§13303. Walkers and Walker Accessories

A. A standard walker and related accessories may be covered if all of the following criteria are met:

1. it is prescribed by a physician for a recipient with a medical condition that impairs ambulation;
2. the recipient has a potential for ambulation; and
3. he/she has a need for greater stability and security than can be provided by a cane or crutches.

B. Wheeled Walker. A wheeled walker is a walker with two, three, or four wheels. A wheeled walker shall be approved only when the recipient is unable to use a standard walker due to severe neurological disorders, restricted use of one hand, or to other medically related reasons. The request must contain supporting documentation from the prescribing physician that substantiates why a wheeled walker is needed rather than a standard walker.

C. Heavy Duty Walker. A heavy duty walker may be approved for patients who meet the criteria for a standard walker and who weigh more than 300 pounds.

D. Heavy Duty, Multiple Braking System, Variable Wheel Resistance Walker

1. A heavy duty, multiple braking system, variable wheel resistance walker is a four-wheeled, adjustable height, folding-walker that has all of the following characteristics:

- a. capable of supporting individuals who weigh more than 350 pounds; and
- b. has hand operated brakes that:
 - i. cause the wheels to lock when the hand levers are released;
 - ii. can be set so that either one or both can lock the wheels; and
 - iii. are adjustable so that the individual can control the pressure of each hand brake;
- c. there is an additional braking mechanism on the front crossbar; and
- d. at least two wheels have brakes that can be independently set through tension adjustability to give varying resistance.

2. A heavy duty, multiple braking system, variable wheel resistance walker is considered medically necessary for individuals whose weight is greater than 350 pounds, and who meet coverage criteria for a standard walker, and who

are unable to use a standard walker due to a severe neurological disorder or other condition causing the restricted use of one hand. Obesity, by itself, is not considered a medically necessary indication for this walker.

E. Leg Extensions. Leg extensions are considered medically necessary for individuals 6 feet tall or more.

G. Arm Rests. Armrest attachments are considered medically necessary when the individual's ability to grip is impaired.

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 31:

§13505. Non-Covered Items

A. The following items shall not be covered by Medicaid.

1. Walker with Enclosed Frame. A walker with enclosed frame is a folding wheeled walker that has a frame that completely surrounds the patient and an attached seat in the back.

2. Enhancement Accessories. An enhancement accessory is one that does not contribute significantly to the therapeutic function of the walker, cane or crutch. It may include, but is not limited to:

- a. style;
- b. color;
- c. hand operated brakes (other than those described for a heavy duty, multiple braking system, variable wheel resistance walker);
- d. seat attachments; and
- e. tray attachments or baskets (or equivalent).

3. Walking Belts. Walking belts is a belt used to support and guide the individual in walking.

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 31:

Interested persons may submit written comments to Ben A. Bearden, 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 Monday, June 27, 2005 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home Health Program Ambulatory Assistance

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 04-05. It is anticipated that \$408 (\$204 SGF and \$204 FED) will be expended in FY 04-05 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 04-05. It is anticipated that \$204 will be expended in FY 04-05 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 proposes to adopt criteria in the Medicaid Home Health Program for the authorization of canes, crutches, walkers, and walker accessories (approximately 1,800 units per year). It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for FY 05-06, FY 06-07 and FY 07-08.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Ben A. Bearden
Director
0506#057

H. Gordon Monk
Acting Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Professional Services—Physician Supplemental Payment

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses professional services in accordance with an established fee schedule for Physicians' Current Procedural Terminology (CPT) codes and Healthcare Common Procedure Code System. Reimbursement for these services is a flat fee established by the bureau less the amount which any third party coverage would pay. The bureau promulgated an emergency rule to provide a supplemental payment for services provided by physicians or other eligible professional service practitioners in qualifying essential state-owned or operated physician practice plans organized by or under the control of a state academic health system or other state entity (*Louisiana Register*, Volume 31, Number 4). The supplemental payment brings the Medicaid rate for services provided by these physicians/practitioners up to the rate paid by commercial insurers for the same service. To qualify for this supplemental payment, the state-owned or operated entity, or its practice plan(s) must annually furnish satisfactory data needed for calculating the community rate

to DHH. The bureau now proposes to continue the provisions of the April 1, 2005 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability, or autonomy as described in R.S. 49:972

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will provide supplemental Medicaid payments for qualifying essential state-owned or operated physician practice plans organized by or under the control of a state academic health system or other state entity.

A. In order to qualify to receive supplemental payments, physicians and other eligible professional service practitioners must be:

1. licensed by the state of Louisiana;
2. enrolled as a Louisiana Medicaid provider; and
3. employed by a state-owned or operated entity, such as state-operated hospital or other state entity, including a state academic health system, which:
 - a. has been designated by the bureau as an essential provider; and
 - b. has furnished satisfactory data to DHH regarding the commercial insurance payments made to its employed physicians and other professional service practitioners.

B. The supplemental payment to each qualifying physician or other eligible professional services practitioner in the practice plan will equal the difference between the Medicaid payments otherwise made to these qualifying providers for professional services and the average amount that would have been paid at the equivalent community rate. The community rate is defined as the average amount that would have been paid by commercial insurers for the same services.

C. The supplemental payments shall be calculated by applying a conversion factor to actual charges for claims paid during a quarter for Medicaid services provided by the state-owned or operated practice plan providers. The commercial payments and respective charges shall be obtained for the state fiscal year preceding the reimbursement year. If this data is not provided satisfactorily to DHH, the default conversion factor shall equal "1." This conversion factor shall be established annually for qualifying physicians/practioners by:

1. determining the amount that private commercial insurance companies paid for commercial claims submitted by the state-owned or operated practice plan or entity; and
2. dividing that amount by the respective charges for these payers.

D. The actual charges for paid Medicaid services shall be multiplied by the conversion factor to determine the maximum allowable Medicaid reimbursement. For eligible nonphysician practitioners, the maximum allowable Medicaid reimbursement shall be limited to 80 percent of this amount.

E. The actual base Medicaid payments to the qualifying physicians/practioners employed by a state-owned or

operated entity shall then be subtracted from the maximum Medicaid reimbursable amount to determine the supplemental payment amount.

F. The supplemental payment for services provided by the qualifying state-owned or operated physician practice plan will be implemented through a quarterly supplemental payment to providers, based on specific Medicaid paid claim data.

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

Interested persons may submit written comments to Ben A. Bearden, 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, July 26, 2005 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Professional Services Physician Supplemental Payment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in an estimated increase in expenses to the state of \$432,320 for FY 04-05, \$1,847,820 for FY 05-06 and \$1,903,255 for FY 06-07. It is anticipated that \$340 (\$170 SGF and \$170 FED) will be expended in FY 04-05 for the state administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase federal revenue collections by \$1,068,020 for FY 04-05, \$4,332,180 for FY 05-06 and \$4,462,145 for FY 06-07. \$170 is included in FY 04-05 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 April 1, 2005 Emergency Rule, proposes to provide supplemental Medicaid payments for qualifying essential state-owned or operated physician practice plans organized by or under the control of a state academic health system or other state entity(4 facilities, approximately 700 physicians). It is anticipated that implementation of this proposed rule will result in an estimated increase in payments for professional services of \$1,500,000 for FY 04-05, \$6,180,000 for FY 05-06 and \$6,365,400 for FY 06-07.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

It is anticipated that there will be no effect on competition and employment as a result of the implementation of this proposed rule.

Ben A. Bearden
Director
0506#056

H. Gordon Monk
Acting Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Third Party Liability—Newborn Notification Requirements

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule 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 Administrative Procedure Act, R.S. 49:950 et seq.

Federal laws and regulations require states to assure that Medicaid recipients utilize all other available resources to pay for all or part of their medical care needs before seeking payment through the Medicaid Program. This may involve health insurance, casualty coverage resulting from an accidental injury, or payments received directly from an individual who has either voluntarily accepted or been assigned legal responsibility for the health care of one or more recipients. The Medicaid Program will only make payments after the third party has met its legal obligation to pay for the medical services. Medicaid is the payer of last resort. The purpose of establishing and maintaining an effective Third Party Liability Program is to reduce Medicaid expenditures. Act 269 of the 2004 Regular Session of the Louisiana Legislature mandated the establishment of reasonable requirements and standards for the enrollment of newborns as dependents for health insurance coverage by health insurance issuers. In addition, the Act mandated that health insurance issuers give 90 day written notice to the Secretary of the Department of Health and Hospitals prior to the cancellation of health insurance coverage for nonpayment of any additional premium for a newborn child who may also be eligible for Medicaid medical benefits. In compliance with Act 269, the bureau adopted an Emergency Rule for provisions governing newborn notification requirements for hospitals (*Louisiana Register*, Volume 31, Number 5). The bureau now proposes to continue the provisions of the May 20, 2005 Emergency Rule.

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. This proposed Rule would have a positive impact on family functioning as described in R.S. 49:972 in that it would strengthen the family's continuity of health care for the members of the household.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions under the Third Party Liability Program governing newborn notification requirements for hospitals.

A. Definitions

Effective Date of Birth—the date of live birth of a newborn child.

Health Insurance Issuer—an insurance company, including a health maintenance organization as defined and licensed to engage in the business of insurance under Part XII of Chapter 2 of Title 22, unless preempted as a qualified employee benefit plan under the Employee Retirement Income Security Act of 1974.

Third Party Liability (TPL) Notification of Newborn Child(ren) Form—the written form developed by the Department of Health and Hospitals that must be completed by the hospital to report the birth and health insurance status of a newborn child.

Qualifying Newborn Child—a newborn child who meets the eligibility provisions for the Medicaid Program.

B. Notification Requirements

1. A hospital shall complete the Third Party Liability (TPL) Notification of Newborn Child(ren) form to report the birth and health insurance status of a qualifying newborn child either delivered in their facility, delivered under their care, or transferred to their facility after birth. The notification shall only be completed when the hospital reasonably believes that the following entities would consider the child to be a qualified newborn and insurance coverage is available to said child(ren):

a. the health insurance issuer that has issued a policy of health insurance under which the newborn child may be entitled to coverage; and

b. the Department of Health and Hospitals.

2. The TPL Notification of Newborn Child(ren) form shall be completed by the hospital and submitted to any and all applicable health insurance issuers within seven days of the birth of a newborn child. Delivery of the notification form may be established via the U.S. Mail, fax, or e-mail.

3. The TPL Notification of Newborn Child(ren) form shall be sent to the Department of Health and Hospitals, Bureau of Health Services Financing, Third Party Liability/Medicaid Recovery within seven days of the birth of the child.

4. This notification shall not be altered, in any respect, by the hospital and shall be in addition to any other notification, process or procedure followed by the hospital. The notification shall not be done in lieu of any other required notice, process or procedure established in any other rule, manual, or policy.

Interested persons may submit written comments to Ben A. Bearden, 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 July 26, 2005 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol

Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Third Party Liability—Newborn
Notification Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
It is anticipated that implementation of this proposed rule will result in an estimated cost avoidance to the state of \$132,957 for FY 04-05, \$656,368 for FY 05-06 and \$676,059 for FY 06-07. It is anticipated that \$340 (\$170 SGF and \$170 FED) will be expended in FY 04-05 for the state's administrative expense for promulgation of this proposed rule and the final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed rule will reduce federal revenue collections by \$328,790 for FY 04-05, \$1,538,843 for FY 05-06 and \$1,585,008 for FY 06-07. \$170 is included in FY 04-05 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, 2005 Emergency Rule, proposes to adopt provisions under the Third Party Liability Program governing newborn notification requirements (approximately 1,030 newborns per year) for hospitals. In conjunction with the Department of Insurance's (DOI) proposed rule pertaining to the Health Insurance Issuers (HII), the Department of Health and Hospitals (DHH) proposed rule initiates the process of fulfilling the spirit of ACT 269 through notification by the hospitals to HII and DHH of the newborn child. It is anticipated that implementation of this proposed rule will result in an estimated cost avoidance of \$462,087 for FY 04-05, \$2,195,211 for FY 05-06 and \$2,261,067 for FY 06-07.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is anticipated that there will be no effect on competition and employment as a result of the implementation of this proposed rule.

Ben A. Bearden
Director
0506#058

H. Gordon Monk
Acting Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

Civil Penalties Assessment
(LAC 33:V.10307)

The Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, proposes to amend LAC 33:V.10307 pertaining to Motor Carrier Safety and Hazardous Material requirements to set a 30 day time limit for requesting an administrative hearing to contest an assessed Motor Carrier Safety violation, as authorized by R.S. 32:1501 et seq.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Wastes And Hazardous Materials

**Subpart 2. Department Of Public Safety And
Corrections—Hazardous Materials**

§10307. Assessment of Civil Penalties

A. Any person who is determined by the Secretary of the Department of Public Safety and Corrections, after reasonable notice and opportunity for a fair and impartial hearing held in accordance with the Administrative Procedure Act, to have committed an act that is a violation of R.S. 32:1501 et seq., or adopted or promulgated regulations as provided in this Chapter, is subject to a civil penalty not to exceed the amount determined by applicable law.

B.1. For purposes of this Chapter, "reasonable notice and opportunity for a fair and impartial hearing held in accordance with the Administrative Procedure Act" is defined as the 30 day period following receipt of the violation notice within which the person has the right to request a hearing. Receipt of the violation shall be deemed to have occurred five days following the date the notice of violation was mailed by the department to:

a. in the case of an out of state carrier, to the address provided for on the carrier's Motor Carrier Identification Report as prescribed by 49 CFR Part 390.19;

b. in the case of an intrastate carrier, to the carrier address of record as determined by the Department of Public Safety and Corrections; in the case of a driver, to the address on record with the licensing authority of the state in which the person is licensed.

2. The person will have 30 days following receipt of the notice of violation within which to make written request to the Department of Public Safety and Corrections for an administrative hearing. Failure to request said hearing within 30 days of receipt of the violation notice shall constitute a conviction of the violation for purposes of R.S. 32:414.2(A)(9)(a).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:1116 (November 1991), amended LR 31:

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 family earning and family budget.

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 Rules.

Interested persons may submit written comments to Paul Schexnayder, Post Office Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through July 15, 2005.

Stephen J. Hymel
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Civil Penalties Assessment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no additional costs incurred, nor savings realized, as a result of the adoption of these Rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue as a result of these Rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no costs or economic benefits to any person or group, as a result of these Rules. The proposed Rule change simply sets a thirty day time limit for requesting an administrative hearing to contest an assessed motor carrier safety violation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These Rules should not affect competition or employment.

Stephen J. Hymel
Undersecretary
0506#024

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

Child Care Assistance Program (LAC 67:III.Chapter 51)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 12, Chapter 51, §§5102, 5103, 5104, 5107, 5109, and 5111, and to adopt §5113 in the Child Care Assistance Program (CCAP).

Pursuant to the authority granted to the department by the Child Care and Development Fund (CCDF), amendments are being proposed to the CCAP in order to assist providers in collecting required co-payments; to improve the safety and quality of care provided by In-Home providers; to ensure the federal and state child care resources are invested wisely; to revise the CCAP sliding fee scale; and to incorporate other technical changes for clarification purposes, including dividing Chapter 51 into two Subchapters; Subchapter A, Administration, Conditions of Eligibility and Funding and Subchapter B, Child Care Providers.

The agency intends to amend §5102, Definitions, to add the *Intentional Program Violation (IPV)* definition and to make changes to *Special Needs Child Care, Training or Employment Mandatory Participant (TEMP)*, and household definitions. Eligibility requirements for In-Home, Class A, and Class E providers will be added to §5107 and the entire section reformatted. Section 5109, Payment, will be revised to adjust CCAP households' gross monthly income on the sliding fee scale as a result of utilizing the most current projected state median income and poverty level guidelines.

Effective November 1, 2005, new conditions of eligibility, will be added to §5103.B.8, and §5113, CCAP Provider Disqualifications, will be adopted to implement disqualification penalties in an effort to discourage certain acts of non-compliance by providers.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance

Subchapter A. Administration, Conditions of Eligibility, and Funding

§5102. Definitions

Household—a group of individuals who live together, consisting of the head of household, that person's legal spouse or non-legal spouse, the disabled adult parent who is unable to care for himself/herself and his/her child(ren) who are in need of care, and all children under the age of 18 who are dependent on the head of household and/or spouse, including the minor unmarried parent (MUP) who is not legally emancipated and the MUP's children.

Intentional Program Violation (IPV)—any act by a CCAP client or provider that consists of intentionally making a false or misleading statement, or misrepresenting, concealing, or withholding relevant facts.

Special Needs Child Care—child care for a child through age 17 who because of a mental, physical, or emotional disability, requires specialized facilities, lower staff ratio, and/or specially trained staff to meet his or her developmental and physical needs. Incentive payments up to 25 percent higher than the regular rates can be allowed for a special needs child if the provider is actually providing the specialized care.

Training or Employment Mandatory Participant (TEMP)—a household member who is required to be employed or attending a job training or educational program, including the head of household, the head of household's legal spouse or non-legal spouse, the MUP age 16 or older whose child(ren) need child care assistance, and the MUP under age 16 whose child(ren) live with the MUP and the MUP's disabled parent/guardian who is unable to care for the MUP's child(ren) while the MUP goes to school/work.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000), amended LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:1484 (July 2004), LR 31:

§5103. Conditions of Eligibility

A. - A.1. ...

B. Low-income families not receiving FITAP cash Assistance, including former FITAP recipients who are given priority consideration, must meet the following eligibility criteria

1. - 3. ...

4. Effective September 1, 2002, unless disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, Veterans' Administration Disability benefits for a disability of at least 70 percent, or unless disabled and unable to care for his/her child(ren) as verified by a doctor's statement or by worker determination, the TEMP must be:

a. ...

b. attending a job training or educational program for a minimum average of, effective April 1, 2003, 25 hours per week (attendance at a job training or educational program must be verified, including the expected date of completion); or

c. - d. ...

5. Household income does not exceed 75 percent of the State Median Income for a household of the same size. Income is defined as:

a. the gross earnings of the head of household, that person's legal spouse, or non-legal spouse and any minor unmarried parent who is not legally emancipated and whose children are in need of Child Care Assistance; and

b. recurring unearned income of the following types for all household members:

- i. Social Security Administration benefits;
- ii. Supplemental Security Income;
- iii. Veterans' Administration benefits;
- iv. retirement benefits;
- v. disability benefits;
- vi. child support/alimony;
- vii. unemployment compensation benefits;
- viii. adoption subsidy payments, and workers' compensation benefits.

6. - 7. ...

8. Effective November 1, 2005, the household must be current on payment of co-payments to any current or previous provider(s). Verification will be required that co-payments are not owed when:

a. a change in provider is reported;

b. at application for Child Care Assistance, the most recent case rejection or closure was due to owing co-payments or not making necessary co-payments;

c. a child care provider reports that the client owes co-payments or is not making necessary co-payments.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1106 (July 2003), LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:1487 (July 2004), LR 31:101 (January 2005), LR 31:

§5104. Reporting Requirements

Effective February 1, 2004

A. ...

B. A Low Income Child Care household that is included in a Food Stamp semi-annual reporting household is subject to the semi-annual reporting requirements in accordance with §2013. In addition, these households must report the following changes within 10 days of the knowledge of the change:

1. ...

2. an interruption of at least three weeks or a termination of any TEMP's employment or training, or

3. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, 7 CFR Part 273

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:1487 (July 2004), amended LR:31

Subchapter B. Child Care Providers

§5107. Child Care Providers

A. The head of household, or parent/caretaker relative in the case of a STEP participant, shall be free to select a child care provider of his/her choice including center-based child care (licensed Class A centers and licensed Class A Head Start centers which provide before-and-after school care and/or summer programs), a registered Family Child Day Care Home (FCDCH) provider, in-home child care, and public and non-public BESE-regulated schools which operate kindergarten, pre-kindergarten, and/or before and after school care programs.

B. A licensed Class A center or licensed Class A Head Start center must be active in the Child Care Assistance Program (CCAP) Provider Directory and complete and sign a Class A provider agreement before payments can be made to that facility.

C. An FCDCH provider must be registered and active in the CCAP Provider Directory before payments can be made to that provider.

1. To be eligible for participation, an FCDCH provider must complete and sign an FCDCH provider agreement, complete a request for registration and Form W-9, pay appropriate fees, furnish verification of Social Security number and residential address, provide proof that he/she is

at least 18 years of age, and meet all registration requirements, including:

a. certification that they, nor any person employed in their home or on their home property, have never been the subject of a validated complaint of child abuse or neglect, or have never been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.(C);

b. submission of verification of current certification in infant/child or infant/child/adult Cardiopulmonary Resuscitation (CPR) and first aid;

c. submission to criminal background check(s) on all adults living at the provider's residence or employed by the provider and working in the provider's home or on the provider's home property, including the provider; each of which must be received from State Police indicating no enumerated conviction;

d. effective March 1, 2002, submission of verification of 12 clock hours of training in job-related subject areas approved by the Department of Social Services annually;

e. retainment of a statement of good health signed by a physician or his designee which must have been obtained within the past three years and be obtained every three years thereafter;

f. submission of a passed inspection by the Office of State Fire Marshal;

g. usage of only safe children's products and removal from the premises of any products which are declared unsafe and recalled as required by R.S.46:2701-2711. (CCAP FCDCH providers will receive periodic listings of unsafe and recalled children's products from the Consumer Protection Section of the Attorney General, Public Protection Division);

2. All registration functions for FCDCH providers, as provided in R.S. 46:1441 et seq. and as promulgated in the *Louisiana Register*, September 20, 1991, previously exercised by the Bureau of Licensing, shall be carried out by the Office of Family Support.

D. An In-Home child care provider must be certified and active in the CCAP Provider Directory before payments can be made to that provider.

1. To be eligible for participation, an In-Home child care provider must complete and sign an In-Home provider agreement and Form W-9, pay appropriate fees, furnish verification of Social Security number and residential address, provide proof that he/she is at least 18 years of age, and meet all certification requirements, including:

a. certification that he/she has never been the subject of a validated complaint of child abuse or neglect or has never been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.(C);

b. submission of verification of current certification in infant/child or infant/child/adult Cardiopulmonary Resuscitation (CPR) and first aid;

c. submission to a criminal background check which must be received from State Police indicating no enumerated conviction;

d. completion of the Health and Safety Standards Form.

E. A public or non-public school program must be certified, must complete and sign a school program provider agreement and Form W-9, and must be regulated by the

Board of Elementary and Secondary Education (BESE) if a public school or Brumfield vs. Dodd approved if a non-public school before payments can be made to that provider.

F. Under no circumstance can the following be considered an eligible CCAP provider:

1. a person living at the same residence as the child;

2. the child's parent or guardian, or parent/caretaker relative in the case of a STEP participant, whether or not that individual lives with the child;

3. an FCDCH provider, (if the child's non-custodial parent is residing in the FCDCH and is not working during the hours that care is needed);

4. a Class B child care center;

5. an individual who has been the subject of a validated complaint of child abuse or neglect, or has been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1(C), unless approved in writing by a district judge of the parish and the local district attorney;

6. an FCDCH provider who resides with or employs a person in their home or on their home property who has been the subject of a validated complaint of child abuse or neglect, or has been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.C. unless approved in writing by a district judge of the parish and the local district attorney;

7. a person/center providing care outside of the state of Louisiana.

G.1. A provider shall be denied or terminated as an eligible CCAP provider if:

a. the agency determines that a condition exists which threatens the physical or emotional health or safety of any child in care;

b. an FCDCH provider fails to pass the second inspection by the Fire Marshal;

c. a provider fails to timely return all requested forms, fees, etc.;

d. a Class A center's license is revoked or not renewed;

e. a school child care provider no longer meets the BESE regulations;

f. a school child care provider is no longer Brumfield vs. Dodd approved; or

g. a provider violates the terms of the provider agreement.

2. A provider agreement may be terminated by either party for any reason upon giving 30 days advance notice to the other party.

H.1. Quality incentive bonuses are available to:

a. eligible CCAP Class A providers who achieve and maintain National Association for the Education of Young Children (NAEYC) accreditation. The bonus will be paid once each calendar quarter, and will be equal to 20 percent of all child care payments received during the prior calendar quarter by that provider from the certificate portion of the Child Care and Development Fund;

b. eligible CCAP FCDCH providers who participate in the Department of Education (DOE) Child and Adult Care Food Program. The bonus will be paid once each calendar quarter, and will be equal to 10 percent of all child care payments received during the prior calendar quarter by that provider from the certificate portion of the Child Care and Development Fund;

c. effective May 1, 2004, eligible CCAP providers who provide special care for children with special needs. This special needs care includes but is not limited to specialized facilities/equipment, lower staff ratio, and specially trained staff. The amount of these Special Needs Care Incentive payments will be in accordance with §§5109.B.1.b. and 5109.B.2.b.

2. These bonus amounts may be adjusted at the discretion of the assistant secretary, based upon the availability of funds.

I. CCAP offers Repair and Improvement Grants to either licensed or registered providers, or to those who have applied to become licensed or registered, to assist with the cost of repairs and improvements necessary to comply with DSS licensing or registration requirements and/or to improve the quality of child care services.

1. Effective September 1, 2002, the program will pay for 75 percent of the cost of such a repair or improvement, up to the following maximums.

a. For Class A Centers the maximum grant amount will be equal to \$100 times the number of children listed in the licensed capacity, or \$10,000, whichever is less.

b. For FCDCH providers the maximum grant amount will be \$600.

c. These amounts may be adjusted at the discretion of the Assistant Secretary, based upon the availability of funds.

2. A provider can receive no more than one such grant for any state fiscal year. To apply, the provider must submit an application form indicating that the repair or improvement is needed to meet DSS licensing or registration

requirements, or to improve the quality of child care services. Two written estimates of the cost of the repair or improvement must be provided and the provider must certify that the funds will be used for the requested purpose. If the provider has already paid for the repair or improvement, verification of the cost in the form of an invoice or cash register receipt must be submitted. Reimbursement can be made only for eligible expenses incurred no earlier than six months prior to the application. If a provider furnishes estimates to receive a grant, the grant must be spent for the requested purpose within three months of the date the grant is issued.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444(December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:1484, 1487 (July 2004), LR 31:102 (January 2005), LR 31:

§5109. Payment

A. The sliding fee scale used for non-FITAP recipients is subject to adjustment based on the state median income and poverty levels, which are published annually. A non-FITAP household may pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "co-payment." The sliding fee scale is based on a percentage of the state median income.

**Sliding Fee Scale for Child Care Assistance Recipients
75 Percent of Projected Median Income**

Number in Household	2	3	4	5	DSS%
Monthly Household Income	0-1069	0-1341	0-1613	0-1884	75%
	1070-1608	1342-1997	1614-2386	1885-2774	55%
	1609-2147	1998-2653	2387-3158	2775-3664	35%
	Above 2147	Above 2653	Above 3158	Above 3664	0%
Number in Household	6	7	8	9	DSS%
Monthly Household Income	0-2156	0-2428	0-2699	0-2971	75%
	2157-3163	2429-3346	2700-3529	2972-3712	55%
	3164-4169	3347-4264	3530-4358	3713-4453	35%
	Above 4169	Above 4264	Above 4358	Above 4453	0%
Number in Household	10	11	12	13	DSS%
Monthly Household Income	0-3243	0-3514	0-3786	0-4058	75%
	3244-3896	3515-4079	3787-4262	4059-4445	55%
	3897-4548	4080-4643	4263-4737	4446-4832	35%
	Above 4548	Above 4643	Above 4737	Above 4832	0%
Number in Household	14	15	16	17	DSS%
Monthly Household Income	0-4329	0-4601	0-4873	0-5144	75%
	4330-4628	4602-4811	4874-4995	5145-5178	55%
	4629-4927	4812-5021	4996-5116	5179-5211	35%
	Above 4927	Above 5021	Above 5116	Above 5211	0%
Number in Household	18				DSS%
Monthly Household Income	0-5416				75%

NOTE: Effective October 1, 2005, the household's gross monthly income has been adjusted as reflected in the above tables.

B.1. - 2.b. ...

3. The number of hours authorized for payment is based on the lesser of the following:

a. ...

b. the number of hours the head of household, the head of household's spouse or non-legal spouse, or the minor unmarried parent is working and/or attending a job training or educational program each week, plus one hour per day for travel to and from such activity; or

B.3.c. - D. ...

E. Payment will not be made for absences of more than five days by a child in any calendar month or for an extended closure by a provider of more than five consecutive days in any calendar month. A day of closure, on a normal operating day for the provider, is counted as an absent day for the child(ren) in the provider's care.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), LR 30:1485 (July 2004), LR 31:

§5111. Ineligible Payments

A. - B.2. ...

C. If IPV is established, Fraud and Recovery will send a notice to the person to be disqualified and a copy of the notice to the parish office. The parish office will take action to disqualify for the appropriate situations:

1.- 3. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2830 (December 2000), amended LR 30:496 (March 2004), LR:31

§5113. CCAP Provider Disqualifications Effective November 1, 2005

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. Disqualifications shall apply as follows.

1. A validated complaint of abuse/neglect or a failed Criminal Background Check (CBC) on the provider, other person living or working in an FCDCH, or other person working in a Class A or Class E center shall result in permanent disqualification. If the validated complaint or the failed CBC is for a person living or working in an FCDCH or a person working in a Class A or Class E center, the disqualification ends when that person is no longer living or working in the FCDCH or working in the Class A or Class E center.

2. IPV shall result in the following disqualification periods:

a. 12 months for first IPV;

b. permanent disqualification for second IPV

3. Other acts or violations, including but not limited to failure to collect co-payments, caring for more than six children (FCDCH) or more children than the licensed capacity (Class A), charging more for CCAP children than

for non-CCAP children, and other non-fraudulent violations of the provider agreement, shall result in the following disqualification periods:

a. one month or until compliance or intent to comply is established, whichever is later, for first disqualification;

b. six months or until compliance or intent to comply is established, whichever is later, for second disqualification;

c. 12 months or until compliance or intent to comply is established, whichever is later, for third and subsequent disqualifications.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR:31:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The Rule will have no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The 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 have on the functioning of the family? The Rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? This change will result in some Low-Income Child Care (LI-CC) recipients moving from the 35 percent range to the 55 percent range and some moving from the 55 percent range to the 75 percent range. This will not impact family earnings.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not impact 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 is strictly an agency function.

Interested persons may submit written comments by July 28, 2005, to Adren O. Wilson, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-9065. He is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on July 28, 2005, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA, at 9 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 (504) 342-4120 (Voice and TDD).

Ann S. Williamson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Child Care Assistance
Program—Disqualification Penalties for Providers
and Adjustments to the Sliding Fee Scale**

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

Support Enforcement Services Program—Child Support
Payment Distribution (LAC 67:III.2514)

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Implementation of this proposed rule will result in a cost increase for the agency of approximately \$1,576,152 for FY 05/06 and \$2,101,536 for FY 06/07 and FY 07/08. These costs reflect the increase in the amount of Low Income Child Care (LI-CC) cases in the Child Care Assistance Program (CCAP) that will fall in different income ranges on the CCAP sliding fee scale, resulting in higher agency percentages of payments of child care costs for these cases. There are no anticipated costs to any other state or local governmental units.

There will be no savings as a result of this rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The agency's current sliding fee scale has three income ranges for LI-CC households in which the agency pays 75%, 55%, or 35% of the monthly cost of child care per child (up to the state maximum rate). The proposed rule will revise the income ranges to reflect projected State Median Income (SMI) and Poverty Level guidelines for FY 2006. This change will result in some LI-CC recipients moving from the 35% range to the 55% range and some moving from the 55% range to the 75% range. Recipients currently in the 75% range will remain there. CCAP children should also receive a higher quality of child care due to the increased provider eligibility requirements for In-Home providers.

Some CCAP recipients will be adversely impacted by the proposed rule to deny CCAP eligibility for not making required co-payments to CCAP providers. CCAP providers will benefit from this same rule as it will encourage CCAP recipients to remain current on their required co-payments to CCAP providers.

Some CCAP providers will be adversely impacted by the proposed rule establishing disqualification periods for certain acts of non-compliance. CCAP recipients will benefit from this same rule as it will improve the quality of child care provided by these providers.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed rule should have no impact on competition and employment.

Adren O. Wilson
Assistant Secretary
0506#044

H. Gordon Monk
Acting Legislative Fiscal Officer
Legislative Fiscal Office

The Department of Social Services, Office of Family Support, Support Enforcement Services proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the Support Enforcement Program.

Pursuant to 42USC 664(a)(3)(B), the agency proposes to amend §2514, Distribution of Child Support Collections, by delaying distribution of Federal Tax Offsets (FTO) for child support arrears due to a joint filing until the agency has been notified that the other person filing the joint return has received his or her proper share of the offset.

Additionally, §2514.C is being adopted to include information concerning child support payments received in the form of foreign currency and the time frame in which the money must be converted to U.S. dollars and sent to the custodial parent.

These amendments were effected by a Declaration of Emergency signed April 25, 2005, and published in the May issue of the *Louisiana Register*.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

**Subchapter D. Collection and Distribution of Support
Payments**

§2514. Distribution of Child Support Collections

A. Effective October 2, 1998, the agency will distribute child support collections in the following manner:

1. - 5.b. ...

6. Effective April 25, 2005, the state may delay distribution of Federal Offsets for child support arrears until the state has been notified by the U.S. Secretary of the Treasury that the other person filing the joint return has received his or her proper share of the offset. The delay may not exceed six months.

B. ...

C. Effective April 25, 2005, when child support is collected in the form of a foreign currency, the state shall send the child support payment to the custodial parent within two business days of receipt of the converted U.S. dollar payment.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 105-33, OCSE-AT-98-24, 42USC,664(a)(3)(B), 42USC,654b(c).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:304 (March 1994, amended LR 24:703 (April 1998), LR 25:320 (February 1999), LR 31:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule will have no impact on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This Rule should have no effect on a person's authority and rights regarding the education and supervision of their family.

3. What effect will this have on the functioning of the family? This Rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? The Rule is designed to minimize recovery debts incurred when filing Federal Offset refunds. Also, it is the state's responsibility to ensure foreign currency payments received are disbursed to the custodial parents in an expeditious manner. As a result, the family budget may be positively impacted.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. 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.

Interested persons may submit written comments by July 28, 2005, to Adren O. Wilson, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, LA, 70804-9065. He is the person responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on July 28, 2005, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, 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 (225) 342-4120 (Voice and TDD).

Ann S. Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Support Enforcement Services Program—Child Support Payment Distribution

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed rule will not result in any costs other than the cost of publishing rulemaking and printing policy which is estimated to be approximately \$600.

The projected savings resulting from the implementation of this rule will be \$72,782 for FY 04/05, \$455,279 for FY 05/06, and \$468,390 for FY 06/07. The savings calculated are a result of the state not having to reimburse the injured spouse monies distributed to child support payees as a result of tax intercept.

The proposed six-month delay in distribution of the joint tax refund will allow the injured spouse to receive their portion of the joint return prior to distribution of the funds to the child support payee. This will eliminate the need to recoup the share of the tax intercept belonging to the injured spouse.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections of State or Local Governmental Units.

Any revenue recouped by the department's efforts will go back into the general fund. Currently, the agency does not keep records on these recoupments and is unable to estimate the amount recouped.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs or economic benefits to any persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Adren O. Wilson
Assistant Secretary
0506#045

H. Gordon Monk
Acting Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Possession of Potentially Dangerous Quadrupeds and Primates (LAC 76:V.115)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the regulations for possession of potentially dangerous quadrupeds by adding non-human primates.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§115. Possession of Potentially Dangerous Quadrupeds and Non-Human Primates

A. This commission finds that possession of certain potentially dangerous quadrupeds and non-human primates poses significant hazards to public safety and health, is detrimental to the welfare of the animals, and may have negative impacts on conservation and recovery of some threatened and endangered species.

1. The size and strength of such animals in concert with their natural and unpredictable and/or predatory nature can result in severe injury or death when an attack upon a human occurs. Often such attacks are unprovoked and a person other than the owner, often a child, is the victim. Furthermore, there is no approved rabies vaccine for such animals, so even minor scratches and injuries inflicted upon humans or other animals could be deadly.

2. Responsible possession of these potentially dangerous quadrupeds and non-human primates necessitates that they be confined in secure facilities. Prolonged confinement is by its nature stressful to these animals and proper long-term care by experienced persons is essential to the health and welfare of these animals and to society.

3. Certain of these animals are listed as endangered species and others are so similar in appearance to endangered subspecies as to make practical distinction difficult. This similarity of appearance may provide a means to market illegally obtained endangered animals and can limit the effective enforcement of endangered species laws.

B. This commission regulation prohibits importation and private possession of certain quadrupeds and non-human primates as follows.

C.1. Except as provided herein, it shall be unlawful by any means including but not limited to transactions conducted via the internet, to import into, possess, purchase, or sell within the state of Louisiana, any of the following species or its subspecies of live quadrupeds or non-human primates, domesticated or otherwise:

- a. cougar or mountain lion (*felis concolor*);
- b. black bear (*ursus americanus*);
- c. grizzly bear (*ursus arctos*);
- d. polar bear (*ursus maritimus*);
- e. red wolf (*canis rufus*);
- f. gray wolf (*canis lupus*);
- g. wolf dog hybrid (*canis lupus* or *canis rufus* x *canis familiaris*);
- h. non-human primates.

2. Valid game breeder license holders for these species (listed Subparagraphs a-g above) legally possessed prior to October 1, 1988, will be "grandfathered" and renewed annually until existing captive animals expire, or are legally transferred out-of-state, or are transferred to a suitable facility. No additional animals may be acquired.

3. The prohibition against wolf-dog hybrids expired January 1, 1997. Persons are cautioned that local ordinances or other state regulations may prohibit possession of these animals. Any animal which appears indistinguishable from a wolf, or is in any way represented to be a wolf shall be considered to be a wolf in the absence of bona fide documentation to the contrary.

4. The following organizations and entities shall be exempt from these regulations, including permitting, as they pertain to non-human primates: animal sanctuaries—any organization accredited by The Association of Sanctuaries (TAOS) or the American Sanctuary Association (ASA) as an animal sanctuary; facilities accredited or certified by the American Zoo and Aquarium Association (AZA); scientific organizations and medical or wildlife research facilities as defined in the Animal Welfare Act as found in the United States Code Title 7, Chapter 54, §2132(e), including but not limited to the University of Louisiana at Lafayette Primate Center and the Tulane National Primate Research Center and Chimp Haven, Inc. located in Shreveport, Louisiana. Other qualified zoos and scientific organizations may be exempted from this prohibition on a case by case basis upon written application to the Secretary.

5. Service animals—those individuals who have a qualified disability under the Americans with Disabilities Act (ADA) are exempt from this prohibition as they pertain to non-human primates, including permitting. It shall be legal for ADA qualified individuals to import, purchase, and possess trained service animals, as defined by the ADA, for

personal use, but are limited to no more than one non-human primate.

6. Those individuals who legally possess non-human primates prior to rule ratification may continue to keep those animals by applying for and receiving a permit from the department. The permit application shall include proof of legal ownership and a certificate of health signed by a licensed veterinarian. Proof of ownership includes but is not limited to original purchase documents, veterinary records or other documentation acceptable to the department showing ownership. Those individuals who can prove legal ownership prior to rule ratification and are issued a permit are authorized to keep those non-human primates but are prohibited from acquiring any additional non-human primates by any means including breeding. Permit holders are required to submit any address changes or other permit information changes within 30 days of the date those changes take effect or the permit will be considered invalid. The certificate of health submitted with the permit application shall provide that the non-human primate has been examined by a licensed veterinarian within one year of the date of the application and that the animal is free of all symptoms of contagious and/or infectious diseases at the time of the examination and that all appropriate tests and preventative measures performed as deemed necessary by the veterinarian. Non-human primate owners shall be required to have the permitted non-human primate examined annually by a licensed veterinarian to insure that the animal is free of all symptoms of contagious and/or infectious diseases at the time of the examination. The non-human primate shall have all appropriate tests and preventative measures performed as deemed necessary by the veterinarian.

D. Minimum pen requirements for exempted educational institutions, zoos and scientific organizations are as follows:

1. bears:
 - a. single animal: 25 feet long x 12 feet wide x 10 feet high, covered roof;
 - b. pair: 30 feet long x 15 feet wide x 10 feet high, covered roof;
 - c. materials: chain link 9 gauge minimum;
 - d. safety perimeter rail;
 - e. pool: 6 feet x 4 feet x 18 inches deep with facilities for spraying or wetting bear(s);
2. wolf:
 - a. 15 feet long x 8 feet wide x 6 feet high per animal, covered roof;
 - b. secluded den area: 4 feet x 4 feet for each animal;
 - c. materials: chain link wire 9 gauge minimum or equivalent;
 - d. safety perimeter rail;
3. cougar, mountain lion:
 - a. single animal: 10 feet long x 8 feet wide x 8 feet high, covered roof;
 - b. pair: 15 feet long x 8 feet wide x 8 feet high, covered roof;
 - c. materials: chain link 9 gauge minimum;
 - d. safety perimeter rail;
 - e. claw log;

f. shelf: 24 inch wide x 8 feet long, 40 inches off floor;

4. non-human primates: as specified in the Animal Welfare Act as found in the United States Code Title 7, Chapter 54, Part 3, Subparts D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:171, and R.S. 56:1904F.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:1356 (December 1995), amended LR 31:

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).

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.

Interested persons may submit comments relative to the proposed Rule to Philip Bowman, Fur and Refuge Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, August 4, 2005.

Wayne J. Sagrera
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Possession of Potentially Dangerous Quadrupeds and Primates

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of the proposed Rule will be carried out using existing staff and funding levels. A slight increase in workload and paperwork associated with issuance of permits is anticipated. Local governmental units will not be impacted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule is anticipated to have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule will affect those individuals who already possess or want to acquire non-human primates. Those individuals who already possess non-human primates will be required to obtain a permit possession from the Department of Wildlife and Fisheries. Owners of non-human primates will be required to submit proof of legal ownership and veterinary records when applying for a permit. Permits will be issued at no charge.

The Rule will also prohibit anyone from acquiring non-human primates, except where specified, after the Rule comes into effect and prohibits anyone from selling non-human primates to private citizens in Louisiana. No dealer in non-human primates is known to exist in Louisiana at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule change is not expected to affect competition and employment in the public or private sector.

Janice A. Lansing
Undersecretary
0506#028

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Poverty Point Reservoir Netting Prohibition (LAC 76:VII.106)

The Wildlife and Fisheries Commission hereby advertises its intent to establish the following Rule on commercial netting in Poverty Point Reservoir in Richland Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§106. Poverty Point Reservoir Netting Prohibition

A. The Wildlife and Fisheries Commission hereby prohibits the use of freshwater commercial fish netting (gill nets, trammel nets, hoop nets, wire nets and fish seines) in Poverty Point Reservoir, Richland Parish, Louisiana. No person shall use or possess any gill net, trammel net, hoop net or fish seines in or on Poverty Point Reservoir. Violation of this provision shall be a class two violation as specified in R.S. 56:32.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:

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).

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.

Interested persons may submit written comments on the proposed Rule to Bennie Fontenot, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, August 4, 2005.

Wayne J. Sagrera
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Poverty Point Reservoir
Netting Prohibition**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no state or local governmental implementation costs. Enforcement of the proposed Rule will be carried out using existing staff and funding levels.

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 governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule will prohibit the use of commercial netting gear in Poverty Point Reservoir. The reservoir was

created in 2001 and is located in Poverty Point Reservoir State Park. The use of commercial netting gear is inconsistent with the daily recreational use of the state park. The reservoir is intensively managed for the production of trophy largemouth bass and other recreational fish species that would be susceptible to capture in commercial netting gear. The proposed Rule is anticipated to have no impact on fishermen or non-governmental groups, since the use of commercial netting gear has never been allowed by state park officials.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule is anticipated to have no impact on competition and employment.

Janice A. Lansing
Undersecretary
0506#027

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment

Risk/Cost Benefit Statement for SW039
Waste Tire Fees Amendments
(LAC 33:VII.Chapter 105)

Introduction

The Louisiana Department of Environmental Quality (LDEQ) has amended the waste tire regulations (SW039) to assess the waste tire disposal fee on the sale of new motor vehicles, retreaded tires, and used tires. These fees, designated for the Waste Tire Management Fund, are collected by retailers and remitted to the Department. The increase in fees was authorized by Act 846 of the 2004 Louisiana Legislature.

The fee increase will provide funding to address the proper collection, processing, and marketing of these tires. The Rule will affect all retailers selling new motor vehicles, retreaded tires, and used tires. The Rule will also affect those consumers who purchase these items.

This statement is prepared to satisfy the requirements of R.S. 30:2019(D) and R.S. 49.953(G) (Acts 600 and 642 of the 1995 Louisiana Legislature, respectively). However, this document is not a quantitative analysis of cost, risk, or economic benefit, although costs of implementation were identified to the extent practical. The statutes allow a qualitative analysis of economic and environmental benefit where a more quantitative analysis is not practical. The department asserts that the benefits of a Rule designed to support a legislatively-passed broadening of the waste tire program justify the costs associated with the fee increases.

Therefore, the qualitative approach is taken with this risk/cost benefit statement. As discussed further in this document, these amendments to the waste tire regulations provide environmental and economic benefits. Assessing dollar benefits of avoided environmental risk or economic benefits of this Rule is not practicable. In addition, the department asserts that the indirect and direct environmental and economic benefits to be derived from this Rule will, in the judgement of reasonable persons, outweigh the costs associated with the implementation of the Rule and that the Rule is the most cost-effective alternative to achieve these benefits.

Risks Addressed by the Rule

The fee portion of the Rule addresses the risks associated with the pollution caused by improper disposal of the tires mentioned above, to include unauthorized waste tire piles consisting of these types of tires. The Rule does this by bringing tires sold with new motor vehicles into the waste

tire program with the addition of a fee. The fee will allow the department, through the Waste Tire Management Fund, to pay waste tire processors for the processing of these tires and the marketing of the resulting waste tire material.

Numerous risks are associated with the improper disposal of tires. Unprocessed tires hold water that provides a fertile breeding ground for mosquitoes, which provide an excellent vector for diseases. Unprocessed tires also provide shelter for vermin, such as rats, that are another vector for disease in addition to being a destructive pest. Tire piles may catch fire under certain circumstances. These fires are extremely difficult to extinguish, and they emit noxious gases and thick smoke. Lastly, individual tires or tire piles that litter the landscape are unsightly. Waste tires do not degrade, which provides a long-lasting hazard to the environment.

Environmental and Health Benefits of the Rule

The additional money collected through this Rule will provide an incentive for waste tire processors to continue to process and market waste tires. The removal, processing, and marketing of these tires will eliminate potential breeding places of disease-spreading insects and mammals. The removal of these tires would eliminate the possibility of tire pile fires.

Social and Economic Costs

This Rule is an amendment to implement fees on tire sales that are not currently assessed, and as such there are no significant costs to implement the Rule. The new fees will be assessed on the retail sale of new motor vehicles, used tires, and retreaded tires.

Persons purchasing new motor vehicles with passenger/light truck tires will now pay \$2 per tire (excluding the spare). Persons purchasing new motor vehicles with medium truck tires (those tires weighing more than 100 pounds) will pay \$5 per tire at the time of sale. Persons purchasing new off-road motor vehicles with tires weighing more than 100 pounds will pay \$10 per tire. There will be no charge for tires above 500 pounds or solid tires. These new fees will generate an estimated \$2,108,815 for the Waste Tire Management Fund.

Conclusion

The department believes that the benefits of enhanced environmental and public health protection, as well as other benefits, outweigh the costs of implementation of the Rule. Therefore, the Rule is obviously the most cost-effective alternative to achieve these benefits.

Wilbert F. Jordan, Jr.
Assistant Secretary

0506#020

POTPOURRI

Office of the Governor Oil Spill Coordinator's Office

North Pass NRDA Case Notice of Availability of
a Final Damage Assessment and Restoration Plan

September 22, 2002 Oil Spill at North Pass in the Mississippi River Delta, Plaquemines Parish, Louisiana; Notice of Availability of a Final Damage Assessment and Restoration Plan/Environmental Assessment.

Agencies:

Louisiana Oil Spill Coordinator's Office
Office of the Governor (LOSCO)
Louisiana Department of Environmental Quality (LDEQ)
Louisiana Department of Natural Resources (LDNR)
Louisiana Department of Wildlife and Fisheries (LDWF)
National Oceanic and Atmospheric Administration (NOAA); and
United States Department of the Interior (USDOI)
which is represented by the
U.S. Fish and Wildlife Service (USFWS).

Action:

Notice of Availability of a Final Damage Assessment and Restoration Plan/Environmental Assessment.

Summary:

Notice is hereby given that a document entitled "Final Damage Assessment and Restoration Plan/Environmental Assessment, September 22, 2002 Oil Spill at North Pass in the Mississippi River Delta, Plaquemines Parish, Louisiana" (Final DARP/EA) is final and available to the public as of June 20, 2005. This document has been prepared by the agencies listed above (Trustees) to address injuries to natural resources and services following the September 22, 2002 discharge of crude oil into the Mississippi River Delta, Louisiana (incident). The Final DARP/EA presents the Trustees' assessment of injuries to natural resources and services attributable to the incident and their plan to restore, replace, or acquire natural resources or services equivalent to those lost, as a basis for compensating the public for the injuries resulting from the incident.

Interested members of the public are invited to request a copy of the Final DARP/EA from Gina Muhs Saizan at the address given below.

For Further Information:

Contact Gina Muhs Saizan at 225-219-5800, or by e-mail at gina.saizan@la.gov. To view the Final DARP/EA via the internet, please visit www.losco.state.la.us and look under News Flash for North Pass Oil Spill.

Address:

Requests for copies of the Final DARP/EA should be sent to:

Gina Muhs Saizan
Louisiana Oil Spill Coordinator's Office
150 Third Street, Suite 405
Baton Rouge, LA 70801

Supplementary Information:

The public was given an opportunity to review and comment on the Draft DARP/EA during the public comment period, which extended from March 20, 2005 through April

20, 2005. Public review of the Draft DARP/EA is consistent with all state and federal laws and regulations that apply to the Natural Resource Damage Assessment (NRDA) process, including Section 1006 of the Oil Pollution Act (OPA), 33 U.S.C. §2706; the regulations for NRDA under OPA, 15 C.F.R. Part 990; National Environmental Policy Act (NEPA), 42 U.S.C. §4321, *et seq.*; the regulations implementing NEPA, 40 C.F.R. §1500, *et seq.*; Section 2480 of the Louisiana Oil Spill Prevention and Response Act (OSPRA), R.S. 30:2480 *et seq.*; and the regulations for NRDA under OSPRA, LAC 43: Part XXIX, Chapter 1. The Trustees did not receive comments during the public comment period and have finalized the Damage Assessment and Restoration Plan/Environmental Assessment, September 22, 2002 Oil Spill at North Pass in the Mississippi River Delta, Plaquemines Parish, Louisiana (Final DARP/EA).

Scott A. Angelle
Secretary

0506#039

POTPOURRI

Department of Insurance Office of the Commissioner

Public Hearing

Regulation 86 Dependent Coverage of Newborn
Children in the Group and Individual Market
(LAC 37:XIII.11109)

The Department of Insurance hereby gives notice that it will hold a public hearing on July 26, 2005 beginning at 10 a.m. in the Poydras Hearing Room on the first floor of the main office of the Department of Insurance located at 1702 N. Third Street, Baton Rouge, Louisiana 70802 (Poydras Building). The purpose of this public hearing will be for the Department of Insurance to advise the public of the substantive changes that the Department of Insurance has made to proposed Regulation 86, entitled "Dependent Coverage of Newborn Children in the Group and Individual Market", which was the subject of a Notice of Intent published in the *Louisiana Register* on February 20, 2005. The substantive changes adopted by the Department of Insurance relate to §11109.E of proposed Regulation 86 with regard to the written notice that the health insurance issuer must provide to a health care provider by adding that this notice must be given to a provider who has not only submitted a claim but has provided notice that a health care service has been or is being rendered, and notice must be given to a provider who has requested or has obtained a pre-certification or certification to render a health care service to the newborn child. The public is invited to attend and take part in this public hearing by providing comments, information or facts relative to the proposed substantive changes to be adopted by the Department of Insurance.

J. Robert Wooley
Commissioner

0506#025

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
Oil Patch Operators, LLC	Red River Bay	M	R O Martin Lumber Co Inc	30	104398
Oil Patch Operators, LLC	Red River Bay	M	R O Martin Lbr Co E	33	106208
Oil Patch Operators, LLC	Red River Bay	M	PARKER A SUA; R O Martin	34	106209
Oil Patch Operators, LLC	Red River Bay	M	R O Martin Lbr Co E	33-D	107551
Oil Patch Operators, LLC	Red River Bay	M	WX D SUA;R O Martin	18	108025
Oil Patch Operators, LLC	Red River Bay	M	HELIS SUE;R O Martin	31	108604
Oil Patch Operators, LLC	Red River Bay	M	Roy O Martin Lumber Co Inc	18-D	108992
Oil Patch Operators, LLC	Red River Bay	M	MINTER B SUA; R O Martin	38	109448
Oil Patch Operators, LLC	Red River Bay	M	Roy O Martin	31-D	109777
Oil Patch Operators, LLC	Red River Bay	M	Red River Bay SWD	4	110766
Oil Patch Operators, LLC	Red River Bay	M	Red River Bay SWD	5	117407
Oil Patch Operators, LLC	Red River Bay	M	BAKER SUA; Roy O Martin Lbr	43	117421
Oil Patch Operators, LLC	Red River Bay	M	Roy O Martin Lumber Co Inc	43-D	118549
Oil Patch Operators, LLC	Red River Bay	M	R R B Martin SWD	45	122861
Oil Patch Operators, LLC	Red River Bay	M	R O Martin Lumber Co Inc	49	138350

Operator	Field	District	Well Name	Well Number	Serial Number
Oil Patch Operators, LLC	Red River Bay	M	R O Martin Lumber Co Inc	49-D	139142
Oil Patch Operators, LLC	Red River Bay	M	MIN B SUB; Martin RRB	1	176002
Oil Patch Operators, LLC	Red River Bay	M	MIN C SUA; R O Martin	B-1	200339
Plymouth Resource Group, LLC	Napoleonville	L	H L Triche	1	222185
Bill F. Sutton	N. Garyville	L	Bougere Estate	1	114589
Great Southern Oil & Gas Co., Inc.	Port Barre	L	H L Garland et al	8	25804 (30)
Great Southern Oil & Gas Co., Inc.	Port Barre	L	H L Garland et al	11	27921 (30)
Great Southern Oil & Gas Co., Inc	Port Barre	L	8200 RA SUA; Dezauche	2	185896 (30)
H. L. Hawkins & H. L. Hawkins, Jr.	Port Barre	L	J S Watkins	1A	77678
Poboy Oil Co.	Caddo Pine Island	S	Gerhig-Stoer Fee	2	38086
Poboy Oil Co.	Caddo Pine Island	S	Gerhig-Stoer Fee	1	38153
Poboy Oil Co.	Caddo Pine Island	S	Gerhig-Stoer Fee	4	121782
Poboy Oil Co.	Caddo Pine Island	S	Gerhig-Stoer Fee	11	121783
Poboy Oil Co.	Caddo Pine Island	S	Gerhig-Stoer Fee	6	126708
Poboy Oil Co.	Caddo Pine Island	S	Gerhig-Stoer Fee	12	126709
Poboy Oil Co.	Caddo Pine Island	S	Gerhig-Stoer Fee	8	138403

James H. Welsh
Commissioner

0506#038

**POTPOURRI
Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 25 claims in the amount of \$89,677.17 were received for payment during the period March 1, 2005 - May 31, 2005.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2900.560	8905.700	Lafourche
2906.870	9009.778	Lafourche
2910.780	8923.209	Plaquemines
2911.510	9107.680	Terrebonne
2911.899	9023.874	Lafourche
2912.938	9015.084	Lafourche
2914.261	8957.199	Jefferson
2915.392	9005.652	Lafourche
2915.580	9026.420	Terrebonne
2915.630	8955.770	Jefferson
2916.511	8943.953	Plaquemines
2916.750	9022.111	Terrebonne
2917.305	9045.961	Terrebonne
2917.360	8950.740	Jefferson
2918.697	8937.147	Plaquemines
2923.489	8948.554	Plaquemines
2925.465	9146.700	Vermilion

2926.357	8956.309	Plaquemines
2928.667	9008.504	Lafourche
2944.743	9328.606	Cameron
2945.670	8924.422	St Bernard
2948.096	9133.665	St Mary
2951.394	8940.020	St Bernard
2951.839	9320.671	Cameron
3004.409	8941.077	St Bernard

There were 22 claims paid and 3 claims denied.

A list of claimants and amounts paid can be obtained from Verlie Wims, 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

0506#041

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